

GENERAL TERMS AND CONDITIONS

1. General / Scope

Zulu5 AG (hereinafter referred to as “zulu5”) is the developer and holder of the right to use software for the purpose of analysing and optimising online marketing measures of third parties (hereinafter referred to as the “Customer”) with the aid of the crawler system developed by zulu5

All agreed services and offers by zulu5 are based exclusively on the following General Terms and Conditions (GTC). Unless deviating provisions are expressly agreed upon, these terms and conditions equally apply to all future orders. Terms and conditions of the customer which deviate from the following terms and conditions shall not be recognised. Such deviating terms and conditions shall not become part of the contract, even if zulu5 does not expressly object to them.

zulu5 reserves the right to change these General Terms and Conditions at any time with a reasonable notice period of at least six weeks. The amended business conditions are considered accepted if the customer does not object within six weeks of publication. At the time at which the amendment comes into force and in the event of an objection by the customer to the amended GTC within the specified period, zulu5 is entitled to either terminate any existing contract with the customer while safeguarding their legitimate interests or to continue the contract based on the GTC applicable up to that time, in deviation from the new provisions.

2. Subject Matter of the Contract

As a rule, a contract with the customer comes into effect with the acceptance of a separate offer from zulu5 by the customer. These GTC are an integral part of this individual agreement. Zulu5 specifies provisions that deviate from the GTC in the offer. By placing the order or accepting the offer, these GTC are recognised and accepted by the customer.

Zulu5 grants the customer a non-exclusive use of the zulu5 system and a non-exclusive right to the submitted reports. Zulu5 does not guarantee the completeness or accuracy of the list of websites examined, nor guarantees the evaluation of the same. The alerts transmitted are recommendations by zulu5 based on the random analysis of online advertising on the Internet. In this context, zulu5 grants the customer the possibility to check the correctness of the reports by viewing screenshots created by zulu5 for its purposes ("Audit"). For copyright reasons, such an Audit may be carried out by the Customer a maximum of 5 times per month.

Due to the nature of online marketing and the scope in which it is used, zulu5 does not provide any guarantees or assurances regarding how, how often or in which environments the client's advertising will be found.

If zulu5 provides services free of charge, these can be discontinued at any time.

zulu5 reserves the right to change or expand its service as deemed necessary for improvement and to introduce technical developments. zulu5 is entitled to have the services incumbent upon it provided by qualified third parties. These do not become contractual partners of the customer.

3. Remuneration

The Customer shall pay for the services provided by zulu5 monthly or annually based on the agreed scope.

All prices are exclusive of the statutory value-added tax applicable at the time.

Invoices are due and payable no later than 30 days after receipt. If the customer defaults, zulu5 is entitled to charge interest from the relevant date at the usual bank rate, starting with a value of at least 5%. If the customer does not fulfil their payment obligations per the contract or if he stops his payments, or zulu5 becomes aware of other circumstances which call into question the creditworthiness of the customer, zulu5 shall be entitled to call due the entire remaining debt and to demand advance payments or the provision of security.

In an overdue payment by the customer, zulu5 is entitled to suspend its services until the payment has been settled. Furthermore, zulu5 offers its customers additional services which are subject to a charge and which can be used as required and which are charged according to expenditure. These include:

- Services for report analysis
- Support services and training courses

Travel costs, expenses and any necessary overnight accommodation costs need to be agreed upon with the customer in advance and invoiced separately.

4. Term of Agreement and Termination

The Term of the Agreement and termination of the contract are part of the individual agreement to be concluded.

Without a specific clause or individual agreement, any contract concludes after 24 months. A contract shall be automatically extended by an additional 12 months if it is not expressly terminated with a notice period of 3 calendar months before the end of the term. The right to terminate the contract without notice for a good cause shall remain unaffected; such cause shall be deemed in particular if insolvency proceedings are instituted against the assets of zulu5 or an application to this effect is filed. A good cause for termination by zulu5 exists, among other things, if the customer is more than three weeks in arrears with the payments owed or if the customer continues other breaches of the contract despite a warning from zulu5. The remaining contractual payments by the customer remain unaffected in such cases.

Termination must be in writing.

5. Liability

The customer is aware that with the current state of technology, it is impossible to create software in such a way that it works without errors in all applications and combinations.

zulu5 is liable for the contractually agreed performance obligations in accordance with the statutory regulations.

zulu5 is not liable for damages due to incorrect or defective administration or interpretation of the information provided by the customer.

Furthermore, liability for the accuracy, completeness or reliability of the transmitted or used data is excluded. zulu5 is therefore not liable for damages incurred by the customer due to the use or non-use of the information transmitted to the customer.

zulu5 is only liable for damages if these are due to gross negligence or intent on the part of zulu5 or one of its vicarious agents.

The extent of zulu5's liability is excluded or limited and it applies to the personal liability of zulu5's employees, representatives and vicarious agents.

6. Confidentiality

zulu5 undertakes to treat as strictly confidential all documents, records, data, electronic data, trade and business secrets, customer information, information about business partners, economic and financial data, calculations and/ or any other information received from the customer, irrespective of its type, form, content and scope of which it becomes aware in the course of this business relationship and irrespective of the person affected by the information (including but not limited to the customer, the customer's advertising customers, other business partners) ("Confidential Information")

The term Confidential Information does not include information that is:

- generated by the zulu5 system
- is or becomes in the public domain and the public domain at the time it is communicated

- was already lawfully in the possession of zulu5, without any duty of confidentiality or breach of this Agreement, prior to receiving the Confidential Information from the Client;
- has received from a third party who is entitled to disclose such information without restriction;
- is required to be disclosed pursuant to a legal, judicial or regulatory duty and/ or order; or
- has been excluded from the Confidential Information by the Customer to the receiving party

If zulu5 is in doubt about the confidential nature of any information, it shall consult with the Client in writing before using such information, and any communication by electronic means shall satisfy the written form requirement.

zulu5 undertakes to use the confidential information provided to it and brought to its attention within the framework of the business relationship and to communicate it to third parties only to the extent that this is absolutely necessary within the framework of the business relationship and is covered by the prior written consent of the Client and the applicable statutory provisions (in particular those relating to data protection).

zulu5 undertakes to implement appropriate precautions to prevent third parties from gaining unauthorised knowledge of confidential information.

The transfer of confidential information does not constitute a transfer or grant of rights to the confidential information in favour of zulu5.

zulu5 is not entitled to use confidential information for self-promotion or self-presentation. However, zulu5 is permitted to contact third advertising parties insofar as this is necessary and appropriate for the optimisation of their advertising presence, and to refer to the services and products offered by zulu5, even if these third parties are connected to the Customer in business or organisational terms.

This agreement shall also apply in the event of the conclusion of a separate contract, and shall apply beyond the time of the termination of the business relationship. Irrespective of this, the customer hereby expressly agrees that zulu5 may name the customer as a reference address in its advertising or to third parties and, in particular, may also use the customer's logo on its website, in presentation materials and other advertising media.

7. Rights of use

The data provided within the scope of the analysis in the form of the reporting are databases that fall within the purview of the copyright law and are therefore protected by copyright. With the provision of the data, zulu5 transfers a simple right of use to the client, which is only granted for the purpose of overview and control of the service provided by zulu5 for the fulfilment of the contract. Alerts are stored in the zulu5 system and can be viewed and downloaded within a period of 2 months. Any further rights of use shall not be transferred. The customer is prohibited to pass on the data to third parties without the consent of zulu5, unless such passing on has been agreed upon in an individual contract or results from the purpose of this commission for the provision of services by zulu5.

It is also prohibited to permanently store the data provided by inserting it into other databases, as well as to use the data for the customer's individual commercial or non-commercial interests, insofar as this use is contrary to zulu5's business purpose unless zulu5 has agreed to such use in writing.

The use of the name, logo, etc. of zulu5 is only permitted to the extent granted in the individual contract and is based on the agreed scope of services.

The customer must ensure that the statements regarding the type and scope of the use of zulu5's products, the name, logo, etc., of zulu5 correspond to facts and are verifiable.

8. Cooperation

The Customer shall provide zulu5 in advance with all documents, information and materials required for the execution of the order.

9. Final Provisions

Should individual provisions be or become void, ineffective or contestable, they shall be interpreted or supplemented in such a way that the intended economic purpose is achieved as closely as possible in a legally acceptable manner; the remaining provisions shall remain unaffected. These provisions shall also apply *mutatis mutandis* to gaps requiring supplementation.



Swiss law shall apply to the General Terms and Conditions and any contracts arising therefrom.

The place of performance and jurisdiction for all disputes is Zurich, Switzerland.

Contractually agreed deviations from these General Terms and Conditions must be in writing to be effective. This rule also applies to the waiver of the written form requirement. The German version of the GTC is prevailing.

Status: January 2022