

General Terms and Conditions (GTCs) for using Stockperformer.com

These General Terms and Conditions (GTCs) govern the contractual relationship between Stock Performer GbR ("Stock Performer"; for contact details see Legal Notices) and Stockperformer.com users ("Customer") for using the service offered on www.stockperformer.com and the software developed by Stock Performer ("Service").

The GTCs can be viewed, printed out, downloaded and saved at any time at www.stockperformer.com/pages/termservice.

Preamble

Stock Performer offers a service which allows media professionals to track or analyze sales of their media with various online agencies through its www.stockperformer.com website. The Customer retrieves its sales data from the agencies by means of a browser plug-in and then makes it available to Stock Performer. Stock Performer analyses the data transmitted, processing and displaying the content clearly. The Customers are media professionals who use the Service for professional purposes.

§ 1 Subject

(1) The Service provided by Stock Performer is intended solely for entrepreneurs as defined in § 14 German Civil Code (Bürgerliches Gesetzbuch), i.e. a natural or legal person or a partnership with legal personality who or which, when entering into a legal transaction, acts in exercise of his or its trade, business or profession. The Service is not available to consumers as defined in § 13 German Civil Code, i.e. any natural person who enters into a legal transaction for a purpose that is outside his trade, business or profession.

(2) The subject of the contract is provision of a software-as-a-service facility. The Customer is given access to the Stock Performer Service via the internet in return for an agreed charge. The available Service will always be the most current version.

(3) The Service comprises the summary, processing and schematic presentation of the sales statistics for the Customer's media with various online agencies ("Content").

(4) The extent of access depends on which payment plan the Customer chooses. A list of the payment plans is available on <http://stockperformer.com/pages/pricing>.

(5) Stock Performer provides the Customer with a browser plug-in which allows the Customer to access its sales data with agencies and transmit it to Stock Performer. Sales data is downloaded each time the Customer logs in to its account, upon manual request or automatically once per hour when logged in. The data is transmitted to the Customer's end device. The Customer can interrupt and stop transmission at any time.

§ 2 Market Performance Program

(1) Under the Market Performance Program Stock Performer will aggregate the anonymized sales data of all participating users and carry out a statistical evaluation. Some parts of these statistical evaluations will be made available to the participating users in a summarized form.

(2) Stock Performer has the right to aggregate the anonymized sales data of the participating users, to carry out a statistical evaluation and analyze and use the data in any way. In particular, Stock Performer has the right to publish such data and to make it available both to other Market Performance Program participants and to third parties.

(3) The user can withdraw from the Market Performance Program by exercising the opt-out option. Any sales data which arises thereafter will not be used for the Market Performance Program. The right of use set out in § 2 (2) will continue to apply to any sales data processed until participation ends.

§ 3 Contract

(1) The contract comes about when Stock Performer provides written email confirmation. This confirmation contains detailed information on the terms of the contract.

(2) The Customer's general terms and conditions will not be incorporated into the contract even if Stock Performer has not stated this expressly. An exception will only be made to this rule with Stock Performer's express consent.

§ 4 Free Trial

(1) The Customer will receive free test access to the website for the period stated (free trial) when it first registers with www.stockperformer.com.

(2) During the free trial period the Customer will have access to the highest functionality level available at the time of registration.

(3) The free trial period begins the first time the Customer's sales data is transferred to Stock Performer.

(3) At the end of the free trial period the login data will be valid for one more month but the Customer will no longer be able to use the Service. If, after the end of that month, the Customer then decides to subscribe to the pay-service it will have to register again.

(5) Stock Performer only allows one free trial per customer. If Stock Performer discovers that a customer has used the free trial facility before, the free trial will be ended prematurely. This does not affect Stock Performer's

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right to assert other claims against customers who use the free trial facility more than once in a manner which is in breach of contract.

§ 5 Upgrade and switch to different payment plan

(1) At the end of the free trial period the Customer can decide to subscribe to the Service provided by Stock Performer. This is then subject to a payment. The features of the various options can be viewed on www.stockperformer.com/pages/features before subscribing.

(2) The term of the contract begins when Stock Performer receives confirmation that payment has been made.

(3) The Customer can switch to a different payment plan at any time. It may choose whether the new payment plan is to start immediately or when the current term of contract ends. Payments which have already been made for the current term will not be refunded if the Customer switches to a different payment plan prematurely.

§ 6 Supplier Accounts

(1) Stock Performer will offer customers of some agencies free access to the service through Supplier Accounts.

(2) The Service can only be used through a Supplier Account once the agency concerned has set up a Master Account and a customer-specific Supplier Account.

(3) In order to access the Supplier Account the Supplier must first register with Stock Performer.

(4) The Supplier Account will be administered by the agency concerned. Stock Performer is under no obligation to set up and maintain a Supplier Account for the Supplier.

§ 7 Stock Performer's rights and duties

(1) Stock Performer makes the Service available via the browser by means of an internet connection. Responsibility for the internet connection and the technical requirements of the Customer's IT system lies with the Customer.

(2) Stock Performer can only be used if the browser plug-ins have been installed on the Customer's browser. Stock Performer supports the following browsers: the official current version of Firefox, Chrome and Safari. Accessing the Service from mobile devices may adversely affect the functionality of the Service.

(3) Stock Performer provides the software necessary for the Service to function and the space needed for data storage.

(4) Stock Performer has the right to use the services of third parties to enable it to fulfil the technical requirements of the Service, including but not

limited to server hosting.

(5) The Customer is granted a non-exclusive right of use. This right is not transferable and ends when the term of contract ends.

(6) Stock Performer may decide to expand the function features covered by the contract and to change them to a reasonable extent as long as the material functions of the payment plan are preserved. The Customer will be notified of any such changes.

(7) The Service is available in principle 24 hours a day/7 days a week subject to the restrictions set out in (8) of this clause.

(8) Stock Performer has the right to carry out maintenance and development work on the Service. This may restrict or interrupt availability. Maintenance work may be carried out at irregular intervals. It will be announced with at least 24 hours' notice via a communication tool which is available to all customers. Stock Performer also reserves the right to restrict availability to a reasonable extent to enable it to carry out necessary repair work or make back-ups during operation.

§ 8 Customer's rights and duties

(1) The Customer may use the Service to the extent agreed in the contract.

(2) The Customer must pay the agreed charge promptly.

(3) The data which the Customer provides on registration must be complete and correct. The payment data in particular must be correct and completely. If errors occur in payment processing or if the Customer does not pay the full amount due Stock Performer reserves the right to block access until the problem has been clarified and/or full payment has been made. The Customer must notify Stock Performer of any changes to its user data without undue delay. Stock Performer reserves the right to delete customer accounts with incorrect or incomplete data after a reasonable time.

(4) The Service cannot function unless the Customer provides the agency data. It only functions if the browser plug-in provided by Stock Performer has been installed.

(5) The Customer confirms that it is the legitimate user of the agency accounts managed through the Service. Other agency accounts cannot be managed.

(6) Access may be used by more than one person. The Customer shall decide the users entitled to access the Service at its discretion. Responsibility for the actions of other persons to whom it gives its login data lies with the Customer.

(7) A user account can only be accessed with a password. Responsibility for choosing a password which meets current safety requirements lies

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with the user. The greater the length of the password and the more special characters and numbers it contains, the greater the safety of the password. If the Customer forgets his/her password a new password can be generated using the http://stockperformer.com/users/request_password link.

(8) The Customer must treat the login data confidentially and keep it safely. It may not be disclosed to unauthorized third parties.

(9) The Customer must inform Stock Performer without undue delay if it learns that defects or faults have occurred in using the Service. Stock Performer will remedy these defects or faults to the best of its ability within a reasonable period.

(10) The Customer may only set up a Supplier Account pursuant to § 6 of this agreement with the respective Supplier's express prior consent to account set-up, to collection, summary, analysis and evaluation of the sales data and to participation in the Market Performance Program. The Customer must provide proof of Supplier's consent upon Stock Performer's request without undue delay.

§ 9 Payment

(1) The agreed charge must be paid one month in advance. The amount due depends on the payment plan chosen. The first month for which payment is due begins when the contract is concluded.

(2) Payments will be processed through Wirecard ("Payment Processor"). This requires the Customer to accept the Payment Processor's general terms and conditions of business.

(3) The payment will be debited through its credit card via the Payment Processor. The Customer must ensure that there are sufficient funds on its account to cover the payment. If a return debit is necessary because, for example, there are insufficient funds on the Customer's account, Stock Performer may charge the Customer for any costs which this incurs.

(4) Invoices are generated electronically for the Customer to download. New and old invoices can be viewed at www.stockperformer.com/orders/view, downloaded in PDF-format and printed out. Stock Performer also sends an invoice by email for each payment. Invoices can also be sent to addresses in Germany by regular post if so requested by the Customer.

(5) The Customer agrees not to reverse payments (chargebacks) without prior agreement. Any Customer who suspects that an amount has been wrongly deducted from its account should first contact Stock Performer. Customer Service can be contacted by email at info@stockperformer.com. Stock Performer will charge the Customer for any costs incurred by chargebacks.

(6) Stock Performer reserves the right to block the Customer's access temporarily if the Customer defaults on payment or if irregularities occur

during the payment process until Stock Performer receives confirmation that payment has been received or the irregularities have been cleared up.

§ 10 Term of contract and termination

(1) There is no minimum term of contract for contracts paid on a monthly basis. The contract can be terminated at any time. The Customer will not be refunded for time for which it has already paid if the contract is terminated prematurely. If payment has been made for a one-year period, termination takes effect at the end of the year of use.

(2) Where payment is made on a monthly basis the term of contract is automatically extended by one month unless the Customer terminates by midnight on the last day of the month of use. If payment has been made for a one-year period, the contract is not automatically renewed.

(3) The contract can be terminated via the "cancel" button (see Settings > Payments) on the website or by email. Stock Performer will confirm cancellation immediately by email.

(4) This does not affect the right to terminate the contract without notice for good cause.

§ 11 Warranty

(1) The contract is subject to statutory warranty principles which apply to leasing.

(2) Stock Performer makes every effort to ensure that the Service runs smoothly. However restrictions in use may occur subject to § 7 (8).

(3) Functionality of the Service depends on the agency sales data being transferred. The Service may be interrupted or restricted if agency websites are unavailable or their availability is restricted. The browser plug-in for retrieving sales data may become inoperable at any time, particularly if the agencies change their website code or block the plug-in. This may mean that some agencies are inaccessible permanently or for an extended period.

(4) Restrictions or interruptions in Service availability pursuant to (2) or (3) of this § 11 do not entitle the Customer to reduce the agreed payment.

(5) Stock Performer makes every effort to ensure that sales figures are calculated and displayed accurately. The Customer must notify Stock Performer of any inaccuracies.

(6) The Customer is not entitled to compensation or to reduce the agreed payment if it has not cooperated or has not done so in good time within the meaning of § 8 (9) and § 10 (4) of these GTCs.

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§ 12 Liability

(1) Stock Performer is liable for intent and gross negligence. Stock Performer is not liable for simple negligence unless this is associated with material contractual duties or personal injury or property damage under the German Product Liability Act (Produkthaftungsgesetz). In such an event claims for compensation are limited to damage/losses which are typical of this type of contract.

(2) The Customer must transfer the agency's sales data to Stock Performer. Data may only be accessed from agencies at the Customer's initiative; responsibility for accessing such data and passing it on to Stock Performer lies solely with the Customer. Stock Performer is not liable for the lawfulness of data access and data forwarding. In particular, the Customer shall indemnify Stock Performer for any claims which may result.

(3) Stock Performer is only required to apply the level of due care which is customary in this business sector. Stock Performer is not liable for the consequences of errors in the Service. In particular, responsibility for decisions attributable to incorrect or incomplete sales data lies solely with the Customer.

(4) Stock Performer is not liable if it is unable to perform under this contract in whole or in part owing to force majeure.

§ 13 Data protection

(1) When the Customer uses the Service Stock Performer and its staff will process (save and use) personal data of the Customer.

(2) The nature, scope and purpose of data processing are set out in the Privacy Statement which can be accessed, printed out and/or downloaded and saved at any time from www.stockperformer.com/pages/privacystatement. The Privacy Statement is an integral part of the contract between Stock Performer and the Customer.

§ 14 Applicability of German law; jurisdiction, amendments to GTCs

(1) The contract is subject to the law of the Federal Republic of Germany excluding the United Nations Convention on Contracts for the International Sale of Goods.

(2) The place of jurisdiction for any disputes arising from this contractual relationship shall be Berlin.

(3) Stock Performer provides this English translation of its GTCs as well as the German version. However, the original German version is authoritative and, in the event of doubt, it is the German version which prevails.

(4) Stock Performer may make amendments to its General Terms and

Conditions of Business. Stock Performer will notify the Customer in writing of any planned changes and of its right to object. If the Customer does not object to a planned amendment within four weeks of receiving notification thereof the Customer is deemed to have accepted the amendment, which then becomes part of the contract.

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