
General Terms and Conditions of TDCLAB Dr. Siebertz GmbH

for Telemarketing and Acquisition Services

1. Scope of application and conditions

1.1 For all services, deliveries and offers of TDCLAB Dr. Ing. Siebertz GmbH (hereinafter "TDCLAB"), including all future transactions with the Customer in an ongoing business relationship, the present General Conditions for Services (GTC) shall exclusively apply, subject to individual agreements. TDCLAB shall not accept any deviating General Terms and Conditions of the Customer, unless TDCLAB has expressly agreed to such General Terms and Conditions in writing.

1.2 The terms and conditions shall only apply to entrepreneurs in terms of Section 14 Para. 1 BGB (German Civil Code), legal entities under public law and special assets under public law.

2. Offer and conclusion of contract

TDCLAB exclusively offers services. All orders awarded to TDCLAB shall be handled on the basis of a services contract.

3. Claims for defects, liability, period of limitation

3.1 In the case of faulty services, TDCLAB shall be entitled, but not obliged, to make up for or remedy the service within a reasonable period of time before the Customer can assert its statutory rights.

3.2 If TDCLAB is contractually obliged to provide services on an ongoing basis, the Customer may terminate the contract extraordinarily if it is no longer reasonable for him to adhere to the contract. The obligation to pay for services already provided shall remain unaffected in this case.

3.3 TDCLAB shall be under no obligation to review any proposed promotional measures or samples, objects or orders provided by the Customer for their compatibility with any applicable law, including and without limitation, competition or intellectual property rights (including, but not limited to, third-party copyrights). Such a legal review shall be within the Customer's responsibilities. If TDCLAB recognizes such a violation, the Customer will be informed. TDCLAB is entitled to refuse to perform the requested service if it violates any legal or regulatory requirements. The Customer shall indemnify TDCLAB from all claims raised by third parties and compensate TDCLAB for any damages suffered as a result of any breach of such provisions for reasons beyond its control.

3.4 The Customer is obliged to ensure that the processing and use of the address data sets for active telephony provided by him is compatible with the statutory provisions and particularly compliant with the German Unfair Competition Act (UWG) and the EU Data Protection General Order, as well as the Federal Data Protection Act (BDSG). Further details are regulated by an order processing contract.

3.5 TDCLAB's liability for damages caused by ordinary negligence shall be excluded, except in the case of damage to the body, health or life or the breach of essential contractual obligations.

3.6 In the event of a breach of essential contractual obligations, TDCLAB shall be liable for ordinary negligence limited to the damage foreseeable at the time of conclusion of the contract, up to a maximum of € 5,000.

3.7 In the event of force majeure and circumstances unforeseeable and unjustifiable by TDCLAB, such as strike, lockout, lack of means of transport, procurement difficulties, official orders, late delivery by suppliers, TDCLAB shall not be liable. This shall also apply to technical failures of data transmission paths, data networks and computers as well as the telephone system that cannot be influenced by TDCLAB, in particular if TDCLAB uses third-party means (such as Deutsche Telekom).

3.8 In all other cases, TDCLAB shall be liable in compliance with the legal provisions.

3.9 Any claims raised by the Customer for poorly performed services shall be subject to a limitation period of one year from handover / delivery of the services to the Customer. This shall not apply to claims for defects raised by consumers as well as claims for damages due to injury to life, limb or health and / or claims for damages due to gross negligence or intentional damage caused by TDCLAB. In this respect, the statutory limitation periods shall apply.

4. Right of use

4.1 TDCLAB grants the Customer, with full payment of the agreed remuneration, the right to use the service results to the extent specified in the contract, based on the service provided by TDCLAB under the contract and handed over to the Customer. If the scope is not agreed in the contract, the Customer shall be granted a simple, non-exclusive, non-transferable right of use for his own business purposes. An extended use, in particular a group-wide right of use or a duplication for the use by a third party, is not permitted and requires an additional contractual agreement. The remuneration depends on the scope of the right of use.

4.2 Any other rights shall remain with TDCLAB.

4.3 TDCLAB may revoke the Customer's right of use of the service result if the Customer does not use the service result in accordance with the contract. TDCLAB shall grant a grace period to remedy the situation to the Customer. The Customer must confirm the discontinuation of use after such revocation in writing to TDCLAB.

5. Privacy policy

5.1. TDCLAB undertakes to process personal data only in accordance with the respectively valid provisions of the EU General Data Protection Regulation and the German Data Protection Act (BDSG) and other applicable data protection regulations. Details for the data transfer from the Customer shall be regulated in the order data processing contract.

5.2. In projects where the data are not transferred for processing and where TDCLAB is thus responsible for the data, the following shall apply: Data records which are handed over to the client of the project for further processing as a result of our activities after coordination with the person concerned may be contacted ONE TIME regarding the specifically agreed topic. A permanent transfer to the company-internal databases and the use for marketing etc. is not permitted. If there is interest in this, this must be coordinated with the relevant person within the scope of the contracting party's own contact.

For each case of infringement, the contracting party shall forfeit a contractual penalty, the amount of which shall be at the discretion of TDCLAB and which may be subject to judicial review in the event of a dispute.

6. Confidentiality

Both parties undertake to maintain secrecy regarding any information that is not generally disclosed by the other party and that becomes known to them as a result of the business relationship, and to not use it for any purpose other than the fulfillment of the contract.

7. Payment, default

7.1 Unless otherwise agreed, invoices issued by TDCLAB shall be payable within 14 days without any charges. Discount deductions are not permitted unless expressly agreed otherwise.

7.2 In the event of a default in payment as well as justified doubts as to the Customer's ability to pay, TDCLAB is entitled, without prejudice to any other rights, to demand a prepayment for services not yet performed, to revoke payment periods granted and to immediately forfeit all claims arising from the business relationship.

7.3 As long as the Customer is in arrears with a due payment, TDCLAB is not obliged to provide the service. The defaulting Customer shall reimburse all reasonable reminder, collection and information costs to TDCLAB.

8. Termination, cancellation conditions

8.1 An ordinary termination before expiry of agreed fixed contract periods shall be excluded. In those cases, in which the Customer terminates the agreement before expiry of an agreed contract term for reasons not attributable to TDCLAB, TDCLAB shall be entitled to raise the statutory compensation claims.

8.2 At its discretion, TDCLAB may, charge the Customer a flat rate of 50% of the remaining agreed remuneration in addition to the remuneration for the already provided (partial) services. The right to issue a termination without notice for good cause shall remain unaffected thereof.

8.3 If an agreed date for the delivery of the services is canceled or postponed by the Customer, the Customer shall pay TDCLAB a flat rate compensation of 25% of the compensation that would have been incurred without cancellation, if the cancellation is made 28 days before the agreed date, and 50% of this fee if the cancellation is communicated to TDCLAB 7 days or less before the agreed date. If no cancellation occurs, 100% of the fee shall be charged. Any Customer-induced delays in project activities (for example due to late delivery of data or necessary project information) shall be charged at a flat rate of € 100 / day.

9. Final provisions

9.1 Should any provision of these General Terms and Conditions or of the contract, in whole or in part, violate statutory provisions or should they be void for other reasons, this shall not affect the validity of the other provisions of the General Terms and Conditions and the contract. The invalid provision shall be replaced by another provision that corresponds to the content of the invalid provision.

9.2 German law shall apply. Place of fulfillment shall be Nidderau. The exclusive place of jurisdiction for all disputes of the parties arising from or in connection with the business relationship shall be the TDCLAB's place of business, unless another jurisdiction is required by law. TDCLAB is entitled to sue the Customer also at his ordinary place of jurisdiction.

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