

General Terms and Conditions of Infopark Cloud Services

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1. Subject matter

- 1.1. These present terms and conditions of Infopark Group GmbH, Berlin (Infopark), are effective for all contracts and contractual agreements between Infopark and its customer and refer to the services to be performed by Infopark (Infopark Cloud Services) and to be paid for by said customer.
- 1.2. In addition to these present terms and conditions, the respective price list shall be effective.
- 1.3. The customer's terms and conditions shall not be regarded as a matter of this contract even if such are attached to calls for bids, orders, or order confirmations, and even if Infopark Cloud Services performs without contradicting the customer's conditions.

2. Infopark Cloud Services – Continuous development as a service

Infopark continuously develops Infopark Cloud Services. The customer can demand Infopark to constantly optimize its services and adapt them to technical progress.

In order to allow such continuous development, the following regulations shall apply:

- 2.1. In case Infopark plans changes of these terms and conditions, Infopark will inform the customer at least six (6) weeks before these changes become effective (notification of changes).
- 2.2. In case of changes to these present terms and conditions, the customer has a special right of termination effective at the point of time at which such changes become effective.
- 2.3. If the customer does not terminate the contract in writing (e.g. by email) within six (6) weeks from the date of the notification of changes, the changes will become part of this contract as soon as they become effective, if and insofar as the changes are reasonable considering Infopark's interest in optimizing its services, adapting to technical progress and to the solutions of current operative requirements. The changes are not reasonable for the customer if Infopark Cloud Services become unusable for the customer due to the changes made or if the services are strongly restricted in their functionality for the purpose sought for by the customer. The changes are particularly reasonable for the customer if basically equivalent functionality is ensured or if a termination of Infopark Cloud Services as stipulated in 2.2 is reasonable. Infopark will explicitly point out the consequences of customer's action in its notification of changes.
- 2.4. In case of relevant changes of programming interfaces (APIs) or Software Development Kits (SDKs) of Infopark Cloud Services, Infopark will inform the customer about these changes by means of release notes under the corresponding website URL for the respective service and will continue to provide previous versions to the customer for at least six (6) months after the

changes become effective, unless further provision is impossible due to actual or legal reasons, or such provision requires an unreasonable effort for Infopark.

Infopark explicitly points out that in exceptional cases short-notice changes of its services might become necessary due to reasons of security or other highly important reasons. In such a case, Infopark will immediately inform the customer about the change via internet by means of release notes accessible by the corresponding website URL for the particular service.

3. Infopark as a Service – the services in detail

At customer's order, Infopark performs

- API Services
in the form of Software as a Service (SaaS) and, where appropriate, the provision of supporting SDKs;
- Infopark Cloud Hosting Services
in the form of Infrastructure as a Service (IaaS); or
- Infopark Customer Support Services
in the form of further services.

The following services are not included in the Infopark Cloud Services:

- services for creating, programming and designing a website;
- the customer's IT infrastructure and the connection of the customer to the internet; as well as
- services related to (internet and other network) connections.

3.1. API Services

API Services are services to support the customer in developing and providing websites (API Services). Specifically, a developer can use these API services to develop websites and applications. Insofar, Infopark owes the customer the attempt to connect the API platform for these websites and applications in such a way that the customer can use the API via the internet. The customer does not receive any rights to the API. The internet connection used by Infopark in order to allow the customer to use the API is the place of performance.

With the Infopark Cloud Services, the customer can create his web projects and manage them centrally. In the scope of the web projects, the customer can use Infopark's Content Management Systems including possible extensions such as Scivito (www.scivito.com) and Fiona (fiona.infopark.com) for the management of his contents. In order to enable the customer to use the API Services, Infopark provides a technical documentation, data and information in English regarding the use of Infopark Cloud Services through a website URL specified by the particular service.

The customer is aware that Infopark operates Infopark Cloud Services only on servers and via services within the European Union. This expressly does not apply to the content distribution of

data via Content Delivery Networks (CDNs), the aim of which is the global distribution of this data.

3.2. Optional: Infopark Cloud Hosting Services

Using the Infopark Cloud Services, Infopark Cloud Hosting servers and serverless functions can be set up for the operation of customized websites. Infopark operates these servers based on the services of Amazon Elastic Compute Cloud (EC2) and Amazon Lambda (Lambda) at Amazon Web Services (AWS), among others. The customer can order Infopark Cloud Hosting Services in addition to the API Services.

In case this is ordered, Infopark owes the customer the attempt to make the customer's server and serverless functions created on behalf of the customer available on the internet in such a way that the customized services are publicly available on the internet. The internet connection used by Infopark in order to allow the customer to use the API is the place of performance.

The customer is aware of the fact that Infopark only operates servers and services within the European Union. This does not apply to the use of Content Delivery Networks (CDN), the aim of which is the global distribution of data. Upon separate written request through the customer, Infopark can also operate servers and serverless functions for the customer in AWS regions outside of the European Union or in specific AWS regions within the European Union. The use of global CDNs does not require the customer's written consent.

3.3. Optional: Support Services

The customer can mandate Infopark for optional Support Services. In case this is ordered, Infopark performs the Support Services ordered as a service. Specifically, Infopark owes the effort to support the customer's professional and technical operating personnel in the use of the API Services and, if also commissioned, in the use of the Infopark Cloud Hosting Services.

3.4. Infopark is entitled to perform Infopark Cloud Services entirely or partially through third parties, such as AWS, as sub-contractors without the approval of the customer.

3.5. Services within the EU and data protection

Infopark basically provides Infopark Cloud Services within the European Union (EU) and has taken all technical and organizational measures required by the regulations of the General Data Protection Regulation (GDPR).

The customer is aware of the fact that Infopark distributes the data to several data centers within the European Union to increase data security and availability and that CDN technologies are used to distribute the data globally to optimize the website speed, explicitly also outside the European Union.

Infopark only collects minimal data and log files necessary for the operation of Infopark Cloud Services. No personal data is collected for the use of the APIs, unless this is explicitly desired in the context of data processing, e.g. CRM data. All log files logged for technical reasons are kept for a

maximum period of four weeks. After this period has elapsed, they are stored in an aggregated state that does not allow any conclusions about personal data.

- 3.6. The Service Levels to be performed by Infopark within the scope of the Infopark Cloud Services are partially described in the section „Service Commitment“ and, if applicable, in the respective Service Level Agreements.

4. Customer's responsibility

- 4.1. The decision to commission Infopark and use the Infopark Services is the customer's own responsibility. The customer will particularly check in due time if
- Infopark Cloud Services meet his requirements and the customer shall consider expert-advice for this; he shall also ensure that
 - the IT infrastructure he implements meets the necessary (technical) minimum requirements for using Infopark Services and is protected against viruses, trojans or other malware; and
 - he holds the necessary rights for using the implemented IT infrastructure, especially the implemented software, and that he complies with and observes the terms of use (e.g. the GNU Lesser General Public License (GNU LGPL) in the context of possibly required SDKs and Open Source extensions).
- 4.2. The customer performs the obligatory cooperation services. In particular, he shall
- observe the security advice given by Infopark about the protection of his implemented IT infrastructure;
 - immediately inform Infopark about disturbances of Infopark Cloud Services using the respective systems provided for this purpose by Infopark, and he shall adequately support Infopark in resolving such disturbances, particularly by providing the information needed;
 - use Infopark Cloud Services appropriately and only in the intended use; and
 - list expert contact people for Infopark.

The customer is aware of the fact that his data are in principal at risk through viruses, trojans and other malware, as well as access and attacks through third parties in connection to the use of the internet.

- 4.3. The customer must not hand over his personal access data (access data) such as passwords to third parties. Access data must be stored under security so that no third party can access them; saving the data on a PC or other storage devices (CD-ROM, flash drive, etc.) without encryption or not encrypted properly does not count as secure storage. Access data must be changed immediately if a third party is suspected to have gained knowledge of them.
- 4.4. The customer carries the sole responsibility for the contents he uses Infopark Cloud Services for, or which he collects, processes or otherwise uses with Infopark Cloud Services, particularly when it comes to websites. This also applies when it comes to third parties using customer's website.

The customer must observe the national and international data protection rights, copyrights, trademark and patent laws, naming and labeling laws, as well as all other industrial property rights and the personal rights of any third party; he must adhere to the respective laws and regulations.

The customer exempts Infopark from any claim third parties might bring up against Infopark in relation to the use of Infopark Cloud Services by the client. This exemption includes adequate costs for legal defense (fees for attorneys and court proceedings).

5. Pricing

- 5.1. The customer pays Infopark the agreed prices (plus the respective VAT if applicable) for Infopark Cloud Services. The negotiated prices are charged on a monthly basis and are payable upon invoicing.
- 5.2. The minimum booking period, the amount of the negotiated prices and further conditions for payments are described in the corresponding price list and the respective binding Infopark offer. If nothing is explicitly stated differently the prices listed are to be seen as net-value in Euro (EUR) plus the respective VAT.
- 5.3. In case of delayed payment, Infopark can
 - demand delay charges in the amount of 8% above the respective base interest rate. Enforcement of further damages is unaffected;
 - threaten the customer with blocking the API Services and/or Infopark Cloud Hosting Services in writing (e.g. via email) and – any time after the threat – block the Infopark Services completely or partially, yet not before 14 days of delay have passed.
- 5.4. The customer can only invoice against legally confirmed or undisputed counterclaims. The customer can only claim a retention right for counterclaims based on this contract.

6. Infopark as a Service – Infopark's responsibility

- 6.1. Infopark performs its Infopark Cloud Services as a service in the form of as a service performance. Thus, Infopark does not owe success, but only the performance of Infopark Cloud Services.
- 6.2. Infopark does not guarantee that
 - Infopark Cloud Services are usable or available constantly during the term of this agreement;
 - websites created using the API Services are constantly usable or available without any errors, or that they have specific functions or other properties.
- 6.3. Service Commitment
In case Infopark Cloud Services are not available or not available as fit for the agreed upon

Service Levels, Infopark will try to make the use possible for the customer immediately, or to meet the agreed upon Service Levels again immediately.

Infopark will use commercially reasonable efforts to reach an availability of the percentage defined in the respective Service Level Agreement per month. The API Services and Infopark Cloud Hosting Services are “available” if they are connected to the internet in such a way that the customer can use them over the internet. The availability is calculated by taking the minutes of a month (100%) and subtracting the respective percentage of the minutes during which the service was not connected to the internet (minutes are only subtracted if the service was not available for more than five (5) consecutive uninterrupted minutes); minutes during which a connection was not available due to a service exclusion are not subtracted.

A service exclusion is given if a service is unavailable due to

- blocking as described in 7;
- an occurrence of an event which is beyond the control of Infopark, including (I) all cases of force majeure according to 9.5, and (II) all events related to the internet connection beyond the place of performance;
- the behavior of the customer or a third party; or
- disturbances that originate from the IT infrastructure or another area of responsibility of the customer.

If the Service Level Agreement related to a specific service does not apply or is not defined, by default the service levels apply as follows.

In case Infopark cannot achieve the below-mentioned availabilities, the customer can claim a credit note of Service Credits for the API Services and/or the Infopark Cloud Hosting Services. A Service Credit is a money credit calculated as given by the following prerequisites and conditions:

Availability per month (in percent)	Service Credits (in percent of the price payable for the service concerned in the respective month)
Less than 99.95% but not less than 99%	2.5 %
Less than 99% but not less than 98.5%	5.0 %
Less than 98.5% but not less than 98%	7.5 %
Less than 98%	10.0 %

If

- the customer informs Infopark in the course of a month that the API Services and/or Infopark Cloud Hosting Services were available less than 99.95% in the previous month

(naming the precise time-periods of non-availability sorted by date and time as well as the percentage of availability);

- the customer explicitly claims Service Credits for the availability mentioned in his message; and
- Infopark's check shows that the respective service was indeed unavailable in the time-periods mentioned and if this results in the customer's entitlement to Service Credits;

Infopark will credit the customer the Service Credits in the month following the month in which Infopark completed its check.

Service Credits are credit notes only. They cannot be transferred or cashed in and they do not result in any case in a reimbursement of previously made payments.

If Service Credits are not claimed as described (e.g. if Service Credits are not claimed within the month following the month during which the respective service was unavailable) the entitlement is forfeited without substitution.

- 6.4. Further claims of the customer due to non-performance or low performance of Infopark are excluded.

Claims due to non-performance or low performance become time-barred after twelve (12) months, unless the respective defect was fraudulently concealed. The legal and contractual regulations regarding Infopark's liability for damages remain unaffected.

7. Blocking Infopark Cloud Services

- 7.1. Infopark has the right to partially or completely block the use of the API Services and the Infopark Cloud Hosting Services and to partially or completely stop performing the Support Services, if an important reason is given for such blocking or stopping. An important reason for blocking or stopping is particularly given, if

- the customer violates an obligation of this contract, particularly if payment is delayed (blocking of Infopark Cloud Hosting Services and stopping the Support Services can happen without previous announcement; for blocking the API Services, see 5.3);
- it is not reasonable for Infopark to further use Infopark Cloud Services;
- the customer disrupts or degrades the performance of Infopark Cloud Services;
- the customer tests the vulnerability of Infopark Cloud Services systems or networks;
- the customer replicates or competes with core products or services offered by Infopark;
- the customer exceeds or circumvents limitations on access, calls and use of Infopark Cloud Services, or otherwise use Infopark Cloud Services in a manner that exceeds reasonable request volume, constitutes excessive or abusive usage, or otherwise fails to comply or is inconsistent with any part of the documentation;
- a security risk is given for the Infopark Cloud Services or the IT infrastructure needed by Infopark in order to perform Infopark Services; or

- the customer uses Infopark Cloud Services to conduct fraudulent or otherwise illegal actions, or to participate in such actions.

- 7.2. In case Infopark notices an unusual increase in the scope of use of the Infopark Cloud Services, Infopark can preemptively partially or completely block the use of API servers and the Infopark Cloud Hosting Services; however, there is no obligation to do this.
- 7.3. In case the API Services and the Infopark Cloud Hosting Services are blocked, or if the Support Services are stopped, Infopark will immediately inform the customer about the reason for such blocking or stopping. As soon as the customer proves to Infopark that this reason does not or does no longer exist, or that the preemptive blocking can be reversed, Infopark will reverse the blocking, or resume performance of Support Services.
- 7.4. Neither the blocking nor the stopping of Infopark Cloud Services as described in 7.1 or 7.2 frees the customer from his obligation to pay for the blocked or stopped Infopark Cloud Services. Any claim for damages due to such blocking or stopping of the Infopark Cloud Services as described in 7.1 or 7.2 is excluded.

8. Data protection and Order data processing

- 8.1. Insofar as the customer uses Infopark Services to collect, process or use personal data, Infopark only performs the Infopark Services explicitly on customer's order as order data processing according to Article 28 GDPR (General Data Protection Regulation).
- 8.2. Infopark has established all technical and organizational means required by the regulations of the GDPR in order to warrant the execution of the GDPR regulations.

The separate signing of a contract about the processing of personal data on behalf according to Art. 28 GDPR with Infopark is necessary and becomes part of this contract.

- 8.3. The customer is aware of the fact that Infopark and its sub-contractors can be obliged through authoritative or legal order to publish or hand over customer data.

9. Liability and limitation of liability

- 9.1. Infopark carries unlimited liability for any injury to life, body, or health as well as for malicious intent and gross negligence.
- 9.2. In cases of slight negligence and if a case of 9.1 is not given, Infopark is only liable for the violation of a crucial contractual duty (so-called cardinal duty) the execution of which is vital to the conduct of this contract and in the observance of which the customer can trust. In such cases, Infopark's liability is limited to the foreseeable damages typical to the contract. Any liability for other damages that originate from defects is excluded. Additionally, Infopark's liability is limited to an amount of 250,000 EUR per event of damage.

- 9.3. Based on the previous sections, Infopark is only liable for the loss of data if and insofar as such loss could not have been prevented by appropriate security mechanisms on the customer's side.
- 9.4. Infopark owes the diligence customary in the trade. When stating whether or not Infopark is at fault, it must be considered that software as a fact cannot be created entirely without mistakes.
- 9.5. Infopark is not liable for force majeure events which make the performance of the contractual services impossible, or only crucially impede or temporarily complicate the proper execution of this contract. Force majeure contains all events independent of the will and influence of the contractual parties, such as war and other military conflicts, natural disasters, illegal strikes and riots, governmental means, authoritative decisions, or other critical and unforeseeable circumstances which were not caused by the contractual parties. Any circumstance only counts as force majeure if it occurs after the contract formation.
- 9.6. The liability based on constraining law, particularly according to the product liability law, remains unaffected.

10. Term and termination

- 10.1. This contract is not limited to a specific time-period. Depending on which Infopark Cloud Services are the subject matter of a contract, this contract can be terminated at any time with a notice period of two weeks to the end of the month, unless otherwise agreed.

A termination of the API Services is automatically regarded as a termination of the Cloud Hosting Services and the Support.

- 10.2. The right of extraordinary termination for important reasons remains unaffected.
- 10.3. In case of the termination of the API Services, Infopark will
 - immediately delete the customer's data, except such data that is needed to execute the contract, particularly for invoicing; the customer is aware of the fact that it can take some time to entirely delete the data which have been saved for the purpose of backups from all backup systems;
 - perform additional services which might be necessary to transfer the customer's data to the customer against appropriate remuneration, provided the customer explicitly requests such services and meets a separate agreement with Infopark.

11. Contact

Infopark can be contacted by email to info@infopark.de or by postal mail to:
Infopark Group GmbH, Kitzingstr. 15, D-12277 Berlin, Germany

12. Final provisions

- 12.1. This contract is exclusively governed by the substantive law of the Federal Republic of Germany. The application of the Viennese United Nations Contract for the Sale of International Goods from April 11th, 1980, is excluded.
- 12.2. Exclusive legal venue for all legal procedures based on or resulting from this contract is Berlin, if the customer is a company, a legal person under public law, or a special fund under public law; however, Infopark has the right to sue the customer at his own venue.
- 12.3. In case individual provisions of this contract should be or become partially or entirely ineffective, the effectiveness of the remaining provisions remains unaffected. The contractual parties agree now that in such a case the ineffective provision shall be replaced by a provision most similar to the economic purpose of the ineffective provision. The same holds true for potential gaps in the contract.