



# Terms and Conditions of soluteN

(Version: Karlsruhe, November 2016)

## 1. Fundamentals

### 1.1

The soluteN is a service of solute GmbH, Zeppelinstraße 15, 76185 Karlsruhe (hereinafter solute). The system offers operators of online stores (hereinafter Customers) the opportunity to submit datasets with descriptions of the products you offer and additional information with solute in order to be able to present their products in this database.

### 1.2

solute provides the services offered solely on the basis of these general provisions and an order form. Differing, conflicting or additional terms and conditions are, even if known, not part of the contract, unless solute has expressly agreed to their validity in writing.

## 2. Benefits and Rights of solute GmbH

### 2.1

solute offers a system for the marketing of Customer products with the soluteN network.

### 2.2

solute is entitled to offer the ad network in which the Customer is integrated also to other portals. In this case, solute will inform the Customer about a change of portals and/or new portals. The Customer is entitled to object in writing within four weeks of receipt of the information. If solute receives no objections within the period, solute has the right to switch the Customer to the new portal free of charge. If solute depicts a Customer's data on portal pages, even though the Customer has objected within the aforementioned period, the Customer is entitled to a right of extraordinary termination. The obligation to notify the Customer does not apply if the new portal closely reflects the implementation of the soluteN in function and appearance and the new portal represents only one of various forms of advertising of solute and the change of portals and/or the integration of new portals is reasonable for the Customer after a consideration of mutual interests.

### 2.3

Neither the soluteN nor another, future portal are obliged to connect a particular online store to the system. That is, solute can not guarantee that each online store is integrated in all portals of his choice. If an online store is not accepted by any portal, the Customer is entitled to immediate termination.

### 2.4

solute implements the electronic integration of the product information of the Customer into the soluteN database, to which end-users have access via the portals. A particular form of representation is not guaranteed. solute uses (e.g. for the marketing of the online stores on the websites of the portals), among other things, the existing product information from texts

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and images, including any attribute of the Customer (hereinafter "Content"). solute reserves the right to standardise the presentation of content submitted by the Customer within a single portal presentation. The link that leads from the portals to the online store is adjusted, so far as necessary, taking optimal advantage of the online store requirements.

## 2.5

If this is ordered by the Customer, solute has the right to use the whole or part of the Customer datasets in original or supplemented form for displaying ads on paid placement providers (Google, Yahoo! Search Marketing, etc.). The prospects generated thereby are routed directly to the underlying product URL in the Customer dataset via the solute system.

## 2.6

solute reserves the right to extend, change or improve the services and offerings insofar that these changes are reasonable for the Customer. solute is especially then entitled to change the service if this is based on a change which is mandatorily required by a contractual Partner (e.g. a portal) and this is reasonable for the Customer.

## 2.7

The offerings of solute are non-binding and subject the change without notice.

## 2.8

solute is entitled to increase prices after written notice within a period of six weeks. The new fees apply if the Customer does not object to the changed price in writing within six weeks. The contractual relationship then proceeds to the changed price. If the Customer objects within this time, both parties have the right to terminate the contract with a notice period of four weeks to the end of the month.

## 2.9

solute reserves the right to briefly and appropriately increase prices seasonally during this period (e.g. Christmas). The Customer will be informed by email about the duration and the amount of the price adjustment no later than four weeks before the start of the modification.

## 2.10

The Customer may only settle undisputed or legally established counter-claims for claims of solute. The Customer may only exercise a lien if its counter-claim is based on the same contractual relationship. The assignment of claims of the Customer against solute to third parties is excluded.

## 2.11

Any objections to the invoices of solute must be made in writing to solute within four weeks after the due date of the invoice. Failure to make timely objections shall be deemed approval. solute will indicate separately on the invoices of the legal consequences of failure to timely objection. If the Customer has missed the objection period through no fault of its own, they may inform solute of objections in writing within two weeks after removal of the cause. The proof of the lack of fault is the responsibility of the Customer. Statutory claims of the Customer for objections after the deadline remain unaffected. Insofar as solute deletes

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Customer-related data at the point in time due to legal provisions or explicit instruction from the Customer, solute bears no obligation to prove the correctness of the statement.

#### 2.12

If the Customer is paying the statement in arrears, solute is entitled to terminate services and to take the online store of the Customer offline. solute will notify the Customer on the consequences of delay past the deadline.

### 3. Availability of solute

#### 3.1

solute strives to provide the service of the soluteN during the entire contract term, taking into account any maintenance and repair work and downtime for updates 24 hours a day 7 days per week. Use of the service is at the risk of the Customer. solute does not guarantee that the service is available, timely, secure or error free at all times without interruption.

#### 3.2

Interruptions of operation are possible. This is especially true during the performance of maintenance and/or repair work and/or upgrades as well as times when the web server is not available over the Internet due to technical or other problems which are not within the sphere of influence of solute (force majeure, fault of third parties, failure of communication networks and gateways of other providers, disturbance in the area of the respective cable provider, etc.).

#### 3.3

Based on the operational interruption for maintenance and/or repair work or for underlying causes outside the area of influence of solute, the customer shall be obliged to pay the agreed compensation.

### 4. Duties and Obligations of the Partner

#### 4.1

The fee to be paid by the Customer shall be according to the applicable tariff and results from the contract, or from any other agreements between the Customer and solute. A settlement is fundamentally performed on the basis of redirects specified in the invoices ("forwarding"); unless there are special agreements between the Customer and solute.

#### 4.2

The Customer has to inform themselves and ensure that the technical components (hardware and software) are compatible before the start of the cooperation on the respective access configuration in the specific technical design for solute. solute does not guarantee the functionality and compatibility of services offered with the equipment (hardware and software) for the Customer.

#### 4.3

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Insofar as data are transmitted to solute, in whatever form, the Customer shall make backups. The servers are backed up regularly.

#### 4.4

The Customer is obligated to keep the passwords obtained from solute secret and to grant access only a necessary circle of people.

#### 4.5

The Customer operates his online store and his website so that these do not violate legal prohibitions/precepts, moral standards and rights of third parties (e.g. name, copyright, trademark, and privacy rights, etc.) with the form, content and/or intended purpose.

If the Customer offers goods/products/services that are not approved for youths in accordance with the legal requirements of the respective countries, the Customer ensures that these products are marked as such and will not be given to minors. The Customer also ensures that alcoholic beverages, tobacco, weapons and/or other goods and services whose offer and/or distribution are subject to legal restrictions are offered and sold only in compliance with these restrictions. The Customer will provide evidence to solute that he made required markings and has set up the necessary control mechanisms (e.g. age verification).

##### 4.5.1

The Customer, in particular, is obligated to provide only goods/products/services in his online store which do not fall under the prohibition of drug law offences and are freely marketable within the framework of the legal provisions of the buyer's country.

##### 4.5.2

The Customer, in particular, is obligated not to offer or present any pornographic, violent or racist content as part of its online store and its website. He is further obligated not to call for criminal activities or provide instructions for this.

#### 4.6

If solute obtains knowledge thereof that the online stores and/or websites of the Customer violate legal prohibitions/precepts, moral standards and rights of third parties with the form, content and/or intended purpose, solute has the right to remove the illegal information or to block access to these. The access lock can apply to all offers of the Customer on all portals, insofar that the problematic offer cannot be kept within limits beyond doubt. It is left to the Customer to provide proof of the actual harmlessness of the content. Once this is provided, the offer will be unlocked. If the online stores and/or websites violate legal prohibitions/precepts, moral standards or rights of third parties, the customer is responsible for these and liable to solute for compensation of any resulting damages. In the internal relationship of any of these violations, the Customer shall indemnify solute from the resulting claims of third parties.

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#### 4.7

The Customer is solely responsible for the offer, sale and processing of orders to end customers. A contractual relationship for the order in the online store is concluded exclusively between the end customer and the Customer.

#### 4.8

If it is known that the customer sent or had sent unsolicited mass mailings via email or newsgroup (so-called "spamming"), which are related to the services provided by the solute ad network, solute is entitled to the immediately blocking of the offer. Customer-installed programs that compromise the performance of the server can be uninstalled or blocked by solute.

#### 4.9

For its businesslike teleservices, the Customer is obliged to keep all information required comply with the statutory requirements.

In addition, the Customer has the obligation to comply with the provisions of EU consumer guidelines.

## 5. Liability of solute GmbH

### 5.1

solute is not liable for any damages, regardless of the legal grounds, only if an essential contractual obligation (cardinal obligation) was culpably violated in a manner that endangers the purpose of the contract, or the damage is due to gross negligence or wilful misconduct, or if it is a liability for damages arising from injury to life, body or health. The limitation of liability also applies in the case of fault of an agent of solute. If the violation of an essential contractual obligation (cardinal obligation) is not grossly negligence or wilful, the liability of solute to such typical damage or such typical extent of damage shall be limited, which at the time of concluding the contract were reasonably foreseeable. This does not apply to liability under the German Product Liability Act. Unless mandatory statutory provisions provide otherwise, liability is otherwise excluded.5.2

Exclusion period: Notwithstanding any shorter statutory deadlines, any claim against solute out of or in connection with the use of the Services or these Terms must be filed in court within one year after its creation.

## 6. License Agreement

### 6.1

The Customer hereby grants solute comprehensive economic exploitation in the context of the marketing of the products of the Customer, to the datasets with the respective product offers, the non-exclusive and sub-licensable usage and exploitation rights to the full, complete or partial evaluation in all known types of use or recycling (especially distribution on the Internet, representations on websites) on or in connection with the portals as well as other online advertising media. The usage and exploitation rights are expressly granted just as simple rights, that is, the Customer remains entitled therein to have rights to the datasets themselves. The granting of rights is not locally or geographically restricted.

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### 6.3

Online advertising: solute is entitled without limit to combine or have combined the information provided by the Customer datasets and their contents in the portals with advertising, especially banners or other forms of media per ad serving, and to place content in or within close proximity to the datasets and their output. The proceeds thereof are the sole property of solute or its affiliates.

### 6.4

For the purposes of the contract, solute is entitled to use the brands, work title, name or labels of the Customer. The same applies to the respective portals.

### 6.5

solute is also entitled to sub-licence all the rights mentioned to portals, to the extent necessary for the integration of the soluteN and its contents into the portals. Furthermore, solute is entitled to grant the rights named above to make use of its contractual obligations of third parties for fulfilment, insofar as it serves the fulfilment of contractual obligations or an increase in traffic to the portals.

### 6.6

The granting of rights also includes the right to sub-licence the said usage rights to the users of the portals indefinitely, to the extent necessary for the contractual use by the Internet users.

### 6.7

The granting of the aforementioned rights is limited to the duration of the contract between solute and the Customer.

### 6.8

The contents published by the soluteN may be processed and used by solute for the purposes of advertising and market research.

## 7. Term and Termination

### 7.1

The term of the contract is given from the order or from the separate agreement between the Customer and solute.

### 7.2

Cancellation is possible by order after the expiry of regulated minimum contract period at any time by giving notice of four weeks to the end of the month. Relating to the safeguarding, the deadline determines the access date of the declaration. The notice must be in writing, that is, a handwritten signature of an agent of the terminating Party.

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### 7.3

Both Parties are entitled to immediate termination of the contract in the presence of an important reason. An important reason, which entitles solute to terminate without notice, exists in particular if

- a) existing contractual relationships to contractual Partners of solute are endangered by the behaviour of the Customer;
- b) the Customer is in two consecutive months in default of payment;
- c) the Customer is in financial collapse, in particular if the opening of insolvency proceedings is requested;
- d) the Customer violates the essential provisions of these GTC;
- e) the data/content offered by the Customer violate legal precepts/prohibitions, moral standards or third party rights.

### 7.4

The dismissal takes place after prior warning by solute, unless the warning has seen no prospect of success and/or holding solute to the contract is not reasonable.

### 7.5

solute does not assume the obligation to unconditionally delete the data of the online store at the end of the contract. The online store is entitled to demand the deletion of data.

## 8. Final Provisions

### 8.1

The contractual language is English.

### 8.2

Only the law of the Federal Republic of Germany applies with the inclusion of CISG (UN sales law) for this contract and its implementation, exclusive of international private law.

### 8.3

All disputes arising in connection with this contract or its validity shall be finally settled in accordance with the Arbitration Rules of the German Institution of Arbitration (DIS) without recourse to the ordinary courts of law.

- The place of arbitration is Frankfurt/Main
- The number of arbitrators is three.
- The language of the arbitral proceedings is English

- The applicable substantive law is German with the inclusion of CISG (UN sales law)

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#### 8.4

The written form is required in terms of the contract and the general Terms and Conditions, so an email is sufficient. This is expressly not for the placing of the order and termination.

#### 8.5

The parties agree on the contents of the contract, in particular the conditions to maintain silence.

#### 8.6

Severability clause: Should one or more provisions of this contract be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions of this agreement. The same applies to regulatory gaps.

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