

SAM[®]DIGITAL WEB PORTAL TERMS AND CONDITIONS OF USE



- 1. Scope**
 - 1.1 The following general terms and conditions of use ("Terms and Conditions") apply to the use of the SAM DIGITAL web portal services ("Web Portal"), and all other related services offered and rendered to the contractee by SAMSON AKTIENGESELLSCHAFT ("SAMSON").
 - 1.2 These Terms and Conditions are understood as exclusive. Deviating, conflicting or additional general terms and conditions proposed by the contractee do not apply under this agreement unless accepted in writing by SAMSON. This obligation of acceptance applies in any case, for example also when SAMSON accepts services from the contractee with knowledge of the contractee's general terms and conditions.
 - 1.3 Use of the Web Portal is based on an agreement against payment concluded in an isolated case between SAMSON and the contractee ("Contractual Relationship"); see also clause 2.2.
 - 1.4 Agreements concluded with the contractee under this Contractual Relationship or other individual contracts concluded with the contractee in isolated cases (including ancillary agreements, additions and modifications) take precedence over these Terms and Conditions in any case. Such agreements must be in writing to become effective.
 - 1.5 Statements made by the contractee as part of inquiries or orders that do not agree with the contents of these Terms and Conditions or the Contractual Relationship have no effect. Confirmations of such statements, which SAMSON may give nonetheless, have no effect either.
- 2. Structure of the agreement**
 - 2.1 These Terms and Conditions contain the fundamental rules for using services related to the use of the Web Portal.
 - 2.2 Individual duties to be performed are specified in the service-level agreements in combination with the associated SAMSON order confirmation.
- 3. System requirements**
 - 3.1 The hardware and software components, points of transfer, data formats, backend connections and interfaces required by the contractee to use the Web Portal are defined in the service-level agreements. Otherwise, SAMSON is free to choose the types and designs of processes, IT systems, data formats etc.
 - 3.2 SAMSON is not responsible for the procurement and operation of other IT systems needed by the contractee that are not specified in the service-level agreements, nor for the Internet connection between the contractee and the Web Portal to the point of transfer.
- 4. Retrievability of contents by the contractee and users**
 - 4.1 The Web Portal provides contents accessible over the Internet. The contents can be retrieved by the contractee, by members of the contractee's staff selected by the contractee, and – provided an agreement on the use of services exists between the parties – by end users (such as the contractee's customers), who the contractee will designate to SAMSON by name and thus authorize for use of the contents; the designated members of the contractee's staff and the designated end users will be referred to as "Users" in the following.
 - 4.2 No contractual relationship is established between SAMSON and the Users. The Users' permission to use the Web Portal is derived exclusively from the authorizations granted to the contractee by SAMSON.
 - 4.3 For the purposes of warranty and attribution, Users are seen as vicarious agents of the contractee.
- 5. Registration, usage agreement**
 - 5.1 The contractee and Users are registered before using the Web Portal for the first time.
 - 5.2 Users must be of legal age and have full legal capacity to register.
 - 5.3 All data requested by SAMSON during registration must be accurate. SAMSON must be notified immediately when these data change.
 - 5.4 The contractee has sole responsibility for User management.
 - 5.5 By providing data to SAMSON for registration, the contractee offers to enter into the agreement concerning access to and use of the Web Portal ("Usage Agreement"). Successfully completed registration means that SAMSON accepted this offer. The Usage Agreement has thus been concluded.
- 6. Termination of the Usage Agreement**
 - 6.1 The Usage Agreement ends when the Contractual Relationship ends, i.e. without requiring an explicit termination.
 - 6.2 The right of all parties to termination of the Usage Agreement for cause without notice remains unaffected.
 - 6.3 The right to use the Web Portal – including that of the Users – expires with the termination of the Usage Agreement.
- 7. Login data**
 - 7.1 The login data for the Web Portal (e-mail address and password) are intended solely for personal use by the contractee or Users. The contractee or Users must not reveal the login

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- data to third parties or make them accessible otherwise. The contractee will take appropriate action in accordance with good industry practice to keep the assigned login data for the Web Portal secret, to protect them against unauthorized access and to not pass them on to unauthorized persons.
- 7.2 The contractee must inform SAMSON immediately when the contractee suspects or becomes aware that the login data have been misused or become known to unauthorized persons.
- 7.3 The contractee is liable for all consequences that arise from the use of the Web Portal by the Users and third parties, provided the contractee or a User is responsible for the misuse of login data. This liability of the contractee does not end until the contractee has informed SAMSON of an unauthorized use or loss of the login data and the contractee has changed the password, if necessary, or blocked the user account.
- 7.4 When these Terms and Conditions are violated, particularly by registering with inaccurate data or by passing on login data without authorization – particularly the password –, SAMSON is entitled to temporarily or permanently block access to the Web Portal, to definitively block contractee and User access without notice or with a notice period deemed suitable by SAMSON or to terminate the Usage Agreement for cause without notice.
- 8. Use of the Web Portal**
- 8.1 For the term of the Usage Agreement, SAMSON grants the contractee the non-exclusive, non-transferable right unlimited in space and sublicensable to the Users to access the Web Portal and to use the functions made available to the contractee in accordance with the Terms and Conditions as well as the service-level agreements.
- 8.2 The contractee may use the Web Portal for its own business activities and by its own staff only. The contractee may only make it possible for end users to use the Web Portal if this is expressly permitted in a service-level agreement.
- 8.3 The forwarding of data from the Web Portal to contractee systems is only permitted if expressly permitted in a service-level agreement.
- 8.4 The Web Portal may be accessed over the Internet and using a web browser. The contractee may only access and use the Web Portal with other access and automation software tools if this is expressly specified in a service-level agreement.
- 8.5 The contractee must not modify the Web Portal and its functions, poll data without authorization or intrude the Web Portal and the SAMSON IT systems.
- 8.6 The contractee is liable if the contractee and the Users employ the Web Portal for purposes that are racist, discriminatory, politically extreme, harmful to minors or unlawful in any other way; the contractee is also liable if such data are generated and saved on the Web Portal.
- 8.7 If the contractee culpably violates the provisions of this clause 8, SAMSON may block use of the Web Portal. If the contractee – despite a written warning –, continues to violate or repeatedly violates these provisions, SAMSON may terminate the violated service-level agreement as well as all other service-level agreements for cause without notice.
- 8.8 Upon first request, the contractee must indemnify SAMSON against any third-party penalties, cost and claims that are caused due to the non-contractual use of the Web Portal, violations of third-party rights or breaches of the applicable laws and regulations by the contractee or a User.
- 8.9 If, by using the Web Portal and processing the contractee data, a database or database works is created, SAMSON receives a non-exclusive right unlimited in space, time and content to use and exploit these data. SAMSON may, including without limitation, analyze the data and use the database or database works to manage, update and further develop the Web Portal as well as for new functions, additional services and for opening up new business opportunities.
- 9. Hardware provided by SAMSON**
- If SAMSON makes hardware (such as measuring equipment or gateways) available to the contractee based on service-level agreements, this is done in the form of a payed permission to use the hardware. SAMSON retains ownership of the hardware. The contractee must protect it against damage.
- 10. Advancements or upgrades of the Web Portal**
- 10.1 SAMSON is free to manage, update and upgrade the Web Portal at its own expenses.
- 10.2 If upgrades or modifications may have an effect on the contractee's core options of using the Web Portal, SAMSON must notify the contractee in writing at least six weeks before these modifications become effective. If the contractee does not object in writing within two weeks of receiving the notification, this is understood as acceptance of the modifications.
- 10.3 SAMSON is free to decide at its own discretion whether to make new or improved functions of the Web Portal and additional services related to it available to the contractee free of charge or against payment based on a separate service-level

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agreement to be agreed between the parties. The same applies to customized advancements or upgrades requested by the contractee.

11. Data security and privacy

- 11.1 The parties observe the applicable rules and regulations governing data protection and privacy.
- 11.2 If the contractee collects, processes or uses personal data, the contractee must ensure that the contractee has the required authorization under the applicable data protection regulations; and the contractee must release SAMSON from any third-party claims in the event of a violation.
- 11.3 If the contractee transmits data when using the Web Portal, the contractee must save the data at regular intervals and in line with their importance as well as create its own backup copies, making it possible to restore the data in the event of a loss.

12. Fees

- 12.1 Fees are stipulated in the SAMSON order confirmations.
- 12.2 Payments are due without any deductions within thirty calendar days of receiving the invoice.
- 12.3 If a service-level agreement stipulates that the contractee must make recurring payments for the services specified in the agreement, SAMSON may adapt the fees at the beginning of every contractual year of the service-level agreement giving two months' written notice. When making such adaptations, SAMSON will take into consideration changes in the cost of development, the cost of operation, the scope of use and the functions of the Web Portal as well as increases in efficiency and possible cost reductions. If the fees are increased by more than 10 %, the contractee may terminate the service-level agreement giving one month's notice to the effective date of the fee adaptation.

13. Technological change

- 13.1 If, when a service-level agreement is concluded, the technological conditions assumed at the time change or such a change is imminent and it is thus not justifiable that SAMSON adheres to these conditions, the parties agree to modify them as reasonable.
- 13.2 If one of the parties requests a modification as mentioned in the previous clause and – for whatever reasons – no binding agreement is reached with the other party within four weeks of receiving the request, SAMSON is entitled to terminate this service-level agreement for cause without notice.

14. Non-performance

- 14.1 If SAMSON defaults in providing access to the Web Portal, the contractee may withdraw from the service-level agreement, if SAMSON fails to make access to the Web Portal available as contracted within a reasonable grace period set by the contractee.
- 14.2 If SAMSON fully or partly defaults in fulfilling the contractual duties after making available the Web Portal, the contractee may reduce the fees agreed for the use of the Web Portal proportional to the time the contractee is unable to use the Web Portal. If SAMSON is responsible for this non-performance, the contractee may claim damages pursuant to clause 17 of these Terms and Conditions.

15. Defective performance

- 15.1 Claims due to defective performance are not substantiated in the event of a minor deviation from the agreed or presumed condition and a minor impairment of the use of the Web Portal. SAMSON is not responsible for defective performance due to the improper use of the Web Portal, inappropriate contractee preconditions or disturbances in the Internet connection between the contractee and the Web Portal to the point of transfer.
- 15.2 Defective performance of the Web Portal must be reported in writing, stating a comprehensible description of the error symptoms, if possible with written notes, screenshots or other documentation. The notification of defective performance is to enable the rectification of the default.
- 15.3 If the contractee claims subsequent performance due to defective performance, SAMSON may opt to provide rectification, substitute delivery or substitute performance (such as providing a new release or a workaround).
- 15.4 If, after a first grace period has elapsed without result, the contractee sets SAMSON another reasonable period for rectification and the defective performance is still not rectified after this period or when a reasonable number of attempts at rectification, substitute delivery or substitute performance has failed, the contractee may opt to withdraw from the affected service-level agreement or reduce payment of the fee stipulated in this service-level agreement and claim compensation for damages or reimbursement of expenses. Self-help at the cost of SAMSON is excluded.
- 15.5 If the defective performance is due to the defective nature of a supplier's service and if this supplier does not act as a vicarious agent for SAMSON but SAMSON merely passes through an external service to the contractee, the contractee's claims due to defective performance are initially limited to the transfer

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of the claims that SAMSON has towards its supplier. SAMSON's secondary liability for defective performance remains unaffected if the contractee cannot assert its claims due to defective performance against the supplier out of court.

16. Third-party rights

16.1 SAMSON must ensure that there are no third-party rights that hinder, restrict or exclude the contractual use of the Web Portal by the contractee.

16.2 The following applies in the event that third parties assert claims against the contractee due to the violation of their rights:

Without undue delay, the contractee must notify SAMSON of such third-party claims in writing, provide any information that is available to the contractee and required as defense, and grant SAMSON any other appropriate, reasonable assistance.

If, once SAMSON has received this information, SAMSON does not notify the contractee without undue delay that SAMSON will take on the defense against third-party claims, the contractee must defend itself against such claims at its own discretion and to the best of its abilities.

16.2.1 If SAMSON receives a notification in accordance with the previous clause, SAMSON must pay for the out-of-court and in-court defense against such claims. SAMSON may decide to handle such claims by reaching a settlement.

16.3 SAMSON must indemnify the contractee against any claims, claims for damages and other cost that the contractee incurs in connection with an alleged or ascertained violation of rights.

16.4 If the contractual use of the Web Portal violates third-party rights, SAMSON must, at its own choice and cost, either procure the required rights of use for the contractee or modify the affected service such that third-party rights are no longer violated but the service still complies with the contractual provisions. If SAMSON is not capable of doing so, the contractee may terminate the agreement for cause.

16.5 SAMSON is not liable to the contractee if the contractee causes the violation of rights by not using the Web Portal as contracted or by continuing to use it after SAMSON notified the contractee of a possible violation of rights.

17. Liability of SAMSON

17.1 SAMSON has unlimited liability for damage caused intentionally or through gross negligence and for damage arising from injury to life, body or health.

17.2 SAMSON is liable for product liability damage in accordance with the German Product Liability Law.

17.3 SAMSON is liable for damage arising from the violation of essential contractual duties. Essential contractual duties are such duties that form the basis of the agreement, that are decisive to the conclusion of the agreement and whose fulfillment the contractee may trust in. If SAMSON negligently violates essential contractual duties, SAMSON's liability is limited to compensation of the foreseeable, typical damage.

17.4 SAMSON does not have liability without fault, which results based on landlord and tenant law, for defects that exist when the agreement is entered into (§ 536a BGB (German Civil Code)).

17.5 SAMSON is liable for the loss of data only to the amount that would have been incurred for data restoration if the data had been backed up duly and at regular intervals.

17.6 Any further liability of SAMSON is excluded.

18. Terms of service-level agreements that govern recurring services ("recurring services agreements")

18.1 The terms of contract of recurring services agreements that include the permission to use hardware begin with the delivery of this hardware.

18.2 The terms of contract of the other recurring services agreements begin when the first charged unit is connected to the Web Portal or used; at the latest, the terms of contract begin:

18.2.1 One month after the beginning of the term of contract of a different service-level agreement, if this service-level agreement stipulates a permission to use hardware.

18.2.2 One month after a contractual relationship is entered into based on a different service-level agreement that does not stipulate a permission to use hardware.

18.3 The service-level agreements have a minimum term of contract of two years.

18.4 After expiry of the minimum term of contract, the service-level agreements automatically extend by an extension period of one year, unless they are terminated by either party giving three months' written notice to the end of the minimum term or extension period. The provision stipulated in clause 18.6 of these Terms and Conditions remains unaffected.

18.5 Recurring services agreements may be terminated by either party separately.

18.6 If, based on future agreements entered into by the parties relating to recurring services agreements, the number of charged units is increased or reduced, the underlying service-level agreements are adapted accordingly, even if the parties do not explicitly include such a provision in the future agree-

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- ments. If the number of charged units is increased, the minimum term of contract stipulated in clause 18.3 applies to these additional units.
- 18.7 If a recurring services agreements stipulates provisions that deviate from this clause 18, the deviating provisions take precedence.
- 19. Termination for cause**
- 19.1 The parties' right to termination for cause remains unaffected. Cause exists, including without limitation, if it is no longer acceptable to either party to adhere to the agreement due to a not insignificant violation of contractual duties by the other party, if the contractee fails to completely or partly pay the agreed fees when due and after an appropriate extension period has been granted, or if insolvency proceedings are started concerning the assets of either party or insolvency proceedings are refused for insufficiency of assets. A written warning must be sent before a termination for cause, specifying the reason for termination and granting an appropriate extension period for rectifying the reason for termination.
- 19.2 The provisions stipulated in clauses 8.7, 13.2 and 16.4 of these Terms and Conditions remain unaffected.
- 19.3 A termination for cause is only permissible for the entire Contractual Relationship, i.e. for all service-level agreements.
- 20. Consequences of termination**
- 20.1 If, due to the termination of a service-level agreement, the contractee's permission to use hardware made available by SAMSON ends, this hardware must be returned free of charge to SAMSON and arrive at SAMSON within six weeks of the termination of the service-level agreement.
- 20.2 When a service-level agreement ends that grants the contractee the right to make the Web Portal available to end users for use, the end users' permission to use the Web Portal ends as well.
- 20.3 SAMSON must delete or destroy any copies, documents or data that the contractee does not request to be returned and confirm the deletion or destruction to the contractee in writing. This does not apply to documents and data that must be retained in accordance with the applicable laws and regulations, that are required to perform and terminate the agreement or for which SAMSON may assert a right of retention.
- 21. Confidentiality**
- 21.1 The parties must maintain strict silence on confidential information and not make such information accessible to third parties, with the exception of their own staff and vicarious agents.
- 21.2 Confidential information is any information obtained or received between the parties under this Contractual Relationship that either of the parties marked as confidential or whose confidentiality arises from the circumstances.
- 21.3 The obligation does not apply to such confidential information of a party that
- 21.3.1 Was already known to the other party at the time of acknowledgement of the information as part of the Contractual Relationship,
- 21.3.2 Has become or becomes generally available to and known by the public through no violation of the confidentiality obligation stipulated in these Terms and Conditions by the other party,
- 21.3.3 Was disclosed to the other party by a third party through no violation of a confidentiality obligation towards the party,
- 21.3.4 The party declared non-confidential in writing,
- 21.3.5 Must be disclosed or published due to an enforceable order issued by a German court or German authority, with the other party being obliged to notify the party of this order in writing without undue delay and give the party the opportunity to fend off and/or reduce disclosure.
- 21.4 The confidentiality obligation continues to apply for five years after the end of the Contractual Relationship.
- 22. Force majeure**
- 22.1 Neither party must fulfil the contractual duties in the event and for the duration of circumstances beyond their reasonable control ("force majeure"). Force majeure includes without limitation the following circumstances:
- 22.1.1 Accidents, acts of God and catastrophes as well as acts of war, blockades and embargoes that the affected party is not responsible for;
- 22.1.2 Strikes or work stoppages that last more than six weeks and that the affected party is not culpable for;
- 22.1.3 Technical Internet problems beyond the control of a party.
- 22.2 The affected party must notify the other party of the occurrence of force majeure in writing without undue delay.
- 23. Changes to the Terms and Conditions**
- 23.1 SAMSON reserves the right to change these Terms and Conditions at any time and without providing reasons. The new Terms and Conditions will be sent to the contractee by e-mail. They are considered as accepted if the contractee does not object to their validity within fourteen calendar days of receiving the e-mail. Objections must be submitted in writing. In the e-mail, SAMSON will point out the opportunities of objecting

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to the changed Terms and Conditions, the deadlines to be observed as well as the consequences of not doing anything. If the contractee objects, both SAMSON and the contractee are entitled to terminate the Usage Agreement with immediate effect.

- 23.2 The right to change the Terms and Conditions as stipulated under clause 23 does not apply to changes that restrict the customer's key options for using the contents and scope of the Web Portal, nor to changes that introduce new obligations for the user that had not been contained in the Terms and Conditions previously.

24. General provisions

- 24.1 SAMSON is free to enable third parties, also other customers, to use the Web Portal.
- 24.2 SAMSON may fully or partly transfer the Contractual Relationship and the Usage Agreement or individual rights or duties arising from them to companies affiliated with SAMSON in accordance with § 15 AktG (German Stock Corporation Act). Apart from that, neither party may transfer rights or duties to a third party without the other party's consent.
- 24.3 Ancillary verbal agreements are null and void. Changes to this agreement must be in writing to become effective. A waiver of this written-form requirement must be in writing.
- 24.4 The place of performance and exclusive court of jurisdiction is Frankfurt am Main, Germany.
- 24.5 The Contractual Relationship as well as these Terms and Conditions themselves including their interpretation are exclusively governed by the legislation of the Federal Republic of Germany. Application of the international private law as well as the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- 24.6 If any provision or provisions of these Terms and Conditions – including this one – are held to be partly or fully invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions is not in any way affected or impaired thereby. The applicable legal regulations apply instead of invalid, illegal and unenforceable provisions.

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