

MELASCHUK-MEDIEN Terms and Conditions

Preamble:

The company MELASCHUK-MEDIEN offers services to its Clients in various business areas. In particular, it renders consultancy services in the form of system selection consultations relating to web-to-publish, web-to-print, cross-media and marketing software, and holds seminars and workshops in these areas. MELASCHUK-MEDIEN also offers its Clients the option to update individual company entries within market overviews on the website www.melaschuk-medien.de. The preparation of printed and digital presentations constitutes another business segment.

1 Scope

These Terms and Conditions (hereinafter referred to as "T&Cs") of MELASCHUK-MEDIEN (hereinafter referred to as "MELASCHUK-MEDIEN") apply to all contracts concluded between a business person (hereinafter referred to as the "Client") and MELASCHUK-MEDIEN in relation to the services offered. The inclusion of the Client's own terms and conditions is hereby expressly rejected, unless otherwise agreed in the individual contract.

For the purposes of these T&Cs, business person shall mean a natural person or legal entity or an incorporated partnership entering into legal transactions that fall within the scope of their commercial or independent business activities.

Insofar as contracts or offers of MELASCHUK-MEDIEN contain written provisions that deviate from the following Terms and Conditions, the individually agreed provisions shall take precedence over these Terms and Conditions.

These T&Cs shall be deemed accepted with the Client placing the order, unless the Client expressly objects to their applicability when placing the order. Changes to the T&Cs become part of existing contracts from their effective date if the Client does not object to the change within one month after notification thereof despite specific reference to its right of objection.

2 Formation of the contract

The offers made by MELASCHUK-MEDIEN and the descriptions of the services and works contained therein are categorically non-binding. Clients can place orders and award contracts in writing or by email, facsimile or phone. A contract is only formed between MELASCHUK-MEDIEN and the Client when a written order confirmation and order acceptance are sent, or an individual agreement is signed.

3 Fields of activity

3.1 Terms of service for consultancy agreements, seminars and workshops

In the context of consultancy agreements, MELASCHUK-MEDIEN undertakes to advise Clients as an independent contractor across varying projects. Consultancy services focus on the selection of a system suitable for the Client in relation to web-based publication systems. The deliverable owed by MELASCHUK-MEDIEN typically ends with the proposal of two to three system providers. The Client has to make the final decision.

MELASCHUK-MEDIEN will render its consultancy services to the best of its knowledge and belief, and make every effort to ensure that the content to be communicated is up-to-date. Liability relating to potentially incorrectly communicated contents or the economic situation of the system provider shall be excluded.

MELASCHUK-MEDIEN undertakes to protect the interests of the Client in every respect. In doing so, MELASCHUK-MEDIEN shall act as a freelance collaborator of the Client, both internally and externally.

Insofar as MELASCHUK-MEDIEN is commissioned to hold seminars and/or workshops, the Client shall provide adequate premises and technical infrastructure (e.g. beamer with notebook, internet access, flip charts, etc.) for the execution of such seminars/workshops.

The contents provided in the seminars constitute a didactic service in terms of a service contract. MELASCHUK-MEDIEN shall make every effort to present the content to be communicated accurately, and to keep it up-to-date; however, it assumes no liability in relation to it being up-to-date or complete.

3.2 Terms of service for editorial activities

The scope of the services to be rendered is specified in a separately concluded editing agreement, an offer of MELASCHUK-MEDIEN accepted by the Client, or an order confirmation, as well as minutes of any meeting. Subsequent changes to the scope of services require the written form.

Within the framework stipulated by the Client, MELASCHUK-MEDIEN is free to arrange the fulfilment of the order at its discretion.

The Client must review all deliverables of MELASCHUK-MEDIEN (in particular, texts, layouts, concepts, advertisements, advertising media, drafts, etc. (hereinafter referred to as "templates")) before publication or further processing, and report any errors within 3 business days of delivery. Upon expiry of this period, the templates shall be deemed accepted, unless a longer review period has been agreed by individual contract.

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If information or templates from the Client are required for rendering the services – whether in print or digital form – the Client must submit these to MELASCHUK-MEDIEN in due time and in full.

Moreover, the Client must inform MELASCHUK-MEDIEN about any changes relevant to the rendering of the services, even after the contractual performance has been commenced. If MELASCHUK-MEDIEN incurs additional costs in the provision of its services due to incorrect, incomplete or late submissions, the Client shall compensate these additional costs.

3.3 Terms of service for market overview, advertisements on the website and other publications

3.3.1 General

MELASCHUK-MEDIEN is a publisher of digital and printed publications and websites. Within the framework of these offers, MELASCHUK-MEDIEN offers its Clients the option to advertise.

MELASCHUK-MEDIEN is entitled to reject advertising material (e.g. texts, images) if these would violate applicable laws or established jurisprudence, infringe upon third-party rights, or the publications would be unreasonable for any other reason.

The Advertising Client undertakes to provide all required templates no later than three business days before the start of the agreed booking period, or before the expiry of the closing date for advertisements or the editorial deadline. If templates are incorrect, incomplete or submitted late, or files fail to meet the technical requirements, the Advertising Client's payment obligation shall remain unaffected.

3.3.2 Websites and market overviews

MELASCHUK-MEDIEN offers its Clients the option to advertise on the website www.melaschuk-medien.de. Depending on the contractual arrangements, the Client is entitled to be included in the market overview published on the website. The Client cannot influence the order of the system providers listed in the market overview.

The Client can update the basic entry in the market overview free of charge. Final publication of the entries will only take place after review by MELASCHUK-MEDIEN. The review by MELASCHUK-MEDIEN focuses on compliance with formalities, such as the use of consistent spelling and technical terms.

The price list valid at the time applies. In the event of a price increase, the Advertising Client shall be entitled to withdraw from the contract within 14 business days after announcement of the price increase and after the expiry of the relevant booking period.

If a discount was granted for a booking period, it will not be automatically transferred to the following booking period. This applies to both automatic and non-automatic extensions of the booking period.

Invoices shall be issued at the beginning of the booking period. MELASCHUK-MEDIEN shall be entitled to refuse the provision of services if the Advertising Client is in default. Bookings for advertisements will be continue once all open receivables have been settled; the Advertising Client cannot derive any compensation claims or extensions of the booking period from the above.

The booking period is specified in the individual contract and automatically extended, unless it is terminated no later than one month before the expiry of the booking period.

MELASCHUK-MEDIEN reserves the right to not extend advertisement bookings while stating reasons, and to erase free basic entries.

3.3.3 Other publications

MELASCHUK-MEDIEN offers its Clients the option to advertise in printed or digital publications. Requests as to specific positioning of the advertising object (article, advert) within the publication will be taken into account as far as possible. There is no claim to the above.

Invoices are issued after submission of an adjustment document in PDF file-format while complying with the Client's obligation to cooperate and review. The payment terms specified in the invoice shall apply. MELASCHUK-MEDIEN shall be entitled to refuse the advertising service when the Advertising Client is in default.

Advertisement bookings shall be valid for the currently valid edition or the validity period of the printed and/or digital publication. When a new edition is published or the validity period expires, a new advertisement booking is required.

4 The Client's obligation to cooperate

In order to enable MELASCHUK-MEDIEN to perform professional services – in particular, in relation to consultancy projects – the Client shall provide MELASCHUK-MEDIEN with the most comprehensive information on the business, organisational, technical and competitive situation of its company possible. In particular, the Client – and its employees – shall personally contribute to the project as described below.

All questions MELASCHUK-MEDIEN may have about the de facto and legal relationships within the Client's organisation shall be answered as completely, accurately and quickly as possible; this shall also apply to any questions MELASCHUK-MEDIEN may have on the de

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facto and legal relationships between the Client and its business partners and competitors, insofar as the Client and/or its managers are aware of these relationships. MELASCHUK-MEDIEN shall also be provided with information on any circumstances that may be relevant to the project without prompting and as soon as possible. This also applies to circumstances and undertakings in the planning stage.

The Client shall review any work products and services delivered by MELASCHUK-MEDIEN, as well as any interim results and reports for accuracy of information on the customer or its company contained therein without delay; any required corrections or change requests shall be notified to MELASCHUK-MEDIEN without delay in writing; however, no later than within 3 business days. Upon expiry of this period, the deliverables shall be deemed accepted, unless a longer review period has been agreed.

In relation to the publication of the website or in other publications, MELASCHUK-MEDIEN shall not be liable for damage resulting from the Client's failure to review the templates or products. Any liability shall be limited to the contract value for the template or product if the error could not have been detected even with a proper review, and therefore only manifests itself in the production stage or during implementation of the website or publication.

5 Copyrights and rights of use

Copyrights are established when MELASCHUK-MEDIEN creates deliverables, e.g. by preparing drafts, concepts, texts, graphics, data sets, etc. (hereinafter referred to as "works"). The provisions of the German Copyright Act (UrhG) shall apply notwithstanding the required threshold of originality.

If no individual agreement was made in text form, MELASCHUK-MEDIEN shall grant the Client a simple right of use – limited in time and geographical scope relating exclusively to the individual purpose of the contract – to the copyrighted contents created under the contract, which is limited to the types of use agreed on conclusion of contract. In particular, use of the works in other types of media (print, online, digital services, etc.) requires an individual agreement and may require compensation. The distribution of seminar material outside the group of participants is prohibited.

The Client is also obliged to ascertain that any materials (e.g. photos, texts, logos) provided for the performance of the contractual works are free from copyrights, trademark rights and other third-party rights. MELASCHUK-MEDIEN shall not be liable for the infringement of any such rights. If action is taken against MELASCHUK-MEDIEN for such an infringement of rights, the Client shall indemnify MELASCHUK-MEDIEN against all claims.

6 Termination of contract

An order shall end with acceptance; if applicable, the performance of a correction stage for the agreed service, or after the expiry of the fixed contract period agreed.

If the Client fails to accept the deliverable rendered on its own account, an adequate deadline for acceptance or partial acceptance shall be set. The deliverable shall be deemed accepted upon fruitless expiry of the deadline.

Insofar as no separate provision or other individual contractual agreement has been agreed for long-term contracts, the contract shall be concluded for one year, extending by another year at a time, unless it is terminated in writing subject to a notice period of three months with effect as at the end of contract.

The right to termination for good cause shall remain unaffected.

In particular, MELASCHUK-MEDIEN shall have good cause if the Client fails to fulfil its obligation to cooperate, or if it is repeatedly and/or continuously in default with its fee payments.

7 Remuneration

For the remuneration owed by the Client, the prices contained in the offer of MELASCHUK-MEDIEN, as well as the remuneration agreed by contract shall be decisive. All prices are stated exclusive of the applicable statutory VAT.

Invoices are issued immediately after the agreed deliverables are rendered, unless agreed otherwise in the individual contract. Billing of partial deliverables is possible. The invoice amount shall be due 7 days after invoicing without deduction unless the invoice states a due date.

Insofar as no fixed remuneration has been agreed, or insofar as the deliverables are outside the agreed scope of services, remuneration shall be based on time investment. In this context, the hourly and daily rates applicable at the time of performance shall apply. If the Client discontinues the project prematurely, and MELASCHUK-MEDIEN is not answerable for this, MELASCHUK-MEDIEN shall be entitled to a partial fee.

Unless agreed otherwise, fees in accordance with the collective pay agreement for design (AGD/SDSt) shall be agreed for design and text services.

The Client shall reimburse MELASCHUK-MEDIEN for any costs or expenditure incurred due to journeys necessitated by the consultancy services. Expenditure shall be reimbursed after submission of the relevant invoice or expenditure bill including the required receipts.

All deliverables shall remain the property of MELASCHUK-MEDIEN without limitation until all

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receivables have been settled in full. Thus, no right of use and/or exploitation will therefore be granted until payment is made in full. Moreover, we are entitled to a right of retention pursuant to Section 273 German Civil Code (BGB) for all materials supplied by the Client until payment is made in full.

If the Client defaults in the payment of open invoices, MELASCHUK-MEDIEN shall be entitled to suspend its work on the project until such claims are settled.

8 Data backup, confidentiality, competition

MELASCHUK-MEDIEN and the Client reciprocally undertake to treat all data and information expressly labelled as confidential or clearly not intended for third-party information as confidential. This obligation shall also apply to employees and other agents of the Parties. As a matter of course, the confidentiality obligation shall also apply beyond the end of the contract, as well as in the event that the contract fails.

MELASCHUK-MEDIEN shall be entitled to create working copies of the files and documents furnished by the Client. The Client may demand the return or destruction of all copies after the end of contract.

The Client is hereby informed pursuant to the Federal Data Protection Act that we process name and address (identity) in machine-readable form and for tasks arising from the contract electronically.

If the tasks assumed by MELASCHUK-MEDIEN require works on or with the Client's computer equipment, the Client shall ensure in due time before the commencement of service provision that the recorded data can be reconstructed from the data carriers with reasonable effort in the event of destruction or corruption.

Notwithstanding any individual agreement – for which the text form is required – MELASCHUK-MEDIEN shall remain free to engage in activities for competitors of the Client without restriction.

Unless agreed otherwise in text form, MELASCHUK-MEDIEN may mention the name and address of the Client for advertising purposes in a reference list which may be published on the website www.melaschuk-medien.de and in publications.

9 Impediments to performance, default and impossibility

MELASCHUK-MEDIEN can only be in default with its deliverables if fixed dates have been agreed for completion, and it is answerable for any delays. For instance, MELASCHUK-MEDIEN shall not be answerable for any unforeseeable absence due to illness – including that of family members – or force majeure or

similar events which were not foreseeable on conclusion of contract, and which – at least temporarily – make the agreed performance by MELASCHUK-MEDIEN impossible or unreasonably difficult. Strike, lockouts and similar circumstances affecting MELASCHUK-MEDIEN directly or indirectly shall be deemed equivalent to force majeure, unless such measures are illegal or caused by MELASCHUK-MEDIEN.

Advertising Client's claims to compensation or extension of the booking period for an interruption of the online availability of the website for which MELASCHUK-MEDIEN is not responsible or answerable shall be excluded. Compensation claims for impediments to performance for which third parties are responsible or answerable shall equally be excluded.

If the impediments to performance are of a temporary nature, MELASCHUK-MEDIEN shall be entitled to postpone the fulfilment of its obligation by the period of impediment, as well as an adequate start-up period. However, if the performance by MELASCHUK-MEDIEN becomes permanently impossible, MELASCHUK-MEDIEN shall be released from its contractual obligations.

10 Liability

Liability of MELASCHUK-MEDIEN for breaches of contractual duties or tort shall be limited to wilful acts and gross negligence. This shall not apply to injury to life, limb and health of the Client, claims for breach of cardinal duties or compensation for default damage (Section 286 German Civil Code (BGB)). In this context, there is liability for any degree of causation.

Insofar as liability for compensation is excluded or limited, this shall also apply to the personal liability of employees, workers, co-workers, representative and vicarious agent.

The Client shall bear the risk of legal admissibility of advertising measures and/or publications. MELASCHUK-MEDIEN shall be under no obligation to review the deliverables rendered for being legally unobjectionable in the future. The Client must submit the templates approved for publication. We shall not be liable for statements on products or services of the Client under any circumstances.

The Client warrants that it is entitled to use all templates submitted. If, contrary to this assurance, it is not entitled to use these, the Client shall indemnify MELASCHUK-MEDIEN against any compensation claims.

If and insofar as any consultancy errors are based on the Client failing to meet cooperation obligations pursuant to Section 4 in full or in due time, liability of MELASCHUK-MEDIEN shall be excluded.

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Moreover, MELASCHUK-MEDIEN accepts no liability for any damage incurred by the Client based on a failure to observe the obligation to backup pursuant to Section 8. We accept no liability for any financial losses suffered by the Client arising from the consultancy services.

MELASCHUK-MEDIEN cannot guarantee success of the cooperation resulting from the consultancy services with regards to the relevant tasks. Only professional action is guaranteed, not the occurrence of any particular success.

MELASCHUK-MEDIEN shall not be liable for any defects of software or other products of third-parties which MELASCHUK-MEDIEN has recommended for use on the Client's premises. Warranty claims must be asserted against the relevant provider.

If the Client obtains services or products from a third-party provider due to recommendation by MELASCHUK-MEDIEN, the relevant contractual relationship shall only be established between the Client and this provider. MELASCHUK-MEDIEN shall also not be liable in the event that it had access to or has been provided with erroneous, obsolete or incorrect information by the third-party provider.

11 Final provisions

These T&Cs regulate all rights and obligations of the Contracting Parties. Amendments and supplements to the contract, including this clause, require the written form. No supplementary agreements to this contract exist.

These Terms and Conditions and all legal relationships between MELASCHUK-MEDIEN and the Client shall be governed by the law of the Federal Republic of Germany under exclusion of the UN Convention on the International Sale of Goods.

The place of performance for all contractual and statutory claims shall be Frankfurt/Main insofar as legally permissible; otherwise, the Client's registered offices.

The place of jurisdiction for all actions against MELASCHUK-MEDIEN shall be Frankfurt/Main. Frankfurt/Main shall equally be the place of jurisdiction for actions of MELASCHUK-MEDIEN against the Client if the Client is a registered trader or if it has no general place of jurisdiction in Germany.

The ineffectiveness of individual provisions of these T&Cs shall not affect the validity of the remaining provisions. Rather, if a provision is ineffective, it shall be replaced with such an effective provision which most closely approximates the economic purpose pursued by the Parties with the ineffective provision.

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