

General Terms of Service

Applicable as of 15.09.2019

1. Area of Application

1.1. These General Terms of Service of App Radar Software GmbH apply for all and any transactions between us (hereinafter referred to as “App Radar”) and you (hereinafter referred to as “contract partner”). App Radar only enter into contracts based on these Terms of Service. Contract partners’ Terms of Service (and/or Terms of Use / Terms and Conditions etc.) are expressly not part of the contract, even in case App Radar has not expressly objected to them.

1.2. By:

- (a) visiting this site (appradar.com, hereinafter referred to as “the “Site”) and / or
- (b) using App Radar’s webapp “App Radar” (hereinafter referred to as “the webapp”), and/or
- (c) specific services based on the webapp (hereinafter referred to as “Special Service Packages”), and / or
- (d) purchasing other goods and/ or services from / entering into any kind of contract with App Radar (hereinafter referred to as “Individual Contracts”), the contract partner agrees to be bound these Terms of Service, including any additional Terms of Service and/or Policies referenced herein. These Terms of Service apply to all contract partners and users of the site, including without limitation users who are browsers, vendors, customers, merchants as well as consumers (mutatis mutandis as required by binding law), and/ or contributors of content.

1.3. They also apply for future transactions and additional agreements, even if not expressly incorporated into future agreements. The Terms of Service shall always be applied in their most current version.

1.4. The contract partner can review the most current version of the Terms of Service at any time on this page. App Radar reserves the right to update, change or replace any part of

these Terms of Service by posting updates and/or changes to our website. It is the contract partner's responsibility to check this page periodically for changes. The contract partner's continued use of or access to the website following the posting of any changes constitutes acceptance of those changes.

1.5. Verbal deviations from these Terms of Service are not binding on App Radar.

1.6. As a rule, App Radar does not enter into contract with consumers. App Radar reserves the right to deny entering into a contract with consumers without giving further reason. Potential contract partners that are consumers according applicable law need to inform App Radar in writing of their status before entering into a contract . In case no notification is given to App Radar in writing, App Radar may either immediately void the contract and claim damages incurred by the contract partner by this incident or continue the contractual relationship with the required changes thereto due to the contract partner's status as consumer

2. Description of Services

2.1. App Radar provides its Services as defined below to the contract partner subject to these Terms of Service.

2.2. The "Services" include

- (a) the Site
- (b) the webapp (Software as a Service)
- (c) "Special Service Packages" and
- (d) any other goods / services provided to the contract partner through the Site / online /offline or otherwise, based on the Services purchased or unconnected to them, including all software, data, text, images, sounds, videos, and other content made available through the Site or deployed through an API.

2.3. Any new features or tools that are added to the current Services shall also be subject to the Terms of Service.

2.4. The Services may also include basic or expanded support based on the product purchased. App Radar does its very best to make the Service available except for: (a) planned downtime (of which the contract partner will be notified in advance) (b) any unavailability caused by circumstances beyond our reasonable control, such as, but not limited to, war, acts of government, acts of terror or civil unrest, or technical failures beyond our control (force majeure).

2.5. App Radar provides the Services only. The contract partner is responsible for providing whatever resources are needed to access and use the Service or are necessary for the fulfillment of App Radar's contractual duties. The necessary preparations, as well as the provision of services required for that, are made at the cost and risk of the contract partner.

2.6. Information about App Radar's Services not published by App Radar is not binding on App Radar.

3. General Provisions on Data Privacy and Security

3.1. In providing the contract partner with its Service App Radar shall maintain appropriate administrative, physical and technical safeguards to protect the security, confidentiality, and integrity of the contract partner's general data (business data) and the personal data of the contract partner's end-users. These safeguards include encryption of the contract partner's data in transmission (using SSL or similar technologies), except for certain external third-party integrations that do not support encryption, which the contract partner may link to the Service at the contract partner's choice. App Radar offers its best efforts in providing safe communication.

3.2. App Radar is entitled to process personal data entrusted to it within the scope of the purpose of the contractual relationship. The contract partner guarantees App Radar that all necessary measures in this regard, in particular, those in the sense of the law on data protection (GDPR), such as declarations of consent, have been taken.

3.3. Please see our Privacy Policy to understand how App Radar collects and uses personal data (i.e. data of natural persons such as e.g. names, email-addresses telephone numbers, etc.).

3.4. Please see our Data Security Policy to understand how App Radar collects and uses other data (i.e. data other than personal data such as login-informations, aggregated data, app metadata, etc.).

4. Pricing, Payment, Due Dates, and Billing

4.1. App Radar currently offers a Free Plan of the webapp free of charge. Other plans are offered for compensation/fee.

4.2. To the extent the webapp or any portion thereof is made available for a fee, the contract partner will be required to select a payment plan and provide App Radar information regarding the contract partner's credit card or other payment instrument.

4.3. Prices for Special Service Packages and/or Individual contracts are negotiated individually between App Radar and the contract partner.

4.4. App Radar reserves the right to enter into contracts only after an advance payment has been made.

4.5. Provided that nothing else is agreed in the contract in writing, the prices are given in Euro and do not include value-added tax, unless explicitly stated. Lump-sums are only applicable if App Radar confirms this in writing.

4.6. App Radar reserves the right to make appropriate price changes in case of excessive usage of the Services. Excessive usage, which is usage significantly in excess of average usage patterns including but not limited to patterns that adversely affect the speed, stability, availability or functionality of the Services for other users and/or system stability. App Radar reserves the right to limit, suspend, alter or cancel services to contract partners who excessively use the services, without giving notice. App Radar will – if reasonably possible – notify the contract partner of any excessive usage to provide the

contract partner with an opportunity to an acceptable level to App Radar or provide an opportunity to upgrade the contract partner's plan.

4.7. App Radar reserves the right to increase or add new fees and charges for its existing Services (both free services and chargeable services) the contract partner is using by giving the contract partner at least 30 days' prior notice.

4.8. The contract partner represents and warrants to App Radar that payment information is true and that the contract partner is authorized to use the payment instrument. The contract partner will promptly update the contract partner's his account information with any changes (for example, a change in the contract partner's billing address or credit card expiration date) that may occur.

4.9. The contract partner agrees to pay App Radar the amount that is specified in a payment plan in accordance with the terms of such plan and these Terms of Service. The contract partner hereby authorizes App Radar to bill the contract partner's payment instrument in advance on a periodic basis in accordance with the terms of the applicable payment plan until the contract partner terminates the contract partner's account, and the contract partner further agrees to pay any charges so incurred.

4.10. If the contract partner chooses to upgrade the contract partner's plan during the contract partner's elected subscription period, any incremental cost will be prorated over the remaining term of the subscription period and charged to the contract partner's account. Subsequently, the contract partner will be charged the adjusted rate on the contract partner's next billing cycle.

4.11. App Radar may offer alternative fee structures, discounts, coupons or incentives, at our sole discretion and for any reason, and is under no obligation to offer such alternatives to all users.

4.12. Payments are, unless otherwise agreed in writing, due on the date the invoice is received without any deduction in the agreed currency. A payment is regarded as performed on the day on which App Radar can dispose of them.

4.13. App Radar is entitled to send the contract partner invoices in electronic form and the contract partner expressly agrees with this form of delivery. App Radar is furthermore entitled to transmit electronic data such as project reports, general terms and conditions

etc. to the contract partner in electronic form and the contract partner expressly agrees to this type of transmission.

4.14. Pay-per-Use: If billing is carried out on a pay-per-use basis (e.g. billing on App and/ or Key-Word basis), the amount due will be calculated for each month according to the agreed pricing scheme. The amount due will be calculated on the basis of that the day of said month, which the Contract Partner's Usage of Services was the maximum. This is the day of the month on which the most app and/or keywords were used. If both apps and keywords are billed, the maximum day of apps and the maximum day of keywords are billed separately.

5. Late Payment

5.1. If the contract partner defaults on a due payment App Radar can, without affecting its other rights

- (a) postpone the fulfillment of its own obligation until completion of this payment and claim an appropriate extension to the performance deadline,
- (b) make payable all open claims from this or other transactions between App Radar and the contract partner and credit interest for delay amounting to 9,2 % p.a. for businesses above the basic rate of interest (4% p.a. for consumers) for these amounts from the particular due date, provided that the contract partner does not generate costs going beyond this.

6. Warranties and Guarantees

6.1. Unless an agreement regarding Special Service Packages or Individual Contracts that contains provisions pertaining to warranties and/or guarantees is entered into between App Radar and a contract partner, App Radar does not guarantee any support, guaranteed uptime or warranties for its services.

6.2. App Radar conducts maintenance and assistance generally only from Monday to Friday between 9 am CET +1 and 5 pm CET +1, while the services are (partially) available 24 /7.

7. Liability and Damages

7.1. In no event shall App Radar be liable to the contract partner for any incidental, special, consequential or indirect damages of any kind (including without limitation damages for interruption of business, lost profits, lost data or the like). This also applies mutatis mutandis for damages which originate from third parties called in by App Radar. In respect of the services giving rise to the claim. App Radar shall have no liability whatsoever to the contract partner or any party claiming by or through the contract partner for the accuracy, timeliness or continued availability of the service.

7.2. Claims for compensation for damages by the contract partner can only be made judicially within six months from knowledge of the damages and the tortfeasor, but at the latest within three years after the event establishing the claim. Otherwise the claim is forfeited.

7.3. Provided that App Radar performs the service with the assistance of third parties and guarantee and/or liability claims arise in this connection against these third parties, App Radar assigns these claims to the contract partner. The contract partner shall in this case seek compensation from said third parties.

8. Contract Conclusion, Contract Period, Contract Termination and Changes to Contracts

8.1. A contract between the contract partner and App Radar is concluded and commences:

(a) for the webapp: by creating an account by the contract partner

(b) for Special Service Packages and Individual Contracts: by mutual signing of a written agreement between the contract partner and App Radar

8.2. Even without a written agreement, a contract is commence once App Radar delivers contract relevant items/commences services as specified in its last offer and agreed upon by the Parties in other forms than writing. App Radar has the right to deny the work with a specific customer without giving reason.

8.3. App Radar offers two different possibilities for contract period and termination for the usage of the webapp:

(a) The contract is based on a monthly subscription: If the contract is not terminated by the customer, it is automatically renewed for one additional month. If the customer wants to terminate the contract he can do that within his Account Settings. The contract will finally be terminated at the end of the current month in which the account gets deactivated or with the end of the last billing period, whichever is later.

(b) The contract is based on a yearly subscription: If the contract is not terminated by the customer, it is automatically renewed for one additional year. If the customer wants to terminate the contract he can do that within his Account Settings. The contract can be terminated anytime. If it is not terminated, the contract will automatically be renewed for one additional year. The contract will finally be terminated at the end of the current month in which the account gets deactivated or with the end of the last billing period, whichever is later.

8.4. The period for contracts on Special Service Packages and Individual Contracts is as per the concluded written agreement. Contracts for specific time periods and automatically on the termination date, unless the Parties agree in writing to prolong the contract. Contracts for an indefinite period of time may be terminated by either party on the last day of the months with a 14-days-notice. Contracts for the provision of specific goods or services end once the contract is fulfilled. Both Parties may terminate / void a contract at any time with immediate effect in case of gross contract violation by the other party, after setting a deadline for the rectification of such a violation of at least 14 days in writing.

8.5. Free Plans: App Radar reserves the right to terminate Free Plans, reduce / change their scope, the usage thereof, or discontinue the offering of Free Plans entirely, at the sole

discretion of App Radar at any time. App Radar assumes no liability for said termination, reduction/change or discontinuance towards the contract partner or third parties. App Radar may terminate, reduce, suspend, change the scope/content of, or discontinue Free Plans; especially (but not limited to) for the following reasons:

- (a) Providing false or incomplete information to App Radar;
- (b) Misuse of the Free Plan;
- (c) Changes of App Radar's business model (e.g. discontinuation of free services or change of scope)

8.6. Other Services: App Radar may terminate, reduce, suspend, change the scope/content of, or discontinue other services at our sole discretion and for good cause. Good cause is deemed (especially but not limited to):

- (a) Changes of App Radar's business model (e.g. discontinuation / limitations of certain types of services, etc.)
- (b) Contract violations by the contract partner

9. Money-Back Guarantee & Refund Policy

9.1. App Radar does not provide refunds or credits for any partial months of use of the Service.

9.2. Exempt from this is if a contract partner cancels their (billable) account within 24 hours after registration and requests the refund via email to hello@appradar.com. In this case App Radar will transfer back payments of the contract partner within 30 days.

10. Intellectual Property Rights and Copyright

10.1. The copyrights to those works created by App Radar and its employees and commissioned third parties (in particular: offers, cost estimates, reports, analyses, experts' reports, organization-plans, programs, performance descriptions, drafts, calculations, drawings, data carriers, presentations, etc.) remain with App Radar. They

may be used by the contract partner during and after the contract relationship exclusively for the purposes included in the contract.

10.2. The contract partner is in this respect not entitled to copy and/or distribute the work (or works) without express consent from App Radar in writing. App Radar is in no way liable vis-à-vis third parties when the work is copied/distributed without authorization, especially not for the correctness of the work.

10.3. App Radar can demand the return of all documents listed above and these are in any case to be returned to App Radar immediately and without being asked if the contract does not come into force.

10.4. Breach of these provisions by the contract partner entitle App Radar to immediately terminate the contractual relationship prematurely and to make other claims, in particular for omission and/or compensation for damages

11. Confidentiality

11.1. The contract partner is obligated to maintain confidentiality over the knowledge he receives from the commercial relationship vis-à-vis third parties.

11.2. App Radar is not bound to maintain confidentiality vis-à-vis necessary assistants, advisors, members of its company group and representatives as long as the obligation of confidentiality is imposed on them in full.

11.3. The obligation of confidentiality also extends without limit beyond the end of this contractual relationship.

12. Special Service Packages

12.1. App Radar offers Special Service Packages (SSPs) which may be purchased additionally to the on-demand-software. Such SSP Contracts are governed by the provisions of the SSP contract. The provisions of these Terms of Service apply mutatis mutandis to issues not regulated in the SSP contract.

12.2. SSP services will be app marketing services. Details of Special Service Packages are regulated in the according contracts to be concluded between App Radar and the contract partner.

12.3. App Radar reserves the right, if needed, to access the Contract Partner's App Radar webapp account to perform the services.

12.4. Errors and malfunctions shall be divided into the following classes:

(a) High Priority: Use of the Software is completely impossible or severely restricted. Time to fix: 48 hours

(b) Medium Priority: The use of the software is moderately restricted. Time to fix: 72 hours

(c) Low Priority: The use of the software is slightly restricted. Time to fix: 7 working days

13. Individual Contracts

13.1. App Radar may enter into individual contracts for goods and/or services. Such Individual Contracts are governed by the provisions of the individual contract.

13.2. The provisions of these Terms of Service apply mutatis mutandis to issues not regulated in the Individual Contract.

14. Representations and Warranties

14.1. The contract partner represents and warrant to App Radar that the contract partner have full power and authority to enter into this agreement. The contract partner own all the contract partner's Content or have obtained all permissions, releases, rights or licenses required to engage in the contract partner's activities (and allow App Radar to perform its obligations) in connection with the Services without obtaining any further releases or consents; the contract partner's Content and other activities in connection with the Service, and App Radar's exercise of all rights and license granted by the contract

partner herein, do not and will not violate, infringe, or misappropriate any third party's copyright, trademark, right of privacy or publicity, or other personal or proprietary right, nor does the contract partner's Content contain any matter that is defamatory, obscene, unlawful, threatening, abusive, tortious, offensive or harassing; and the contract partner are eighteen years of age or older.

14.2. The contract partner, with regard to copyright, guarantees that all text elements, graphics, photos, designs, copyrights or other artworks which are provided are the property of the contract partner or that the contract partner may lawfully use them.

14.3. Resources which are required and not commissioned shall be provided by the contract partner or commissioned separately. This includes among others access data to existing hosting, databases or web services; localised texts and descriptions as well as localised graphics or logos.

14.4. App Radar does not guarantee, represent or warrant that the contract partner's use of our service will be uninterrupted, timely, secure or error-free. App Radar does not warrant that the results that may be obtained from the use of the service will be accurate or reliable.

14.5. The contract partner expressly agree that the contract partner's use of, or inability to use, the service is at the contract partner's sole risk. The service and all products and services delivered to the contract partner through the service are (except as expressly stated by us) provided 'as is' and 'as available' for the contract partner's use, without any representation, warranties or conditions of any kind.

15. Third Party Links

15.1. Certain content, products and services available via our Service may include materials from third parties.

15.2. Third party links on this site may direct The contract partner to third party websites that are not affiliated with us. App Radar is not responsible for examining or evaluating the content or accuracy and does not warrant and will not have any liability or

responsibility for any third-party materials or websites, or for any other materials, products, or services of third parties.

15.3. App Radar is not liable for any harm or damages related to the purchase or use of goods, services, resources, content, or any other transactions made in connection with any third-party websites. Please review carefully the third party's policies and practices and make sure the contract partner understands them before the contract partner engages in any transaction. Complaints, claims, concerns, or questions regarding third party products should be directed to the third party.

16. Newsletters and References

16.1. App Radar uses double opt-in for newsletter sign-ups. It is possible to opt-out from our newsletter in every email the contract partner receives.

16.2. App Radar will contact the contract partner and ask for permission to use the contract partner's name and/or company name as a reference for marketing or promotional purposes.

17. Further Provisions

17.1. These Terms of Service and any separate agreements whereby App Radar provides the contract partner Services shall be governed by and construed exclusively in accordance with the laws of the Republic of Austria under the exclusion of CISG and the laws of international private law. All and any litigation shall be held before the responsible court for 8010 Graz unless the contract partner is a consumer. App Radar is however also entitled to file any action with any court competent for the contract partner.

17.2. Changes to the contract and these Terms of Service are required to be in writing; this also applies to deviations from this requirement of writing. There are no oral subsidiary agreements.

17.3. If individual provisions of the contract or these Terms of Service should be ineffective, the effectiveness of the remaining provisions shall not be affected. The ineffective provision is to be replaced with a valid provision which comes as close as possible to the sense aimed for and the economic purpose.

17.4. The parties to the contract confirm that they provided all statements in the contract diligently and truthfully. The contract partner is obligated to inform App Radar immediately about changes in its contact address, insofar as the legal transaction which is the object of the contract is not completely fulfilled by both sides. If the contract partner omits to provide this information, statements are also considered received if App Radar sent them to the last known address.

17.5. These Terms of Service are only authoritative in the English language; translation into other languages constitute merely aids for convenience..

18. Contact

18.1. Questions about the Terms of Service can be addressed to:

App Radar Software GmbH
Lastenstraße 13a
8020 Graz
AUSTRIA

Email: hello@appradar.com