

# GENERAL TERMS AND CONDITIONS

## OF FIZ KARLSRUHE – LEIBNIZ-INSTITUT FÜR INFORMATIONSDATENINFRASTRUKTUR GMBH (FIZ KARLSRUHE)

### FOR THE SEARCH SERVICE

March 2019

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#### 1. GENERAL PROVISIONS

Within the scope of its Search Service, FIZ Karlsruhe offers individual searches and searches on a subscription basis (SDIs).

Orders for the Search Service shall be placed in writing. Except for special cases, they only become binding upon written confirmation by FIZ Karlsruhe. The present General Terms and Conditions are part of each search order. FIZ Karlsruhe reserves the right to make changes to these Terms and Conditions. The current version of these General Terms and Conditions is available on FIZ Karlsruhe's website ([www.fiz-karlsruhe.de](http://www.fiz-karlsruhe.de)) and Customer shall be informed about such changes. If Customer fails to object to these changes within 14 days or continues to use the Search Service, this shall be deemed acceptance of the changed conditions.

Unless otherwise agreed in writing, sources of information shall be all databases available on STN®. It is in Customer's own interest to closely collaborate with FIZ Karlsruhe's search staff and to supply all required information as comprehensively as possible. Searches can only be successfully performed if complete and precise information is supplied by Customer. Searches shall also be deemed successful if they do not yield any results.

The search can only consider documents which are available in the databases at the time the search is carried out. This has to be noted espe-

cially in case of patent searches, because patent applications are usually not published before 18 months after they have been filed.

Search results shall be sent to Customer in the form of search reports by e-mail, post, or fax at his choice.

In order to determine whether a search is likely to be successful or not, a preliminary search can be performed at a reduced price. The costs incurred will be offset against the invoice for the regular order.

The SDI profiles are also established in close collaboration between FIZ Karlsruhe's search staff and Customer. The frequency (e.g., weekly, monthly, quarterly) is to be chosen by Customer. The profile can be changed at any time; modifications are invoiced according to the applicable price list.

#### 2. INTELLECTUAL PROPERTY RIGHTS AND RIGHTS OF USE

2.1 All intellectual property rights to the search results, in printed or electronic form, are reserved. Printouts of search results etc. may only be copied or forwarded for internal purposes.

If search results are delivered electronically, Customer may only print them out for his personal use or that of his client within his company or institution. The following use of the data is subject to FIZ Karlsruhe's prior written approval:

- Building a corporate database
- Copying and disseminating the search results, in particular for commercial purposes, and
- Any forwarding of data to third parties which are not part of the ordering company (Customer) or making available the data to third parties. If individual database producers have further restrictions, Customer will be informed accordingly. He shall be obliged to adhere to these rules.
- For more detailed information, please see the terms of use for the Keep&Share Program.

2.2 Information brokers shall only be entitled to use search results for the current search order. They may only forward these results to their customers at the conditions outlined in art. 2.1. above.

2.3 The database producers' restrictions of use as well as their regulations concerning warranty and liability shall be sent to Customer at Customer's request.

### 3. WARRANTY AND LIABILITY

3.1 FIZ Karlsruhe's search staff shall carry out the searches with due diligence. FIZ Karlsruhe does not make any warranty for completeness and correctness of the search results beyond the contractual obligations described in art. 1. In the event that search results are demonstrably incomplete within this meaning, FIZ Karlsruhe shall perform a subsequent search free of charge. This shall not apply in cases where Customer has not sufficiently specified the subject of the search. Any warranty beyond the warranty stated above shall be excluded. Besides, the searched information is subject to the warranty and liability provisions of the database producers. FIZ Karlsruhe does not make any warranty or representation whatsoever as to the topicality, correctness, or completeness of the information offered by these database producers.

3.2 Unless there has been a material breach of contractual obligations, FIZ Karlsruhe shall only be liable for damages incurred by Customer, if such damages are attributable to willful intent or gross negligence on the part of FIZ Karlsruhe. In case of a material breach of contractual obligations the liability shall be limited to damages which are a typical and foreseeable consequence of such breach. Any liability under the terms of the Produkthaftungsgesetz (German Product Liability Act) shall not be affected thereby. Any liability of FIZ Karlsruhe towards Customer beyond the liability stated above shall be excluded.

3.3. FIZ Karlsruhe does not offer any legal advice. The performing of a search or the delivery of a search report shall in no event be deemed an evaluation or assessment as to the status of a patent.

### 4. PAYMENT/RISK OF LOSS/FORCE MAJEURE

4.1 Individual searches are invoiced according to the price list valid at the time the order is placed. SDIs are also invoiced according to the pricelist valid at the time the order is placed or at the time of each renewal of the subscription period, with the following exception: FIZ Karlsruhe has no influence on the pricing policy of the database producers. It therefore reserves the right to pass price increases on to Customer.

4.2 The amount billed becomes due upon receipt of the invoice and is payable without any discount. Default in payment arises when Customer fails to pay the full amount of the due search fee within 30 days upon receiving a reminder from FIZ Karlsruhe.

4.3 If Customer is in default of payment, FIZ Karlsruhe shall be entitled to charge a penal interest of 8 percentage points above the prime rate. If Customer is a consumer, a penal interest of 5 percentage points above the prime rate is to be paid.

4.4 The ordered services shall be sent to Customer ex FIZ Karlsruhe. All risk of loss shall be borne by Customer.

4.5 In the event that, for reasons beyond FIZ Karlsruhe's control, including Force Majeure, FIZ Karlsruhe cannot deliver the ordered services, or cannot deliver the ordered services in time, Customer shall grant FIZ Karlsruhe a reasonable additional period for performance. If no subsequent performance is effected within this period, Customer shall be entitled to withdraw from the Agreement.

## 5. CONFIDENTIALITY/DATA PRIVACY

5.1 FIZ Karlsruhe undertakes to keep all information received from Customer regarding the order and subjects related thereto strictly confidential. Such information shall only be used for the purpose of duly processing and fulfilling the order. It shall not be disclosed to any third party or to employees of FIZ Karlsruhe who are not involved in processing the order in question.

5.2 Customer's personal data are exclusively used for the purposes of performing this Agreement, for billing the services used by Customer, for managing Customer's account, for providing usage statistics, for improving the service, and for Customer liaison and support. FIZ Karlsruhe shall be entitled to electronically store and process Customer's data to the extent necessary for duly performing its obligations under this Agreement. Additional information can be found here: [Privacy Policy](#).

([www.fiz-karlsruhe.de/en/ueber-uns/datenschutzerklaerung](http://www.fiz-karlsruhe.de/en/ueber-uns/datenschutzerklaerung))

## 6. TERM OF SUBSCRIPTION

6.1 The subscription term for an SDI search will be at least one (1) year. The subscription will be automatically renewed for subsequent one-year periods, unless terminated in writing at six weeks' notice to the end of a contractual year.

6.2 In the event that one party commits a material breach of its obligations under this Agreement, including, but not limited to, Customer's failure to make payments when due, the other party shall be entitled to terminate the present Agreement with immediate effect.

6.3 After termination of the present Agreement, Customer shall continue to be bound by the provisions governing the restrictions of use pursuant to art. 2.1. and art. 2.2 above.

## 7. FINAL PROVISIONS

7.1 Place of performance for Customer and for FIZ Karlsruhe shall be FIZ Karlsruhe's headquarters at 76344 Eggenstein-Leopoldshafen, Germany.

7.2 These General Terms and Conditions of FIZ Karlsruhe shall supersede and prevail over any General Terms and Conditions of Customer.

7.3 Place of jurisdiction is Karlsruhe, if Customer is a merchant, a legal entity under public law, or a special asset under public law.

7.4 This Agreement shall be governed by German law. Application of the Convention on Contracts for the International Sale of Goods shall be excluded.



Leibniz Institute for Information Infrastructure

