

Appendix 5 - End User Agreement

This End User Agreement, including all exhibits, schedules and other agreements incorporated by reference (Agreement) is an agreement between customer ("you" or "your") and rankingCoach GmbH (rankingCoach).

Read carefully before using the Software. If you do not agree, do not use the Software.

This Agreement governs your access to and use of the rankingCoach software, including any associated media, printed materials, applications and/or documentation, whether electronic or in hard copy as of the Effective Date (Software), and use of the services offered by rankingCoach (Services). You expressly understand and agree that your license to use the Software is only in conjunction with the purchase of the Services. By using the Software you acknowledge that you may receive, without further notice or prompting, updated versions of the Software. The Effective Date of this Agreement is the date on which you click "I accept" as that date is captured by rankingCoach's servers.

1. General

- a This Agreement contains the terms and conditions of your limited right and license to use the Software solely in connection with the use of the services offered by rankingCoach (the "Services")
- b The term "Software" includes rankingCoach software, and may in certain circumstances include associated media, printed materials, "online" or electronic documentation, and services available through the Internet to support or add to the Software, and any updates, enhancements, modifications, revisions, or additions to these items (Updates). Note, however, that all software, documentation, or web services that are included in the Software, or accessible via the Software, are governed by this Agreement.
- c The Software is copyrighted and it is licensed to you under this Agreement, not sold to you. If applicable, the Software may be accompanied by user manuals or other instructions (Documentation). Documentation may be available either as downloads, in traditional paper format, or as web pages. The Documentation is copyrighted by rankingCoach. You may only use the Documentation in conjunction with your licensed use of the Software.
- d All right, title and interest, including Intellectual Property Rights in and to the Software is and shall at all times remain vested in rankingCoach and/or its licensors. "Intellectual Property Rights" means all intellectual property rights throughout the world, including copyrights, patents, mask works, trademarks, trade secrets, moral rights, and other proprietary rights, including registrations, applications and rights to apply for registration or other protection of such rights. The Software is protected by copyright and other applicable intellectual property laws. The Software is licensed, not sold or given to you by

rankingCoach for use only under the terms of this Agreement. All rights not specifically granted to you in this Agreement are reserved to rankingCoach and its third-party licensors. You may not remove any proprietary notices of rankingCoach or any other party from any copy of the Software.

- e rankingCoach may propose changes to this Agreement which are effective written notice to you. If those changes materially affect this Agreement, you may either (i) terminate this Agreement, and your right to use the Services, prior to the date the changes are effective; or (ii) propose other terms and conditions to those proposed by rankingCoach. rankingCoach may choose to postpone the changes upon your notice. If rankingCoach does so, any such changes will be effective upon renewal of this Agreement. Your use of the Software after changes are made means that you agree to be bound by such changes.

2. Grant of License; Access

- a. Grant of License. rankingCoach grants you a non-exclusive, limited, personal, non transferable, and non-sublicensable, license to access and use the Software (License), in object code form only, provided to you by or on behalf of rankingCoach solely in connection with your use of the Services. Your License is subject to and conditioned upon your full compliance with the terms, conditions and restrictions set forth in this Agreement. Updates and new versions of the Software will be provided at no charge.
- b. Your license is for your use only. License are for individual use only: they are not licensed for multiple users, regardless of use in any institutional environment. License may not be sold, licensed, traded, or used by others. You are responsible for all charges associated with the use of your license.
- c. Copies and Modifications. You may not reverse engineer, decompile, disassemble, or otherwise translate the Software or any license you have obtained. You may not modify or adapt the Software or any license in any way. You may make one copy of the Software, the Documentation, and any license that you have obtained, solely for backup or archival purposes. Any such copies of the Software, documentation, or license shall include any copyright or other proprietary notices that were included on such materials when you first received them. Except as authorized in this section, no copies of the Software, documentation, or license, or any portions thereof, may be made by you or any person under your authority or control.

3. Your Rights and Obligations

- a. Documentation. The License includes the right to use documentation accompanying the Software for the sole purpose of using the Services.
- b. Benefit. The Software, including the graphical user interface made available by rankingCoach and the display, download and export of data received through the Software,

is to be accessed and used solely by you and for your benefit or, if you have licensed the agency version of the Software, for the benefit of your clients.

- c. **Actions Expressly Prohibited.** As a condition of the Agreement, except as and only to the extent expressly permitted in this Agreement or by applicable law which cannot be waived by this Agreement, you shall NOT:
 - i. Publish, display, disclose, rent, lease, modify, loan, distribute or create derivative works based on the Software or any part thereof;
 - ii. Copy, decompile, reverse engineer, disassemble, translate, or adapt the Software, or otherwise reduce it to human readable form;
 - iii. Attempt to create source code from the object code of the Software;
 - iv. Create a standalone product from any third-party Software contained in the Software; or
 - v. Sublicense or assign the Software.
- d. **User Data.** You hereby represent and warrant that all user data provided by you is accurate and complete. You agree to promptly update any user data as necessary to keep it accurate and complete and not to misrepresent your identity in connection with your access to or use of the Software.
- e. **Payment.** You agree to pay rankingCoach all licensing and other fees due in connection with the Software (Fees). Without limiting any other provision of this Agreement, rankingCoach may immediately suspend or terminate this Agreement in the event you fail to pay any Fees when due. Any suspension or termination of this Agreement will not relieve you from your obligation to pay all Fees accrued as of the effective date of the suspension or termination, and you will be liable for any costs associated with any collection of Fees, including attorneys' fees and collection agency fees. Unless otherwise specified beforehand, all Fees must be paid in advance in the currency specified by rankingCoach. Fees exclude applicable taxes and are not subject to any deductions, offsets, credits or other reductions. rankingCoach reserves the right to invoice you for applicable taxes, such as sales and use tax, in which case rankingCoach will remit them to the applicable taxing authority. All Fees not paid when due will bear interest at 1.5% per month, or the legal rate governing this Agreement. Calculation of interest will begin thirty days after the date on which such Fees were due.
- f. **Use Reporting, License Violations and Remedies.** rankingCoach reserves the right to gather data on usage including server IP addresses, server hardware and other information deemed relevant, to ensure that the Software is being used in accordance with the terms of this Agreement. You agree not to block, electronically or otherwise, the transmission of data required for compliance with this Agreement. Any blocking of data required for compliance under this Agreement is a violation of it and will result in immediate termination pursuant to this Agreement.

4. Evaluation Period; Term; Termination

- a. rankingCoach customers may evaluate the Software for a period of fourteen days (Trial Period) prior to purchasing a license. By accepting and using the Software for a Trial Period, you agree to all terms and conditions of this Agreement. If you do not wish to purchase a license thereafter, you must notify rankingCoach of this cancellation prior to the conclusion of the Trial Period.
- b. The initial term of this Agreement shall be a month (in either case, the "Initial Term"). Upon expiration of the Initial Term, and upon expiration of any Renewal Term thereafter, this Agreement shall automatically renew for another month (each, a "Renewal Term").
- c. You may terminate this Agreement at the conclusion of the Initial Term or Renewal Term by notifying rankingCoach of such termination prior to the conclusion of the Initial Term or applicable Renewal Term. rankingCoach may terminate this Agreement at any time without prior notice, either for convenience or in the event rankingCoach determines that you have violated any of the terms of this Agreement. Upon the termination of this Agreement, you agree to cease all use of the Software and the rankingCoach Service.

5. Third Party Content

All right, title and interest, including Intellectual Property Rights, in and to any content displayed by or accessed through the Software belongs to the owner of such content. The content is protected by copyright or other intellectual property laws. This Agreement does not grant you the right to copy, distribute, prepare derivative works, publicly display, or make other use of such content. You are prohibited from engaging in or facilitating unauthorized sharing of third-party content, including unauthorized posting, making available, uploading, downloading or other distribution.

6. Upgrading the Software

rankingCoach may issue you an upgraded version of the Software automatically upon an instance of your use of the Software. If updates to the Software are not mandatory, and you do not apply an update, rankingCoach reserves the right to force an update should it determine, in its sole and exclusive judgment, that failure to update the Software will materially affect its ability to do business or provide the Software or Services to others.

7. Consent to Use of Name and Data

- a. The Software may provide rankingCoach with limited access to the device you use to connect to rankingCoach. Among other things, the Software may provide rankingCoach with information related to your use of the Services, including business sector; amount of time spent within rankingCoach; interactions with the Software; and information regarding the computer system used, such as a unique device identifier, operating system, the amount of available storage space, and internet connectivity. This information will, among other things, enable rankingCoach to manage rights associated with the content, allow rankingCoach to help you use the Software more effectively, enforce this Agreement and

otherwise help rankingCoach to enhance and improve the Software and the Services. Information obtained by rankingCoach will be treated in accordance with rankingCoach's Privacy Policy.

- b. You hereby grant rankingCoach, its affiliates, and its and their successors and assigns the perpetual, irrevocable, non-exclusive, royalty-free, worldwide right and license to (i) display, download, modify, reproduce, use, distribute, store, and transmit your user data solely in order to provide the Services, and (ii) use your name and/or trade name for customer reference and marketing, advertising and promotional purposes.

8. Confidentiality

- a. The Parties agree to maintain the secrecy of Confidential Information. This obligation shall continue to apply for a period of thirty six months following termination of this Agreement.
- b. Each party hereunder may disclose to the other party certain Confidential Information of such party or of such party's associated companies, suppliers, or customers. For purposes of this Agreement, "Confidential Information" means all non-public information, in any form, furnished or made available in connection with this Agreement by or on behalf of one party ("Disclosing Party") to the other party ("Receiving Party") which is marked confidential, restricted, or with a similar designation, or would be understood by a reasonable person in the Receiving Party's position to be confidential. The terms and conditions of this Agreement shall also be deemed Confidential Information. Confidential Information will not be deemed to include information that: (i) is or becomes known to the public through no fault of the Receiving Party; (ii) is already known to the Receiving Party prior to its receipt hereunder or becomes known to the Receiving Party from a third party who has a lawful right to disclose the information; or (iii) is independently developed by the Receiving Party without reference to Confidential Information of the Disclosing Party.
- c. The Receiving Party shall use at least the same degree of care in safeguarding Confidential Information as it uses for its own information of like importance, but in no event less than a reasonable standard of care. Without the prior written consent of the Disclosing Party, the Receiving Party will not disclose Confidential Information to any other person, except to its employees or agents who have a need to know with respect to the purposes of this Agreement and who are subject to confidentiality obligations with respect to such Confidential Information at least as restrictive as those contained herein. Neither party shall be liable for disclosure of Confidential Information if such disclosure is required to comply with applicable laws, governmental regulations or judicial or governmental orders, provided that the Receiving Party provides prior written notice of such disclosure to the Disclosing Party, takes reasonable and lawful actions to avoid or minimize the extent of such disclosure and takes reasonable steps to assist the Disclosing Party (at the Disclosing Party's expense) in contesting any such disclosure requirement. All Confidential Information will remain the property of the Disclosing Party, except to the extent that any rights with respect to such Confidential Information are expressly granted to the Receiving Party pursuant to this Agreement, including, but not limited to, rankingCoach's provision of the Services, and any residual data it maintains following termination of the Agreement.

9. Export Law Assurances

You agree to comply with all applicable international and national laws that apply to the Software and Services, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by the United States, Federal Republic of Germany and other governments. By using the Software, you represent and warrant that you are not located in any country, or providing the Services to, any country or individual with whom companies located in the United States or Federal Republic of Germany may not do business.

10. rankingCoach's Disclaimer of Warranties and Limitations on Liability

- a. Disclaimer. EXCEPT AS SET FORTH IN THE LIMITED WARRANTY SET OUT ABOVE, THE SOFTWARE LICENSED HEREUNDER IS PROVIDED "AS IS" AND RANKINGCOACH HEREBY DISCLAIMS ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE SOFTWARE, INCLUDING THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND QUIET ENJOYMENT. RANKINGCOACH DOES NOT WARRANT THAT THE SOFTWARE IS ERROR-FREE OR WILL OPERATE WITHOUT INTERRUPTION. INSTALLATION OF THE SOFTWARE MAY AFFECT THE USABILITY OF THIRD PARTY SOFTWARE. IF THE SOFTWARE OR ANY DATA ACCESSED THEREFROM IS DEFECTIVE, YOU ASSUME THE SOLE RESPONSIBILITY FOR THE ENTIRE COST OF ALL REPAIR OR INJURY OF ANY KIND, EVEN IF RANKINGCOACH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DEFECTS OR DAMAGES. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY RANKINGCOACH OR A RANKINGCOACH AUTHORIZED REPRESENTATIVE SHALL CREATE A WARRANTY. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO THE ABOVE EXCLUSION AND LIMITATIONS MAY NOT APPLY TO YOU. IN SUCH AN EVENT, SUCH EXCLUSION WILL NOT APPLY SOLELY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.
- b. Lost Profits; Consequential Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL RANKINGCOACH, ITS AFFILIATES, OFFICERS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY LOST PROFITS, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, DAMAGES FOR THE INABILITY TO USE EQUIPMENT OR ACCESS DATA, BUSINESS INTERRUPTION, OR FOR ANY OTHER INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE SOFTWARE, AND/OR DOCUMENTATION, HOWEVER CAUSED, AND UNDER WHATEVER CAUSE OF ACTION OR THEORY OF LIABILITY BROUGHT (INCLUDING, WITHOUT LIMITATION, UNDER ANY CONTRACT, NEGLIGENCE OR OTHER TORT THEORY OF LIABILITY) EVEN IF RANKINGCOACH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. RANKINGCOACH'S CUMULATIVE AGGREGATE LIABILITY FOR DAMAGES, UNDER THIS AGREEMENT, SHALL BE LIMITED TO THE FEES ACTUALLY PAID TO RANKINGCOACH DURING THE YEAR. THE LIMITATIONS AND EXCLUSIONS ALSO APPLY IF THIS REMEDY

DOES NOT FULLY COMPENSATE YOU FOR ANY LOSSES OR FAILS OF ITS ESSENTIAL PURPOSE. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES. IN SUCH AN EVENT THIS LIMITATION WILL NOT APPLY TO YOU TO THE EXTENT PROHIBITED BY LAW.

11. Customer Warranties

You warrant and represent that your use of keywords, including the trademark(s) of any third party shall comply with all applicable laws and shall not violate the Intellectual Property Rights of any third party.

12. Indemnification

Each party agrees to indemnify the other for any filed claim that their use of the Software violates an issued U.S. or German patent. rankingCoach's indemnification obligation extends only to the use of the Software as specified in the documentation with all updates applied, and not in conjunction with any other hardware, software or technology. To secure indemnification, one party must provide the other with written notice of a claim and full authority to defend the claim. However, rankingCoach shall always have the right to defend the validity of its intellectual property rights in the Software. rankingCoach's indemnification obligation shall be satisfied by either: (i) assuming defense of a claim; (ii) providing you with replacement software performing the same or similar tasks; or (iii) refunding the license fee, prorated by the portion of the expired term. Further, you agree to defend and indemnify rankingCoach, its affiliates, and their respective members, shareholders, officers, directors, employees, and agents, and to hold them harmless from and against all claims, suits, costs, damages, liabilities, and losses, including reasonable attorneys' fees, arising or resulting from any breach of your warranties.

13. rankingCoach Contact Information

Any questions, complaints or claims regarding the Software shall be directed to support-en@rankingCoach.com.

14. Governing Law

This Agreement shall be governed by and interpreted in accordance with the laws of the Federal Republic of Germany, without regard to conflicts of law principles thereof or to the United Nations Convention on the International Sale of Goods. For purposes of all claims brought under this Agreement, each of the Parties hereby irrevocably submits to the non-exclusive jurisdiction of the competent courts of Cologne, Germany.

15. Notices

rankingCoach may send you, in electronic form, information about the Service, additional information, and information the law requires rankingCoach to provide. rankingCoach may provide required materials to you by email at the address you specified when you signed up for the Service or by access to a website that rankingCoach identifies. Notices emailed to you will be deemed given and received when the email is sent. If you do not consent to receive notices electronically, you must stop using the Service.

16. No Exclusivity

Nothing herein shall restrict rankingCoach right to contract with any third party to provide Services similar to or identical to those described in this Agreement.

17. Miscellaneous

No waiver by rankingCoach of any breach of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provisions hereof, and no waiver shall be effective unless it is made in writing and signed by an authorized representative of rankingCoach. All provisions relating to confidentiality, proprietary rights, and nondisclosure shall survive the termination of this Agreement. Your ability to use the rankingCoach service is subject to your browser compatibility with rankingCoach's website as such requirements may change from time to time. Compatibility of your browser with the requirements of the Software is your responsibility.