

1. Background

These General Terms and Conditions ("Terms") govern the relationship between SWAI ("we," "us," or "our") and independent creators or managers of creators ("Creators") who use our online platform ("Platform") to provide content and participate in marketing campaigns ("Campaigns") for third-party advertisers or customers ("Customers").

These Terms apply to the following services:

- Influencer Campaigns: Marketing collaborations between Creators and Customers.
- Content Creation Service (UGC): Creation of custom creative assets (e.g., photos, videos) for Customers.
- Content Library: Storage and availability of Content created for previous Campaigns.
- Other services available on the Platform.

By creating an account and accepting these Terms, Creators agree to comply with them. In Germany, Creators must have a registered business (Gewerbe) and be able to issue invoices to participate in the Platform.

In case of discrepancies between these Terms and a Content Brief or other agreements, the specific terms of the Content Brief or agreement shall prevail.

These Terms replace any prior agreements between the Creator and SWAI.

2. Influencer Campaigns

2.1 Applications and Invitations

- Customers may publish open invitations to Campaigns or directly invite Creators to participate.
- Not all Campaigns are available to all Creators.
- SWAI or the Customer will confirm whether a Creator has been accepted to a Campaign.

2.2 Campaign Posts

- Creators must prepare and upload draft Campaign Posts to the Platform for approval.
- By uploading a draft, Creators grant SWAI a worldwide, exclusive, permanent, royalty-free license to make the draft available to the Customer.
- Creators must make reasonable changes to drafts if requested by the Customer or SWAI.
- Campaign Posts may not be published on social media before approval.

2.3 Remuneration

- Creators are paid after posting or providing creative assets in accordance with the Campaign Brief.
- Payments are transferred to the Creator's wallet after a 30-day inspection period.
- SWAI deducts a platform fee from the remuneration.

2.4 Restrictions

- In case of influencer campaigns Creators may not remove Campaign Posts from social media within 6 months of publication without written consent.
- Creators may not publish competing advertisements 12 hours before or after a Campaign Post.
- A 1-week interval is required before and after Campaign Posts for collaborations with direct competitors.

3. Content Creation Service

3.1 Content Briefs

- Customers submit Content Briefs detailing requirements for creative assets.
- Creators upload Content to the Platform, which is automatically stored in the Content Library.

3.2 Content License

- By participating in a Content Creation Service, Creators grant SWAI a worldwide, exclusive, permanent, royalty-free license to offer Content to Customers and use it for marketing purposes.
- Upon payment of the Content Fee, Customers receive a worldwide, exclusive, permanent, sublicensable license to use the Content.

4. Use of Content

- Content uploaded to the Platform may be used by Customers for personal or commercial purposes without additional compensation to the Creator.
- Creators may not sell, publish, or exploit Content outside the Platform.
- SWAI may remove Content deemed defective, of poor quality, or in violation of these Terms.

5. Requirements for Content

- Content must comply with the Campaign Brief and these Terms.
- Content must be original and not infringe third-party rights.
- Content must not contain pornographic, racist, defamatory, or unlawful material.
- Creators must obtain consent from individuals depicted in Content.

6. Intellectual Property Rights

- Creators retain ownership of their Content but grant SWAI and Customers extensive licenses to use it.
- SWAI may enforce intellectual property rights on behalf of Creators.

7. Term and Termination

- These Terms remain in effect as long as the Creator has an active account.
- SWAI may terminate these Terms immediately if the Creator breaches the Terms or acts unethically.
- Termination does not affect rights or licenses granted to Content uploaded before termination.

8. Limitation of Liability

- The Platform is provided "as is." SWAI is not liable for damages caused by Platform malfunctions or technical issues.
- SWAI's liability is limited to EUR 1,000, except in cases of intentional misconduct or gross negligence.

9. Miscellaneous

9.1 Relationship Between Parties

- Creators are independent contractors, not employees of SWAI.
- Creators are responsible for their own taxes and statutory obligations.

9.2 Confidentiality

- Creators may not disclose confidential information received from SWAI or Customers.

9.3 Platform Use

- The Platform may not be used to contact Customers outside the Platform or avoid SWAI's fees.

9.4 Governing Law and Dispute Resolution

- These Terms are governed by German law.
- Disputes will be resolved in the courts of Berlin, Germany.