

Terms of Use

We advise You to read these Terms of Use carefully so You are aware of Your rights and responsibilities when You and/or Your Users use the ContentKing Platform.

Article 1. Definitions

1.1 The capitalized terms listed below have the following meanings:

Account:

the main (billing) account for the use of the Service which is created by You when You register for the Service, which will include at least one User-account;

API Services:

any of the public API services offered on the ContentKing Platform, including, but not limited to, the CMS API, the reporting API and the data enrichment API;

Client Website:

a website being monitored by You, by using the Service;

Content Information:

the information about the content of a Client Website and its performance, such as metrics concerning its ability to be findable, shareable and optimized for conversions;

ContentKing:

If You are based in the United Kingdom, ContentKing (“ContentKing”, “we”, “us” or “our”) refers to Conductor Founders UK Limited, having its registered office address at Squires House, 205a High Street, West Wickham, Kent, BR4 0PH in the United Kingdom, registered with the Companies House under company number 12648663,

If You are based in the European Union, ContentKing (“ContentKing”, “we”, “us” or “our”) refers to Conductor GmbH, having its registered office address at Greifswalder Straße 212, 10405 Berlin in Germany, registered with the Commercial Register under registration number HRB 111340, or

If You are based in the USA or another country located outside of the United Kingdom and the European Union, ContentKing (“ContentKing”, “we”, “us” or “our”) refers to Conductor LLC, a New York limited liability company, having its address at 2 Park Avenue, 15th Floor, New York, NY 10016;

ContentKing Platform:

the digital platform used to monitor and assess the Content Information of a Client Website currently available at <https://www.contentkingapp.com/>;

Fair Use Policy:

the fair use policy of ContentKing, available via <https://www.conductor.com/legal/fair-use-policy/>;

Intellectual Property Rights:

all intellectual property rights and related rights such as copyright, trademark rights, patent rights, trade secrets, design rights, trade name rights, database rights and neighbouring rights, as well as rights to know-how;

Login Details:

the email address and password which You provide when creating Your Account and with which You gain access to the Service and Your Account;

Privacy Policy:

the privacy policy of ContentKing, available via <https://www.contentkingapp.com/legal/privacy-policy/>;

Service:

the ContentKing Platform and the API Services;

Subscription:

Your subscription for access to and use of the Service, which is governed by these Terms of Use;

Terms of Use:

these terms of use applicable to the ContentKing Platform;

User:

a natural person who is authorized by You to use the Service on Your behalf, by creating for that person a User-account;

User-account:

a separate account under Your Account, with separate Login Details, for the creation and use of which You are responsible;

Website:

the website hosting the ContentKing Platform currently available at <https://www.contentkingapp.com/>;

You (Your):

you, the (legal) person that is using the Service and that has created an Account for the use of the Service.

Article 2. Applicability

2.1 These Terms of Use apply to the Subscription and to every use made by You of the Service. Your terms of use (if any) are excluded. For the avoidance of doubt these Terms of Use do not apply to Your use of the Conductor platform, which use, if applicable, is governed under a separate agreement.

2.2 ContentKing may at any time change the Terms of Use upon thirty (30) days' written notice. The most up-to-date Terms of Use can always be found on the Website. If You continue to use the Service after these Terms of Use have been changed, You accept the changed Terms of Use. If You do not agree to the amended or supplemented Terms of Use, Your only option is to stop using the Service.

Article 3. The Service

3.1 The Service is a subscription for the ContentKing Platform, on which You can monitor the Content Information, based on the metrics of the Service. The Service can identify issues and suggest actions to improve the performance of Your content.

3.2 YOU ACCEPT THAT THE SERVICE CONTAINS ONLY THE FUNCTIONALITIES AND INFORMATION THAT YOU FIND AT THE MOMENT OF USE ("AS IS" BASIS). EXCEPT WHERE CONTENTKING STATES OTHERWISE IN THESE TERMS OF USE, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICE IS PROVIDED "AS IS," "AS AVAILABLE," AND CONTENTKING EXPRESSLY DISCLAIMS ANY OTHER ASSURANCES TERMS, CONDITIONS, REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ASSURANCES, TERMS, CONDITIONS, REPRESENTATIONS AND WARRANTIES (1) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF ADVISED OF THE PURPOSE), ACCURACY, TITLE, AND/OR NON-INFRINGEMENT, OR (2) THAT USE OF OR ACCESS TO THE SERVICE (OR ANY PORTION THEREOF) WILL BE UNINTERRUPTED OR ERROR FREE, WILL NOT HAVE ANY IMPACT ON YOUR SYSTEMS OR WEBSITES, OR WILL MEET ALL OF YOUR REQUIREMENTS. CONTENTKING SHALL NOT BE LIABLE FOR THE AVAILABILITY, PERFORMANCE, LIMITATIONS, CAPACITY, OR RESPONSIVENESS OF THE INTERNET OR OF YOUR COMPUTERS, NETWORKS, SERVERS, WEBSITES (INCLUDING WITHOUT LIMITATION YOUR CLIENT WEBSITE(S)), OR IT FACILITIES, OR FOR ANY THIRD-PARTY SYSTEM (INCLUDING WITHOUT LIMITATION ANY HOSTING PROVIDER). CERTAIN SEARCH ENGINE OPTIMIZATION ("SEO") AUDITING AND/OR MONITORING TOOLS AVAILABLE ON THE CONTENTKING PLATFORM MAY INCREASE SERVER DEMANDS. YOU ARE SOLELY RESPONSIBLE FOR MANAGING THE SPEED AND FREQUENCY OF SEO AUDITING AND MONITORING TOOLS AND FOR THE CAPACITY OF THE SERVERS HOSTING YOUR CLIENT WEBSITE(S).

3.3 ContentKing may access Your Account, solely if necessary for support purposes, and for analysis and improvement of the Service.

Article 4. Login Details

4.1 You are required to register for the Service. You and the Users must provide accurate and complete registration information and keep this information up to date. It is not allowed to use a false name or an e-mail address owned or controlled by another person or company. You accept that You are at all times responsible and liable for the use of the Service by third parties via Your Account.

4.2 You may use the Service to create User-accounts for, for instance, Your employees. By creating a User-account, You acknowledge that You are at all times responsible and liable for the use of the Service via that User-account and for the User.

4.3 ContentKing may at all times: (i) make functional, procedural or technical changes or improvements to the Service; and (ii) (temporarily or permanently) take out of service, restrict the use of or terminate one or more Subscriptions to and/or Accounts of the Service.

4.4 You are solely responsible for the proper operation of the technical infrastructure necessary to use the Service. ContentKing is never liable for damage or costs on account of transmission errors, malfunctions or non-availability of computers, data or telecom facilities, including the internet.

4.5 If You think Your Login Details have been used or are being used by a third party without Your authorization, You must notify ContentKing immediately via support@contentkingapp.com.

Article 5. Permitted use of the Service

5.1 You are not permitted to:

1. harm the interests and reputation of ContentKing;
2. engage third parties to perform any of the abovementioned acts.

5.2 You shall not, nor will you enable and/or allow third parties to: (i) copy, modify, translate, or reverse engineer any part of, or any feature used by means of, the Service; (ii) remove any copyright, trademark or other proprietary rights notices; (iii) use any robot, spider, other automated device, or manual process to monitor or copy any part of, or any feature used by means of, the Service; (iv) collect any information about other Users or customer accounts of ContentKing (including user names and/or e-mail addresses); (v) reformat or frame any portion of the web pages that are part of the Service; (vi) create User-accounts by automated means or under false or fraudulent pretenses; (vii) create or transmit unwanted electronic communications such as spam to other Users or customer accounts of ContentKing, or otherwise interfere with enjoyment of the Service by such other Users or customer accounts; (viii) transmit any viruses, worms, defects, Trojan horses or other

items of a destructive nature; (ix) use the Service to violate the security of any computer network, crack passwords or security encryption codes; (x) to the extent You are permitted to copy or store any content offered on or via the Service, copy or store any such content offered on or via the Service, for a purpose other than Your own internal business use; (xi) use any device, software or routine that interferes with the proper working of any part of, or any feature used by means of, the Service, or otherwise attempt to interfere with the proper working of any part of, or any feature used by means of the Service; (xii) take any action that imposes, or may impose in ContentKing's sole discretion, an unreasonable or disproportionately large load on ContentKing's IT infrastructure; or (xiii) use any part of, or any feature used by means of, the Service, intentionally or unintentionally, in violation of any applicable local, state, national or international law or the terms and policies of another website.

5.3 ContentKing reserves the right to modify or stop monitoring a Client Website, or to restrict the use of or terminate Your Subscription or Account if You use the Service contrary to the Terms of Use.

5.4 Access to the Service is subject to the Fair Use Policy.

Article 6. Use of the API Services

6.1 Notwithstanding any other provisions in these Terms of Use, You are not permitted to use the API Services to:

1. white-label the ContentKing Platform or the extracted data (e.g., changing the labels of metrics returned by the API Service);
2. replicate or compete with ContentKing's products and services.

6.2 Displaying the data extracted from the API Service to a third party requires You to give attribution by, at a minimum, displaying the ContentKing logo as closely as possible to the extracted data.

6.3 ContentKing may decide to introduce API call limits and / or a credit system at any time in the future and You will then become bound by the set limits. If You do not accept the set limits Your only other option is to stop using the API Services.

6.4 ContentKing reserves the right to request details about Your implementation of the API Service, including a description on how You use the data and (anonymized) interface screenshots showing how the data is presented. When You receive such request from ContentKing You have thirty (30) days to comply and send the requested information. A failure to comply may, in ContentKing's sole discretion, result in suspension or termination of Your access to the API Services.

6.5 ContentKing reserves the right to modify or suspend Your access to the API Service, or to restrict the use of or terminate Your Subscription or Account if You use the API Service contrary to the Terms of Use.

Article 7. Intellectual Property Rights

7.1 The Intellectual Property Rights in relation to the Service, including the Intellectual Property Rights with respect to the Content Information, are held by ContentKing and/or its licensors.

7.2 Under the conditions set out in these Terms of Use, ContentKing will grant to You a limited, personal, revocable, non-exclusive, non-sublicensable and non-transferable right to access and use the Service. You may share the Content Information with affiliated parties under common ownership or common control with You and with professional consultants and advisers, hired by You in connection to the Client Website.

7.3 Nothing in these Terms of Use is intended to transfer any Intellectual Property Rights to You. You shall refrain from any act that infringes the Intellectual Property Rights of ContentKing, including – but not limited to – the registration of domain names, trademarks or marketing campaigns that are identical or similar to any object to which ContentKing holds Intellectual Property Rights, as well as the reproduction, modification, reverse engineering or publishing of the Service, including the performance, for other purposes than those listed in the Terms of Use.

Article 8. Privacy

8.1 By registration, providing Login Details and by using the Service, You will provide personal data to ContentKing. This personal data will be processed in accordance with the Privacy Policy and applicable laws and regulations.

8.2 If and in so far as the Client Website you subject to the Service contains personal data, You acknowledge and agree that ContentKing is a data controller in respect of such personal data and shall individually determine the purposes and means of its processing.

8.3 It may be necessary to transfer Your personal data to data centers located outside of the country from which it originated. Any such transfers will be carried out in accordance with the Standard Contractual Clauses set forth in the Commission Implementing Decision (EU) 2021/914 of 4 June 2021 on standard contractual clauses for the transfer of personal data to third countries pursuant to Regulation (EU) 2016/679 of the European Parliament and of the Council, made available at https://eur-lex.europa.eu/eli/dec_impl/2021/914/.

ARTICLE 9. INDEMNITIES AND WARRANTIES

9.1 YOU ARE LIABLE FOR AND WILL DEFEND, INDEMNIFY, AND HOLD CONTENTKING HARMLESS IN CONNECTION TO DAMAGES AND COSTS WHICH CONTENTKING SUFFERS OR MAKES AS A RESULT OF: (I) AN ATTRIBUTABLE BREACH OF THE TERMS OF USE BY YOU, (II) AN (ALLEGED) INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS BY YOU, (III) ANY USE YOU MAKE OF THE SERVICE, OR (IV) AN UNLAWFUL AND/OR ILLEGAL ACT BY YOU. YOU WILL REIMBURSE ALL

COSTS AND DAMAGES THAT IN ANY WAY RELATE TO SUCH A CLAIM, INCLUDING REASONABLE ATTORNEY FEES.

9.2 YOU GUARANTEE THAT YOU ARE SOLELY AND FULLY ENTITLED TO SUBJECT A CLIENT WEBSITE TO THE SERVICE, INCLUDING SCRAPING OR CRAWLING OF DATA ON SUCH CLIENT WEBSITE.

9.3 YOU GUARANTEE THAT YOU ARE ENTITLED TO USE THE SERVICE AND THAT YOU WILL ACT IN ACCORDANCE WITH THE TERMS OF USE.

ARTICLE 10. LIABILITY

10.1 CONTENTKING IS NOT LIABLE FOR DAMAGES THAT RESULT FROM:

1. THE USE OF THE SERVICE,
2. THE SERVICE BEING UNAVAILABLE OR THE SERVICE NOT FUNCTIONING CORRECTLY,
3. PERFORMANCE BEING INACCURATE,
4. LOSS OF DATA,
5. OR ANY OTHER CAUSE, TO THE EXTENT THAT IS PERMITTED UNDER MANDATORY LAW.

10.2 WHEN CONTENTKING IS LIABLE TO YOU AND/OR USERS FOR DAMAGES ARISING FROM ANY CAUSE WHATSOEVER, THIS LIABILITY IS AT ANY TIME LIMITED TO PAYING DIRECT DAMAGES UP TO THE AMOUNT PAID BY YOU AND/OR THE USER TO CONTENTKING IN THE PRECEDING 12 MONTHS, UP TO AN ABSOLUTE MAXIMUM OF USD 1,000.- PER EVENT IF YOU ARE BASED IN THE USA OR EUR 1,000.- PER EVENT IF YOU ARE BASED OUTSIDE OF THE USA (A SEQUENCE OF EVENTS WILL BE REGARDED AS ONE EVENT).

10.3 DIRECT DAMAGE IS UNDERSTOOD TO MEAN EXCLUSIVELY:

1. DAMAGE TO PROPERTY;
2. REASONABLE COSTS INCURRED TO PREVENT OR LIMIT DAMAGE TO PROPERTY THAT COULD BE EXPECTED FROM THE EVENT ON WHICH THE LIABILITY IS BASED; OR
3. REASONABLE COSTS INCURRED IN DETERMINING THE CAUSE OF THE DAMAGE TO PROPERTY.

10.4 ANY LIABILITY OF CONTENTKING FOR DAMAGE OTHER THAN DIRECT DAMAGE (“INDIRECT DAMAGES”), INCLUDING – BUT NOT LIMITED TO – CONSEQUENTIAL, SPECIAL, INCIDENTAL, COVER, OR PUNITIVE DAMAGES, LOSS AND/OR DAMAGE OF DATA, LOSS OF PROFITS AND LOST SALES, IS FULLY EXCLUDED.

10.5 THE LIMITATIONS AND EXCLUSIONS OF LIABILITY MENTIONED IN THE PRECEDING PARAGRAPHS OF THIS ARTICLE SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW. THE FOREGOING LIMITATIONS AND EXCLUSIONS FORM AN ESSENTIAL BASIS FOR

CONTENTKING PROVIDING ACCESS TO THE SERVICE AND SHALL SURVIVE REGARDLESS OF THE FAILURE OF ANY REMEDY OF ITS ESSENTIAL PURPOSE.

10.6 THE CREATION OF ANY RIGHT TO COMPENSATION IS ALWAYS CONDITIONAL ON YOU REPORTING THE DAMAGE TO CONTENTKING IN WRITING AS SOON AS POSSIBLE AFTER IT HAS COME ABOUT. ANY CLAIM FOR COMPENSATION VIS-À-VIS CONTENTKING WILL BE CANCELLED SIMPLY BY THE EXPIRY OF TWELVE MONTHS AFTER THE DAMAGE FIRST AROSE.

Article 11. Force majeure

11.1 Except for Your Subscription payment obligations, neither ContentKing nor You are liable to perform any obligation, including any warranty obligation agreed between the parties, if prevented therefrom by a force majeure event.

11.2 A force majeure event is taken to mean inter alia: power failures, strikes, riots, government measures, pandemics (including Covid19), fire, natural disasters, floods, failure of suppliers of ContentKing, shortcomings by third parties which were engaged by ContentKing, disruption of the internet connection, hardware failures and failures in (telecommunications) networks.

Article 12. Payment

12.1 Except in the case of a free trial, You shall pay to ContentKing a fee for the use of the Service. Except as otherwise set forth in an order form signed by the parties (each an “Order Form”), the fees, payment terms and payment methods are communicated on the Website. Unless otherwise expressly agreed in writing by ContentKing, the fees are exclusive of any taxes and other charges imposed by the authorities and administrative charges. You will pay invoices in accordance with the payment conditions recorded in the invoice. Unless otherwise expressly agreed in writing by ContentKing, You will make payment within thirty (30) days of the invoice date. You will not be entitled to set off or suspend any payment.

12.2 The pricing and payment methods may change from time to time upon thirty (30) days’ written notice. If You do not agree to the changes, Your only option is to terminate the Subscription.

12.3 In the event that payment of any invoice has not been received by ContentKing in full and/or on time, ContentKing may revoke, suspend or limit Your Account. The foregoing is notwithstanding any other right ContentKing might have, such as the right to partially or fully rescind the Subscription for default. All costs associated with collecting due payments, including reasonable attorney fees are for Your account.

Article 13. Term and Termination

13.1 The Subscription is provided for the term set forth below:

1. In the case of a Subscription on a free trial basis, the Subscription is provided for the term specified in the applicable free trial offered by ContentKing;
2. In the case of Subscription set forth in an Order Form, the Subscription is provided for the term specified in the applicable Order Form on a noncancelable basis.
3. In the case of a paid Subscription through the Website, the Subscription is entered into for an indefinite period of time. You may terminate the Subscription at any time by contacting ContentKing support either via email (support@contentkingapp.com) or via chat.

13.2 ContentKing is entitled to terminate the Subscription and/or Your Account in case of any breach of the Terms of Use by You.

13.3 In case of a termination for any reason whatsoever, no obligation to undo any performance already delivered will arise from the termination of the Subscription. You acknowledge and agree that ContentKing has no obligation to retain Your Content Information and that Your Content Information may be irretrievably deleted, following the termination of the Subscription.

13.4 In case of termination of the Subscription, all outstanding invoices will become due immediately. Termination will not have retroactive effect. Unless stated otherwise in writing by ContentKing, ContentKing will not refund any amounts paid in case of termination of a Subscription.

Article 14. Confidentiality

14.1 Confidential Information means (i) the existence and terms of any agreement between You and ContentKing, and (ii) any non-public, confidential or proprietary information relating to a disclosing party, whether or not technical in nature, including any that is designated by the disclosing party as Confidential Information at the time of its disclosure, either by a written or visual confidentiality designation, or otherwise if such information would, under the circumstances, appear to a reasonable person to be confidential or proprietary. Notwithstanding the foregoing, Confidential Information does not include information, technical data or know-how which: (i) is in the public domain at the time of disclosure or becomes available thereafter to the public without restriction, and in either case not as a result of the act or omission of the receiving party; (ii) is rightfully obtained by the receiving party from a third party without restriction as to disclosure; (iii) is lawfully in the possession of the receiving party at the time of disclosure by the disclosing party and not otherwise subject to restriction on disclosure; (iv) is approved for disclosure by prior written authorization of the disclosing party; or (v) is developed independently and separately by either party without use of the disclosing party's Confidential Information. If receiving party is compelled by law to disclose Confidential Information of the disclosing party, it shall provide disclosing party with prior written notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at disclosing party's cost, if disclosing party wishes to contest such disclosure. Receiving party agrees that monetary damages for breach of this Article 14 may not be adequate and that, if necessary, disclosing party shall be further entitled to seek injunctive relief.

14.2 Each party agrees that it will safeguard the confidentiality of the Confidential Information supplied by the other party and that it will observe the same due care with respect to such information as it would observe with respect to its own Confidential Information. The other party shall not sell, copy and/or distribute in any way Confidential Information to third parties, without disclosing party's prior written consent, which consent may be granted or withheld in such party's sole and absolute discretion.

14.3 Each party agrees that it will restrict the circle of employees or third parties it retains who have access to the other party's Confidential Information as much as possible and provide such access only on a need to know basis and after binding such employees and third parties to the same level of confidentiality as set forth in these Terms of Use.

14.4 Immediately following the receipt of a written request to this effect by the disclosing party, the receiving party will return or destroy any and all Confidential Information received from the disclosing party. Notwithstanding the foregoing or anything to the contrary, receiving party shall not be obligated to destroy copies of Confidential Information: (i) that are electronic copies stored in system back-ups which are not readily accessible; or (ii) stored solely for archival purposes in accordance with receiving party's reasonable record retention policies or to the extent such continued storage is required by applicable law (but provided that, any such storage of Confidential Information by receiving party shall continue to be subject to the terms, conditions and restrictions of these Terms of Use, including, without limitation, the non-use, nondisclosure and confidentiality restrictions hereof).

Article 15. Miscellaneous

15.1 The Service and these Terms of Use and any disputes arising in connection with it (including any non-contractual disputes or claims) will be governed by and construed in accordance with the laws of the State of New York, USA, without regard to conflict of law principles. Except for: (i) claims for injunctive relief which, may be brought at any time before any court of competent jurisdiction; or (ii) invoice collection actions which may be brought by ContentKing within state or federal courts in each county in which You are located or have offices; all disputes shall be finally and bindingly resolved under the Arbitration Rules and Procedures of the Judicial Arbitration and Mediation Service, Inc. ("JAMS") then in effect, by one (1) arbitrator selected in accordance with said JAMS' rules. The place of arbitration shall be New York, New York. The language of the arbitration shall be English. Judgment upon the award so rendered may be entered in a court of competent jurisdiction. The parties agree that the provisions of the United Nations Convention on Contracts for the International Sale of Goods do not apply to these Terms of Use. Any cause of action, regardless of whether in contract, tort, or otherwise, must commence within one year after the cause of action accrues, otherwise such cause of action is permanently barred.

15.2 ContentKing may transfer rights and obligations arising from these Terms of Use to third parties upon ten (10) days' written notice.

15.3 If at any time any provision of these Terms of Use is or becomes illegal, void or invalid for any reason whatsoever, such invalidity shall not affect the validity of the remainder of the Terms of Use and such invalid provision shall be replaced by such other provision which, being valid in all respects, shall have effect as close as possible to that of such replaced one.

15.4 These Terms of Use constitute the entire agreement and set forth the entire understanding between You and ContentKing with respect to the subject matter hereof and supersede all prior agreements and discussions with respect thereto.