

General Terms and conditions of ebuero AG

(last revised June 2007)

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ebuero AG offers all its customers free access to the ebuero portal (online access), via which it offers services (hereinafter referred to as: Services) that require a special bond of trust between the contracting parties. In order to take this into account and to define and render transparent all rights and obligations of the parties arising in connection with this agreement to the greatest possible extent, but also to codify the procedures required for smooth processing, the following General Terms and Conditions shall apply:

Section 1 Scope of activities

(1) ebuero AG shall render the services according to the selected tariff and in consultation with the client. In so far as consultation is not possible in individual cases, ebuero AG shall render its services in compliance with the presumed intentions of the client. The detailed scope of activities is contained in the service description of the tariff selected in each case.

(2) In so far as the scope of activities of the selected tariff includes one or more ebuero telephone numbers, the client shall not be entitled to the allocation of specific numbers or to the entry of these telephone numbers in public directories. ebuero AG shall remain the holder of all rights and obligations in connection with these telephone numbers; the client shall in particular not be entitled to retain these ebuero telephone numbers following termination of the agreement. The contractual relationship with ebuero AG shall not include call forwarding for a telephone number of the client.

(3) In so far as the scope of activities of the selected tariff includes a call answering service with a standard greeting message for the caller, the client may change the wording at any time. Call processing may also include simple business processes (acceptance of orders or assignments, provision of simple information), provided that these follow a simple predefined procedure that can be standardised by ebuero AG without any difficulty. In this regard, ebuero AG reserves the right to limit the type and scope of the text provided by the client to a degree that is appropriate to the contractual relationship. The client shall be informed of this immediately. Individual sales or consultancy services by employees of ebuero AG on behalf of the client shall at any rate be excluded.

(4) In so far as the selected tariff includes notification services, e.g. the recording of memos, upon receipt of faxes etc., ebuero AG can only guarantee the immediate delivery of the message in the ebuero portal provided. For the rest, ebuero AG shall only be responsible for sending the message in a timely and orderly fashion. The client shall in any case be responsible for retrieving the message in a timely fashion.

(5) ebuero AG undertakes to perform all services with the utmost care. However, in individual cases it cannot be entirely excluded that the information sent to ebuero AG might be incomplete, with an ambiguous meaning or incorrectly or that it is interpreted and/or forwarded by employees of ebuero AG incompletely, with an ambiguous meaning or incorrectly. In terms of content, no guarantee can be assumed for the correctness and completeness of the information transmitted.

(6) If, depending on the selected tariff, ebuero AG provides the client with further services (e.g. additional addresses, telephone numbers or such like), it shall likewise remain the holder of all rights thereto. The client may only use the services provided by ebuero AG for the duration of this agreement. No title to relinquishment shall exist following the termination of this agreement. This shall also apply to such services, which are introduced by ebuero AG following the conclusion of this agreement.

(7) If ebuero AG provides the client with one or more offices in addition to the main office for its employees, such offices may only be used by the client or its employees. Such offices may not on any account be placed at the disposal of third parties or other companies owned by the client either for free or against payment. The content of the greeting message for the caller provided by the additional office must always relate to the message provided by the main office. If notice of termination is served for the main office, such notice shall automatically extend to all additional offices.

(8) ebuero AG reserves the right to limit or discontinue the services temporarily on important grounds, especially in the case of

- temporary occupation of all office workstations owing to unforeseeable, above-average call volumes,

- maintenance, repairs etc., required for an orderly or improved provision of services,
- technically indispensable system modifications (e.g. exchange of hardware, activation of new telephone lines, etc.)

ebuero AG shall take all reasonable measures to avoid such restrictions, respectively to keep them to a minimum and to notify the client in an appropriate manner in the event of restrictions that are likely to last longer.

(9) ebuero AG shall be entitled to have all obligations discharged by third parties on its behalf, provided that such third parties comply with the same security and confidentiality standards as ebuero AG and provided that this does not conflict with the legitimate interests of the client. The client shall accept the service rendered as if it were rendered by ebuero AG.

(10) ebuero AG shall be entitled to subsequently modify or supplement the service descriptions. In this case ebuero AG shall notify the client of any changes in text form. If the modified service description deviates from the preceding service description to the detriment of the client, he shall be entitled to exercise his due extraordinary right of termination within one month of receiving notification of change; otherwise the modifications shall be deemed accepted. ebuero AG shall inform the client of the notice period and the consequences of its non-observance in the notification. Changes shall not come into force until the end of the one-month period.

Section 2 Commencement of the agreement

(1) The contractual relationship shall commence on the agreed date, however at the latest once the services are actually used. ebuero AG shall send the client written confirmation of order. This contains all salient contract data, in particular regarding the commencement of agreement, the service description of the selected tariff and the latest list of prices, in so far as this was not already sent to the client together with the offer.

(2) ebuero AG reserves the right to verify the identity of the client and/or his legal representative by suitable means (presentation of an identity card, postal identity checking service or such like), to perform a credit check (Section 10) and to demand the provision of security (Section 5 para. 3). ebuero shall be entitled to make the release of additional charge-incurring services dependent on the positive outcome of a credit check or the provision of security.

(3) If the client is released from the payment of the basic service fee and/or is granted credit on the usage-dependent service fees upon inception of the contractual relationship, this shall not influence the existence or duration of the contractual relationship. In this case in particular, it is necessary to adhere to the notice periods stipulated in Section 9 and to pay any usage fees in excess of the granted credit.

Section 3 Obligations and duties incumbent upon the client

(1) The client undertakes not to use the services of ebuero AG for retrieving or circulating content that is in breach of the legal regulations, irrespective of type. He shall avoid creating the impression in legal or business transactions that the content for which he is responsible is attributable to ebuero AG.

(2) The client undertakes to notify ebuero AG if he or a contact/representative nominated by him is not available by telephone for longer than 2 weeks and is otherwise unable to retrieve messages intended for him. He shall be responsible for ensuring that the technical facilities, via which he receives the notifications (mobile telephone, fax machine etc.), are ready to receive and shall bear the sole responsibility for ensuring that any call forwarding services for his lines are correctly switched to the ebuero telephone numbers.

(3) The client undertakes to notify ebuero AG immediately of any change in legal form, to the legal representative, the address or his bank account details.

(4) In the event that the client fails to comply with any of the obligations listed in paragraphs 1 to 3 of this section, ebuero AG shall be entitled to disclose to third parties that it is acting on behalf of the client as an external service provider, where this is deemed necessary to safeguard its own interest, and in particular to protect its employees. This shall not affect other rights, in particular the right to extraordinary termination (Section 9 para. 1 d. 3 and para. 2). In the event of a breach of the obligations pursuant to paragraph 3, ebuero AG shall be entitled to charge the client a lump-sum fee of € 5.00 for requesting that the client update the data specified therein; and in the event that the client fails to do so, rendering corresponding enquiries necessary, an enquiry fee of € 22.00. Nevertheless, the customer is expressly permitted to prove that no damage has been incurred or that the damage is considerably lower than the respective flat-rate fee. ebuero AG reserves the right to assert further claims, in so far as such claims significantly exceed the lump sum.

(5) The client undertakes to protect his ebuero portal against unauthorised access by third parties, in particular to secure the passwords allocated to it, for example by changing them at regular intervals, and to take appropriate measures to protect these against loss. The client shall be liable for all claims arising through passing on or disclosing his password, unless it can be proven that ebuero AG is responsible for the damage.

(6) The client undertakes to submit all change requests relating to the instructions regarding greeting messages for the caller, notification options etc. deposited with ebuero AG exclusively

- by telephone subject to identification by means of the code card issued upon commencement of the agreement or by means of the password agreed upon commencement of the agreement for telephone use ("Telephone password") or subject to identification by calling back using a telephone number deposited with ebuero AG,
- by Internet via his ebuero portal or
- by fax bearing the signature of the client or of an employee of the client known to ebuero AG.

He acknowledges that change instructions sent to ebuero AG via other means of transmission cannot be accepted for reasons of security without exception. This shall not affect ebuero AG's right to introduce further, additional or alternative methods of identification to supplement or replace the previous methods.

(7) The client shall inform ebuero AG in good time if it is to be expected that the call volume to be processed by his office is likely to exceed the volume customary until that point in time – for example during advertising campaigns or such like. If the call volume exceeds the customary volume to a significant extent and in the absence of any prior notice thereof from the client, ebuero AG shall be entitled to limit the processing of calls to the previous volume.

(8) As soon as the client has any indication that employees of ebuero AG have possibly forwarded information that was incomplete, illegible or incorrect (Section 1 para. 5), it shall be incumbent on the client to clarify any uncertainty by checking with the caller and/or by taking other reasonable measures, in order to prevent any potential imminent loss respectively to keep these to a minimum. This shall apply in particular if the information concerns matters that could have significant economic or other consequences for the business activity of the client or their contractual partners.

(9) If the client uses the collection service offered by ebuero AG, it shall be responsible for ensuring that the claim can be assigned. In particular doctors and lawyers must ensure that the rules of conduct are observed and that the affected parties effectively approved the disclosure of their data.

(10) ebuero AG services may not be passed on to third parties (e.g. through resale) without the consent of ebuero AG.

Section 4 Service fee

(1) The service fee shall depend on the respective contractually agreed tariff. It consists of a monthly basic service fee for providing the services in addition to usage-dependent individual fees. The list of prices of ebuero AG valid at the time shall apply. All prices are subject to statutory VAT.

(2) The usage-dependent fees are calculated on the basis of the services actually rendered, i.e. in particular calls and/or other orders accepted and processed. All calls made to the client's ebuero telephone numbers are subject to payment, including any calls without a usable communication result (wrong number, fax sent to a telephone number, nuisance callers, etc.), unless ebuero AG is responsible for the calls. Started minutes are rounded up to the next full minute.

(3) The accounting period shall in each case be one month, commencing on the calendar day on which the agreement commences. At the request of either contracting party, a different commencement of the accounting period may be agreed.

(4) The basic fees shall be due for payment in advance at the start of each accounting period. The usage-dependant service fees shall – subject to paragraph 6 – become due for payment at the end of the accounting period in which the services were used.

(5) In so far as the client is granted a credit on usage-dependent service fees upon commencement of the agreement (starting credit, cf. Section 2 para. 3), this must be used up in the first month of the contractual relationship; it is not possible to transfer any such credit to subsequent accounting periods.

(6) If the service fee exceeds a certain credit limit agreed upon conclusion of the agreement during any one accounting period by one or more times, it shall become due for payment in each case on the day that this limit is reached. If no credit limit is agreed upon conclusion of the agreement, then this shall be € 100.00 by default. This limit may be decreased or increased at any time at the request of either contracting party. An increase of this credit limit may require the provision of a suitable deposit (Section 5 para. 3).

(7) When payments become due, ebuero AG shall issue the client an invoice that clearly specifies the monthly basic fee and the individual fees listed by services groups. Additional offices are charged together with the main office. ebuero AG shall be entitled to issue electronic invoices that satisfy the respective tax law regulations (cf. Section 14 German VAT Act – UstG).

(8) ebuero AG reserves the right to alter the service fees. It may increase the fee especially if it is subject to third-party price increases (e.g. fixed-network operators, mobile phone network operators) or to other cost factors arising in the ordinary course of business.

(9) ebuero AG shall notify the client of any changes to the service fees in text form. If these changes deviate from the preceding rules to the detriment of the client, he shall be entitled to exercise his due extraordinary right of termination within one month of receiving notification of change; otherwise the modifications shall be deemed accepted. ebuero AG shall inform the client of the notice period and the consequences of its non-observance in the notification. Changes shall not come into force until the end of the one-month period.

Section 5 Direct debiting, security, default

(1) The client revocably authorises ebuero AG to debit the service fee from an account to be specified by the client as soon as payment becomes due, however, 5 working days following the receipt of the invoice at the earliest. If the account is not covered by sufficient funds, your bank shall be under no obligation to pay the invoice amount. If it is not possible to perform direct debiting from a current account (e.g. in the case of clients domiciled abroad), the client undertakes to authorise direct debiting from a credit card account. In the event of a means of payment differing to that described in clause 1, ebuero AG shall be entitled to demand a monthly administrations fee of € 6.00.

(2) If it is not possible to carry out a direct debit due to lack of funds, or if the client arranges for the direct debit to be cancelled, although he is not entitled to do so, the resulting costs shall be reimbursed by payment of a lump-sum reimbursement of expenses amounting in each case to € 9.50. The client shall be entitled to prove that a lesser loss was incurred.

(3) In justified exceptions (e.g. authorisation of especially cost-intensive features such as call forwarding abroad, special telephone numbers, domiciled address etc, a negative credit rating against the client, no direct debit authorisation from a current or credit card account), ebuero AG shall be entitled to request the furnishing of adequate security of up to three times the anticipated monthly service fee to cover its service fee claims. The client shall not be entitled to payment of interest on this security deposit. Upon discontinuance of the grounds for furnishing security, the security shall be returned immediately at the client's request.

(4) If the client falls into arrears with the payment of the service fee ebuero AG shall – irrespective of further rights (in particular the assertion of default interest and termination) – be entitled to discontinue the service after providing adequate notice hereof. This shall not affect the obligation to pay any basic fees. The client shall be charged a flat-rate dunning charge of € 5.00 for all reminders sent after the client falls into arrears. The client shall be entitled to furnish proof of a lesser damage.

Section 6 Objections to the charging of the service fee, counterclaims

(1) The client must send any objections to the charging of the service fees to ebuero AG within one month of receiving the invoice. The invoice shall be deemed to be approved if no objections are raised by the client within this period. ebuero AG shall inform the client of the notice period and the consequences of its non-observance in each and every invoice. This shall not affect any statutory rights.

(2) The raising of objections shall not affect the obligation to pay, provided that ebuero AG does not recognize the objections as being justified, does not deliver a substantiated opinion on the objections with one month of their receipt or the objections have been upheld pursuant to a final and absolute court decision. The client shall in particular not be entitled to demand back any amounts already paid (Return debit).

(3) The client may only offset claims of ebuero AG using counterclaims which are uncontested or have been legally established in law. The customer shall be entitled to the right of retention or the right to withhold payments only on account of counterclaims which are uncontested or have been legally established in law. The customer shall only be entitled to assert a right to withhold payments if his counterclaim is based on one and the same contractual relationship.

Section 7 Data security

Within the scope of the contractual relationship, ebuero AG shall collate, store and process personal data in compliance with the statutory regulations. The client can find full details of this at any time at www.ebuero.de/datenschutz.

Section 8 Liability

(1) Regardless of their legal basis, ebuero AG shall only be liable for damages – irrespective of whether these are contractual or non-contractual – if ebuero AG caused the damage wilfully or through gross negligence or the damage is attributable to the breach of cardinal obligations. In the event of slightly negligent breaches of cardinal obligations, the liability of ebuero AG shall be limited to typical and foreseeable losses within the scope of the contractual relationship and shall be limited in its amount to three times the previous average monthly sales of the respective client. In the event of slightly negligent breaches of cardinal obligations, ebuero AG shall not be liable for any indirect losses, and especially not for lost profits. Any claims for damages above and beyond this are excluded – subject to the provisions of paragraph 2.

(2) Paragraph 1 shall not apply in the event of death, physical injury or impairments of health or in the event of pecuniary damage attributable to the provision of telecommunication services. Telecommunications services are services that consist entirely or predominantly in the transfer of signals via telecommunication networks, for instance within the scope of call forwarding. In this respect the provisions of the law shall apply. This shall not affect liability in accordance with the Product Liability Act.

(3) The liability of ebuero AG for pecuniary damage attributable to transmission errors between the client and/or their customers and employees of ebuero AG shall in particular be excluded if the client for his part failed to fulfil his obligations to avoid and/or mitigate damages (Section 3 para. 8) and/or he sent change orders by communication channels other than those specified in Section 3 para. 6.

(4) ebuero AG shall not be liable for damages caused by the failure, impairment or incorrect operation of third-party facilities - in particular those of telecommunication service providers such as Deutsche Telekom AG or mobile phone network operators and service providers - and/or force majeure, unless ebuero AG is responsible for such damages pursuant to paras. 1 and 2.

(5) All claims for damages against ebuero AG must be asserted by the client within 6 months of the client gaining knowledge of the circumstances substantiating the claim - however at the latest within 5 years of their occurring, regardless of when the client gained knowledge thereof. This shall not apply in the event of death, physical injury or impairments of health and freedom and liability owing to criminal intent.

(6) In so far as the liability of ebuero AG is excluded or limited in accordance with the aforementioned provisions, this shall also extend to the liability of the employees, representatives and vicarious agents of ebuero AG.

Section 9 Termination, tariff changes and amendment of these GTC

(1) Within the first 2 months following the commencement of the agreement, the contracting parties may terminate the services with immediate effect. Thereafter the notice period shall be 4 weeks to the end of the accounting period (Section 4 para. 3). This shall also apply to features ordered separately, provided that these are not subject to different notice periods. The right to termination - if necessary with immediate effect - for an important reason shall not be affected.

(2) ebuero AG shall be entitled to terminate this agreement with immediate effect on important grounds in particular if:

- a) the client changes his place of residence as stated upon conclusion of the agreement and fails to notify ebuero AG of the new address within 14 days unasked; notification of a post office box or such like shall not be deemed to constitute an address,
- b) the client defaults on the payment of service fees billed in two consecutive invoices - at the start of an accounting period and/or in the event of Section 4 para. 6, during an accounting period,
- c) the client defaults on the payment of service fees totalling in excess of twice the credit limit (Section 4 para. 6),
- d) the client culpably breaches the contract terms and does not refrain from said breach within a reasonable period following a written warning. No written warning shall be required in the event of material breaches of contract.

(3) In the event of termination, the client shall continue to enjoy access to the ebuero portal including a free e-mail function. This may be terminated by either party without adhering to a notice period and without stating grounds. In the event of use of the ebuero portal, the provisions of Section 3 para. 1, Sections 7 and 11 and Section 8 shall apply, provided that ebuero AG shall only be liable in case of gross negligence or intent within the scope of Section 8 para. 1; even in the event of a breach of cardinal obligations.

(4) Notice of termination must be served in writing to be effective. Written notice of termination shall only be deemed effective if it is served

- by ebuero AG by e-mail to the client's ebuero portal or
- by the client by sending a message under the menu item "Service" on its ebuero portal.

(5) Non-utilisation of the services of ebuero AG on the part of the client, even for longer periods, shall not replace the need to serve notice of termination as defined in paragraph 1.

(6) The switch to a different tariff can in each case be applied for with three weekdays' notice to the start of the next accounting period (Section 4 para. 3). Additional offices and other extended service packages can be added with effect from the next business day; termination of the main office shall also extend to all additional offices.

(7) ebuero AG shall be entitled to subsequently amend or supplement the General Terms and Conditions. In this case ebuero AG shall notify the client of any changes in writing.

Should the client fail to raise any objections to the changes within one month of receiving notification, the amended terms shall become an integral part of the agreement. In the event of objections being raised, the original provision shall remain in force. ebuero AG shall inform the client of the notice period and the consequences of its non-observance in the notification.

(8) If ebuero AG introduces new services, these may be based on supplementary General Terms and Conditions.

Section 10 Credit ratings

(1) The client consents to ebuero AG obtaining information about him, and in the case of legal entities, about the legal representative(s) from the competent SCHUFA office (Protective Association for Sales Financing and Credit Security - Schutzgemeinschaft für allgemeine Kreditsicherung) as well as from the credit agencies CREDITREFORM / CEG, BÜRGEL and SUPERCHECK. Should data come up owing to nonconforming liquidation (e.g. applied for default summons in the case of uncontested claims, issued enforcement orders, enforcement measures), ebuero AG may forward said data to the organisation named above, provided that following due consideration of all affected interests this is permissible and that interests of the client that are worthy of protection are not prejudiced thereby. The same is true in the event that his address details should change.

(2) On request, ebuero AG shall inform the client whether and to which of the organisations named in paragraph 1 information was sent, and disclose their addresses. The client is entitled to information concerning which data is stored by the abovementioned organisations about him.

Section 11 Formal requirements for declarations of intent, assignment of contract, applicable law, place of jurisdiction

(1) In so far as the text form is required according to these GTCs, this shall in any case be deemed to have been observed by ebuero AG if the declaration was sent by e-mail to the client, who can retrieve it in the ebuero portal set up for him by ebuero AG. The declaration shall apply even if it was not retrieved by the client at the latest one week after being sent to the ebuero portal. The same shall apply to all other declarations within the scope of the contractual relationship, provided that no other stricter form than text form is required; this includes in particular written form.

(2) ebuero AG is entitled to assign its rights and obligations arising in connection with this agreement to a third party, provided that this does not conflict with the justified interest of the client, the third party guarantees that it will render the services entrusted to it as per agreement and no doubts exist as to its liquidity and economic capacity. In the event of the assignment of contract, the client shall be entitled to terminate the agreement without notice. This right of termination shall lapse should the client fail to raise any objections to the assignment within one month of receiving notification of the assignment of contract. The client shall be informed of the implications of its actions in the notification. The assignment of contract shall not come into force until the end of the one-month period.

(3) Only the German version of these GTCs shall be binding. Only this version shall be authoritative for the content of these GTCs and the rights and obligations arising in connection therewith. Versions in other languages are non-binding translations that merely serve informational purposes.

(4) The legal relationship between ebuero AG and the client is governed exclusively by the law of the Federal Republic of Germany to the exclusion of UN sales law (CISG). Unless agreed to the contrary this shall also apply to the determination of times, public holidays and other temporal or spatial factors.

(5) If the client is a merchant or does not have his general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction shall be Berlin-Schöneberg. Action may also be brought against the parties at their respective general place of jurisdiction.