

General Terms and Conditions

In addition to the respective service agreement, the following general terms and conditions regulate the legal relationship between Bradler & Krantz GmbH & Co KG (limited partnership with a limited liability company as general partner), Kurt-Schumacher-Platz 9, 44787 Bochum, Germany, (hereinafter referred to as **provider**) and its customers (hereinafter referred to as **customer**).

§ 1 Subject of Agreement

1.The provider offers the customer a wide variety of services from the field of internet service providing. This includes:

- 1.the operation of private web servers constantly connected to the Internet. On these computers the provider makes memory capacity available for the customers private purposes (web hosting). The information filed on the server can be enquired worldwide via the Internet;
- 2.the letting of complete physical or virtual servers (dedicated servers);
- 3.the subletting of storage area in data centres. This gives the customer the possibility of operating a private internet server in premises which allow for a secure permanent operation through uninterruptible power supply, effective fire protection equipment and a high-speed connection to the Internet (server housing);
- 4.the selling of line capacity for the transmission of data from and to the Internet (traffic);
- 5.the registration of Internet domains at the responsible assign offices (domain registration).

2.In case the provider generates free additional services, these can be adjusted anytime without stating reasons.

§ 2 Conclusion of the Contract

1.An agreement about the claiming of services of the provider is concluded with the confirmation of a customer request by the provider.

2.The price information issued by the provider are without obligation and do not constitute a request of placing a leasing contract in terms of § 145 BGB (German Civil Code). The provider reserves his right to accept or refuse customer offers at his sole discretion. However, in case of a refusal of an offer, he will by request inform about the reasons in writing.

§ 3 Web Hosting

1.The provider operates high-capacity Internet servers on which memory capacity for basic online presences and e-mail accounts is at the customers disposal (web hosting). The provider continuously monitors the frictionless operability of the hardware as well as of the software services installed on these web servers.

2.For the Internet connection of the servers (network availability) the provider guarantees an availability of 99.5 %. The server hardware used for the web hosting and the software services installed on the servers are at the customers disposal with a warranted minimum availability of 99 %. This availability is respectively defined by the accessibility actually resulting from an accounting period (normally monthly).

§ 4 Dedicated Servers

- 1.The provider provides the customer the opportunity to rent an own internet server and to configure it individually according to personal requirements. The provider continuously monitors the functional efficiency of the servers let by him as well as of the Internet connection to these servers.
- 2.For dedicated servers the provider warrants the customer an Internet connection availability (network availability) of 99.5 % on a monthly average. Concerning the availability of the hardware rented and the software services installed, the provider will conclude a service level agreement with the customer in which availability data are arranged individually.
- 3.When renting dedicated servers, the customer is basically by himself responsible for the software administration and the installation of software updates. The provider therefore advises the customer to the significance and necessity of regular software updates to avoid server malfunctions and to impede hacker attacks.
- 4.The support staff of the provider will not be at the customers disposal to answer questions dealing with software the customer would like to install on the dedicated servers, just as little as they will be available to answer questions relating to the use of software the customer has already installed on the dedicated servers.

§ 5 Server Housing (Colocation)

- 1.The provider provides the customer the opportunity to set up private internet servers in his server farms in Düsseldorf, Dortmund and Amsterdam (server housing).
- 2.The server locations mentioned in para. 1 possess
 - 1.a secured power supply via batteries and diesel-emergency power generator;
 - 2.a constant n+1 redundant air conditioning;
 - 3.protection against water, fire and gas;
 - 4.a multistage access control with ID cards, palm scanner and permanent video-surveillance and
 - 5.a 100 % switched high-performance network.
- 3.In addition to the safety features mentioned, all server locations of the provider possess a redundant internet connection via namable carriers. Thus, for the servers set up with him, the provider warrants the customer an availability of the Internet connection (network availability) of 99.5 % on a monthly average.
- 4.The customer is solely responsible for the operation and the maintenance of the Internet servers set up with the provider. § 4 para. 4 applies accordingly.

§ 6 Domain Service

- 1.At the registration of Internet domains, the provider will merely act as intermediary between the customer and the corresponding assign office and will make an effort to register the Internet domain desired by the customer on the name of the customer. The provider explicitly adverts to the fact that he has no influence on the allocation or the availability of an Internet domain desired by the customer.
- 2.Previous to the registration order, the customer has checked a possible collision with trademark rights or other third party rights. With his registration order he therefore declares that the registration through the provider does not impinge upon third party rights. The customer indemnifies the provider from possible third party claims resulting for the customer from a registration of the domain name.

This indemnification especially comprises also the release from national and international legal defence costs (e.g. court- and legal fees, WIPO proceedings).

3. In case of a termination of the contractual relationship, the provider will delete the domain names which form the basis of the contractual relationship. Are the domains to be perpetuated with another internet service provider, the provider will not hinder the changeover. In reverse, it is also possible to bring existing domains to the contractual relationship. However, the provider shall not be liable for a successful change of registration should the approval of the existing provider be missing. The customer will also be liable for failed transfer attempts.

§ 7 Payment

1. At the registration of internet domains the provider will charge the registration fee in advance for each one-year period. He will bring all other services

1. with rates lower than 5.00 euros per month for six months
2. with rates lower than 25.00 euros per month for three months and
3. with rates from 25.00 euros per month monthly

to account in advance..

2. Unless the contracting parties have not arranged something else, the provider will send invoices via e-mail. The charged fees become due with the issuing of the invoice. Payment via bank transfer into the account indicated in the invoice has to be done without deduction within 20 bank working days

3. Provided that the customer is an independent business operator, he automatically gets in arrears in case of a delayed payment 20 bank working days after payment date. The provider will charge interest on arrears at a rate of 8 per cent above the ECB base rate. Should the situation arise, the provider reserves the right to account for and claim a further damage caused by delay.

§ 8 Customer Obligations

1. The customer obligates himself to accurately secure his access data for the services made available by the provider from the access of others and third party misuse. He will immediately change the password automatically assigned with the provision of the service on the first connection with the server. The customer is liable for damages by third persons, caused authorised or unauthorised, via his identifying information unless he is not responsible for this third party use. It rests with the customer to submit evidence in such a case.

2. The customer obligates himself not to use the services made available by the provider for the spreading of illegal or immoral information or for other abusive purposes, in particular

1. to ensure the observance of legal requirements, particularly also the protection of minors;
2. to observe national and international intellectual property rights, particularly not to save pirate copies, crack programs, illegal sound files or collections of serial numbers on the servers;
3. not to spread contents which violate legal prohibition, third party morality or rights, particularly trademark rights, rights to a name or copyrights;
4. not to offer, transmit or ask for the transmission of computer viruses, Trojan horses, unsolicited bulk e-mail (UBE) or unsolicited commercial e-mails;
5. not to use equipment or execute applications which could lead to interferences or changes in the physical or logic configuration of the providers web servers. This especially applies for CGI-program modules which are not being kept in the providers program libraries.

The customer obliges himself to instantly and in its entirety indemnify the provider from all liabilities

the customer is responsible for which result from the violation of applicable law and third party rights respectively.

§ 9 Term of Contract and Contract Cancellation

1. Unless arranged differently among the two parties, a contract closed between the provider and the customer has a term of one month after signature date. Should the contract not be cancelled in written text with a cancellation period of four weeks before the expiration of the contract, it is renewed for another month at a time.

2. The right of the signatories of early termination for good cause remains unaffected. A good cause for a cancellation of the contract by the provider is especially existent in case the customer

1. violates legal prohibitions, especially third party copyrights, competition law, third party rights to a name or data protection provisions;

2. publicises national socialist, racist, or other contents which are relevant under criminal law aspects on the servers of the provider;

3. is more than two weeks in default;

4. pursues other violation of the contract despite being notified by the provider.

3. For reasons of capacity and data protection the provider will delete the data started by the customer after contract cancellation. The deletion will be confirmed in written form by request of the customer. The customer shall himself ensure the saving of the data started through backups before contract cancellation.

§ 10 Liability

1. Provided that the customer falls below the availability data mentioned in §§ 3-5 for the Internet connection, the server hardware or the software services installed on the servers in one accounting period, he will, from the point in time when the warranted availability data fall below, credit the customer for every hour of culpable unavailability the user fees which are allotted on average to one calendar day. For the measurement of this daily compensation he will use as a base the charged amount for the corresponding server in the previous accounting period and will divide it by the number of calendar days of the previous accounting period. Further guarantee claims of the customer due to shortage or defect are excluded.

2. The provider is only liable for claims if he or one of his vicarious agents violate an essential contractual obligation in a way that imperils the subject of the contract or if the claim is based on gross negligence or intent of the provider or one of his vicarious agents. The provider is not liable for the correct function of Internet infrastructures or transmission paths which are not subject to the responsibility of the provider or his vicarious agents.

3. Data damages or damages which emerge from data abuse or criminal intrusion into computers of the provider can according to the current state of the technology only be prevented to a certain extent. Therefore, the provider can assume no liability for third party intrusion into the computers placed at the customers disposal despite adequate safety arrangements of the provider.

4. The liability of the provider according to § 7 para. 2 TKV (German telecommunications customer protection Act), the liability due to warranted features, concerning personal injuries as well as the liability due to compelling statutory provisions shall remain unaffected.

§ 11 Data Protection

1.The provider will save and process the data necessary for the transaction mechanically. The provider explicitly advises the customer of the fact that data protection for data transmissions in open networks like the Internet can, according to the current state of technology, not be guaranteed comprehensively. The customer knows that the provider can see the contents saved on the web servers. Other Internet participators are possibly technically able to encroach upon the network security without authority and to control the communication. The customer is in its entirety responsible for the security and backup of the data he transmits to the Internet and saves on the web servers. This information is effective according to the regulations of § 33 para. 1 BDSG (German Federal Data Protection Law). All personal data are self-evidently kept in confidence and not passed on for advertising purposes. The customer is entitled to demand information as to personal data saved about him and to have them deleted as the case may be. For change and deletion requests the provider is at the customers disposal under service@providerservice.com.

2.The customer is entitled to use the data saved in his user account. Due to the fact that the observation of data security provisions is of considerable significance to the provider, the customer will ensure that he observes all data security provisions at using the web servers during the entire contract duration. Concerning the usage of cookies, he will especially observe the prescription of § 15 para. 3 TMG (German Act for Telemedia Services).

3.The provider adverts to the fact that he saves so-called log files for the adjustment of statistics. These log files take up parts of the memory capacity made available and they can therefore be deleted by the provider in reasonable intervals defined by the provider. If required, the customer can access the log files on the server. An analysis of the log files is only carried out by the provider to make centrally purified and compressed statistics for information purposes available for the customer. Storage and use beyond do not occur.

§ 12 Final Clauses

1.Subsidiary agreements take only effect if set out in writing. This applies especially for changes of or amendments to this written form requirement.

2.This document is a translation of provider's German language General terms and conditions. It is meant for information purposes only. In case of any conflicts between the German document and its English translation, the German version shall prevail. The agreement is subject to German law. Place of fulfilment for all services is Bochum. Exclusive jurisdiction is Bochum, provided that the customer

1.is a trader, or

2.a juristic person under public law, or provided that he

3.has no domestic natural forum when the contract is concluded or

4.relocated his domicile or his usual place of residence out of the BRD (Federal Republic of Germany)

3.Should particular clauses of this contract be or become ineffective or should a loophole come into being that requires regulation, the contract shall be incidentally continue. The parties obligate themselves by now to agree upon that effective clause which is economically closest to the documented wishes of the parties instead of upon the ineffective or missing clause. A loophole in the contract is to be closed according to this criterion.