

## Terms and Conditions

of eBusiness Services for all services of [www.serverguard24.com](http://www.serverguard24.com)  
Status: June 3rd, 2006

### §1 Validity of the Standard Terms and Conditions

- (1) eBusiness Services owner Matthias Waltsgott (hereafter named eBusiness Services ) renders his services exclusively on the basis of these terms and conditions. They are also valid for all future business connections, even if not expressly agreed upon.
- (2) Deviation from the terms and conditions are only effective with written confirmation/permission from eBusiness Services.
- (3) Collateral agreements or warranties from representatives of eBusiness Services which go beyond the content of the contract including these terms and conditions shall become effectual in written form.

### §2 Composition of Contract

- (1) The agreement of use of eBusiness Services' services becomes effectual upon sign-in or registration on the [serverguard24.com](http://serverguard24.com) website.
- (2) Third parties, whose services are provided by eBusiness Services, shall not be considered contractual partners of eBusiness Services' clients. Moreover, a contractual relationship between clients of eBusiness Services does not exist based upon mutual use of services.

### §3 Range of Activities

- (1) The range of activities of the services offered as well as the respective fee amount and method of payment result from the information on the [serverguard24.com](http://serverguard24.com) homepage.
- (2) eBusiness Services may cease non-paid services and activities at any time with advanced notice. This shall not result in claims to reduction, restitution or compensation.

### §4 Client's Duties and Obligations

- (1) The client shall be required to use the services of eBusiness Service's services appropriately. The client is especially required,
  - (a) to bear and comply with accredited principles of the data security invoice;
  - (b) to reimburse eBusiness Services for technical and personnel expenses incurred should a violation of the agreement occur.
  - (c) to adhere to the applicable rules and regulations when using [serverguard24.com](http://serverguard24.com)'s website and services.
- (2) Should the client select the credit card as the method of payment, eBusiness Services receives authorization explicitly for recurring charges to the credit card, as long as services are obtained from eBusiness Services.

### §5 Charging and Retention Rights, Delay of Service, Reimbursement

- (1) The client can only offset undisputed or legally binding ascertained claims against eBusiness Services claims. The client is entitled to the assertion of retention rights only in the instance of a counterclaim from the signed contract.
- (2) Supply and service delays due to acts of nature beyond control and resulting from events which hinder or prevent eBusiness Services from providing their services, specifically including strike, lock

out, official appointments, communication network failure and gateways of other carriers, disturbances in the TELEKOM division of the German Bundespost services, etc. also if such events occur with eBusiness Services' suppliers or subcontractors or their sub-suppliers, eBusiness is not obliged to honor legally binding arranged terms and appointments. They entitle eBusiness Services to postpone deliver/supply or services/activities for the duration of the hindrance including an appropriate start-up period.

#### **§6 Termination of Services**

- (1) Agreements may be cancelled by both parties at any given month's end unless otherwise explicitly arranged. The right to cancel without notice is reserved.

#### **§7 Default of Payment**

- (1) eBusiness Services is entitled by client default of payment to calculate the bank rate interest of the Deutschen Bundesbank of 3% from the related point of time, unless eBusiness Services proves a higher interest load.
- (2) eBusiness Services reserves the right to assert further claims regarding default of payment.
- (3) eBusiness Services is entitled to suspend its services and revoke/cancel already completed services.

#### **§8 Nondisclosure, Data Protection**

- (1) Information submitted to eBusiness Services is not considered confidential unless specifically agreed upon in written form.
- (2) The partners of the Agreement are hereby informed in accordance with § 33 Par. 1 of the Federal Data Protection law as well as §4 of the Teleservice Data Protection Ordinance that eBusiness Services saves personal data in machine-readable format for purposes stated in the agreement are processed automatically.
- (3) When supplying a service from a third party, eBusiness Services is entitled to disclose member data, should this be required in order to provide this service.

#### **§9 Liability und Limitation of Liability**

- (1) Compensation claims due to impossibility of a service, violation of claims, default at contract conclusion and prohibited actions are forbidden by eBusiness Services as well as in relation to their assistants and auxiliary personnel, as far as no deliberate or grossly negligent acts exist.
- (2) eBusiness Services are not liable for damages which occur as a result of acts of nature beyond control or as the result of services not undertaken due to industrial disputes. eBusiness Services are not liable for lost profit nor indirect damages.
- (3) eBusiness Services are not liable for information transmitted over their services neither for their completeness, accuracy or topicality nor that they are exempt from third party rights or that the sender acts unlawfully in that he transmits information.
- (4) The serverguard24.com website and services offer on the serverguard24.com website are made available without any guarantee regarding availability and quality.

#### **§10 Indemnification**

- (1) Upon a request by eBusiness Services, the client agrees to indemnify and hold harmless eBusiness Services and their managing employees, officers, co-owners of trademarks or other business partners and employees from all demands or claims, including attorney's fees, that arise from third parties on account of or regarding content submitted, published or transmitted relevant to the services of serverguard24.com by the client, or that arise from the use of services of serverguard24.com, connection to serverguard24.com services, or from violation of these terms and conditions or from third party rights through the client.

#### **§11 System Integrity**

- (1) The user is not entitled to use mechanisms, software, programmes or other routines which could disrupt the serverguard24.com system. The user may not take any measures which could lead to a unreasonable overload.
- (2) Content portrayed on the serverguard24.com website may not be copied, processed, reproduced or used in any other way without explicit consent of the bailee.

## §12 Final Clause

- (1) Place of fulfilment is Sankt Augustin / North Rhine-Westphalia, Federal Republic of Germany. Exclusive jurisdiction for all claims from contracts reached on the basis of these terms and conditions, inclusive check- and action on a bill in addition to all conflicts between the parties regarding the composition of the agreement is eBusiness Services' headquarters.
- (2) Agreements reached on the basis of these terms and conditions are subject exclusively to the laws of the Federal Republic of Germany.
- (3) The client is obligated to contact the following address for business dealings in technical and contractual opportunities if no further contact information for technical enquiries was given in the primary contract.

eBusiness Services  
Matthias Waltsgott  
Nonnenstrombergstr. 45d  
53757 St. Augustin  
Germany

- (4) The legal successor of eBusiness Services' clients are bound to the contracts which are based on these terms and conditions.
- (5) Should individual conditions within this agreement be legally ineffective or should they lose legal effectiveness through later circumstances or should a loophole be later discovered, the legal effectiveness of the remaining conditions shall not be affected. The contract parties shall be obligated to replace the legally ineffective condition with a condition which best meets the economic purpose of the condition being replaced.
- (6) eBusiness Services reserve the right to amend these terms and conditions. Amended conditions shall be sent to the client per email 2 weeks prior to coming into effect. Should the client neglect to reject the new conditions within 2 weeks upon receiving the email, the new conditions shall be considered valid. eBusiness Services shall place emphasis the importance of the 2-week deadline in the email containing the notification of the amended conditions.