

General Terms and Conditions of Telecommunication Services

(Version 2009-03-01)

Please note: The English translations of the Lindenbaum Terms and Conditions of Telecommunication Services are provided for the convenience of our non-German-speaking customers. Regardless of this, only the original German-language versions are legally binding.

§ 1 General

These General Terms and Conditions regulate the customer relationship between Lindenbaum GmbH and the Customer concerning the use of the online service provided by Lindenbaum. Deviating Terms and Conditions set by the Customer will not apply, even if Lindenbaum does not expressly object to such deviating Terms and Conditions.

These General Terms and Conditions, subject to modifications by Lindenbaum, apply for the entire duration of the customer relationship. If necessary, they apply beyond its termination until all claims arising from the customer relationship have been settled.

§ 2 Scope and Range of Services

1. Lindenbaum provides telecommunication services according to the up-to-date feature description of the respective product.
2. The contract is considered concluded when Lindenbaum clears the Customer's access to the telecommunication service. The access is considered cleared as soon as Lindenbaum makes the access codes available. Lindenbaum may make the conclusion of the contract dependent on a written order confirmation, a direct debit mandate, or prepayment.

Lindenbaum has the right to check the creditworthiness by appropriate means. To do so, Lindenbaum can request information about the Customer from SCHUFA (Schutzgesellschaft für allgemeine Kreditsicherung mbH) and/or another credit agency, and also submit data of transactions that do not comply with the contract. Data submissions follow applicable regulations for data privacy. Lindenbaum reserves the right to cancel the contract unilaterally in case of a negative credit assessment.

3. The scope of services covered by this contract results from the feature description of the respective product and is regarded as being part of this contract.
4. The provision of the telecommunication services is based on communication channels of Deutsche Telekom AG or other licensed network operators.
5. Lindenbaum provides its online services 24 hours a day and 7 days a week. In order to perform its obligations Lindenbaum also enlists the services of third parties. Thus, Lindenbaum services are under reserve of Lindenbaum itself being supplied correctly and timely as well as of the availability and quality of the communication channels.
6. Lindenbaum reserves the right to modify, to extend, or to enhance features. As far as Lindenbaum provides and performs features and services free of charge, these can be discontinued at any time without giving reasons.
7. If required, Lindenbaum provides the Customer with an appropriate access software by means of a non-exclusive, non-transferable license. This software solely serves the utilisation on a single computer as it stands. In utilising the software, the Customer automatically acknowledges the license policy of the software producer. Lindenbaum is neither liable for faults in this software nor for damages resulting from its utilisation, unless the damages are effected by Lindenbaum deliberately or grossly negligent or culpably violating fundamental contractual obligations.

§ 3 Terms of Use

1. The Customer guarantees to meet statutory and regulatory requirements as far as they are applicable for the services provided by Lindenbaum.
2. The Customer is not permitted to use the service
 - in order to send or to receive material (data, images, audio, video, etc.) with improper, indecent, immoral, obscene, or threatening content, or material that violates the rights of confidentiality or privacy, copyrights, or other rights;
 - in order to give offense or cause harassment or unnecessary anguishes;
 - in a way not in accordance to the appropriate principles of using the connected networks and the internet standards (RFCs).
3. The Customer is not permitted to use names that violate the rights of others to a trade mark.
4. Irrespective of any other legal requirements, every content published by the Customer ought to refer to the property rights it is subject to. The Customer releases Lindenbaum of any third-party claims that could be asserted against Lindenbaum due to infringement of third-party rights or legal or noncontractual behaviour.
5. As far as goods or services are offered using a Lindenbaum service, any contracts are concluded solely between the customer and the provider of goods or services. Every claim directly or indirectly resulting from these contractual relationships are asserted solely against the provider of goods and services.
6. At the same time, maximally the number of users as provided in the contract may have access to the online services. If the same access data is used multiply at the same time, the user fee will be increased accordingly automatically and the number of users will be adapted accordingly in the contract.
7. The Customer is responsible for the protection of access data and password. Any damages resulting from the misuse of access data or password are accounted for by the Customer until he has informed Lindenbaum of the misuse and Lindenbaum has blocked the access within an appropriate time limit.

§ 4 Maintenance, Hotline, and Warranty

1. Lindenbaum supervises and controls the proper operation of the online service. The Customer handles any faults of end devices.
2. If maintenance work is necessary, this will preferably be done during times of reduced business. Should the service be affected by the maintenance work, the Customer will be informed early if possible.
3. In case of faults in the online service, the response time of Lindenbaum for fault clearance is two hours maximum on Mondays to Fridays between 9.00 a.m. and 5.00 p.m. CET, with the exception of public holidays in Germany and the state of Baden-Württemberg. This implies the cooperation of the Customer. In this context the Customer shall particularly provide a detailed fault description and shall assist in analyzing the fault in a reasonable extent. If the Customer does not or not completely fulfill his obligation of cooperation, the resulting prolonged downtimes are not regarded in the calculation of the promised service availability. If the Customer is responsible for the reported fault (e.g. due to incorrect

handling), Lindenbaum has the right to charge the Customer separately with the costs of the fault clearance. In such cases the resulting downtimes are not regarded in the calculation of the promised service availability.

4. The hotline is available on Mondays to Fridays between 9.00 a.m. and 5.00 p.m. CET, with the exception of public holidays in Germany and the state of Baden-Württemberg. Faults can be reported 24 hours a day by e-mail. The e-mail address will be provided together with the access data.

§ 5 Prices and Terms of Payment

1. Costs are according to the current price list plus VAT. An adaption of fees according to § 3.6 where applicable does not represent a price change in terms of § 5.2.
2. In case of price changes on the part of Lindenbaum the Customer has the right to cancel the contract without any period of notice.
3. The Customer can set up claims of Lindenbaum against counterclaims only insofar as the counterclaims are unquestioned and legally valid. The Customer has a lien only due to counterclaims with respect to this contract.
4. Lindenbaum will charge the Customer monthly. All invoices are due for payment upon receipt by the Customer.
5. The Customer is charged with the costs using debit entries. This is granted by the Customer. For other forms of payment, a separate arrangement is necessary. The costs are collected after a minimum of 5 working days after the invoice has been issued. The Customer ensures that at this point of time the account he has indicated is covered with an amount sufficient for the invoice value. If a booking is returned by the bank, the Customer is charged with the resulting costs, provided the Customer is responsible for the return.
6. If the Customer does not meet the payment deadline set by Lindenbaum, an overdue interest of 4% p.a. above the bank rate set by the European Central Bank is charged, under reserve of further damage caused by delay. The Customer may prove a lower level of the damage caused by the delay. In case of delayed payment, Lindenbaum has the right to block the access. This does not affect the Customer's obligation to pay.
7. Claims of refunding (e.g. due to overpay or double pay etc.) are booked to the Customer's invoice account and set up against the next invoice unless the Customer issues other instructions.

§ 6 Terms of Validity and Notice of Cancellation

1. After expiration of the minimum period of validity both parties can cancel the contract in writing without any period of notice.
2. Lindenbaum can stop the utilization without any period of notice, if it suspects misuse. The Customer is not permitted to illegally use services that are provided within the scope of this contract. The Customer is liable for consequences of both illegal usage and illegal contents (among others, as in §3.2).
3. This does not affect the right of extraordinary notice of cancellation for a significant reason. A reason is significant for both parties particularly if fundamental legal conditions are changed in a way so that Lindenbaum can not provide the required services. The same applies, if there is strong suspicion of the Customer infringing upon penal provisions.
4. The Customer will be informed about changes within the General Terms and Conditions. The Customer may cancel this contract extraordinarily within one month after being notified of the changes, provided they are to his disadvantage. The changes will come into operation at the end of the calendar month following the month of notice, unless the Customer exercises his right of cancellation.

§ 7 Liability

1. Lindenbaum is not liable for information and contents transmitted through its services (cp. § 3.2), neither regarding their completeness, correctness, or timeliness, nor that they are transmitted legally by the sender or free of any third-party rights.
2. Lindenbaum is only liable for damages caused intentionally or through gross negligence by Lindenbaum and for all damages that can be attributed to the absence of warranted features.
3. Regarding slight negligence Lindenbaum is only liable, if Lindenbaum or its assistants have culpably violated a fundamental obligation of the contract in a way that puts the achievement of the aim of the contract at risk. In these cases Lindenbaum is liable for damages caused by this, namely unlimited for personal damages, and for property and pecuniary damages limited to an amount of money equaling the twelvefold of the sales volume resulting from this contract during the respective month of damage; but maximally limited to € 25.000,00 .
4. Any liability is limited to typical damages that could be reasonably foreseen by Lindenbaum at the time of the contract placement under the circumstances then known to Lindenbaum. Lindenbaum is liable for loss of data only to an amount that is inevitable even if the Customer meets or would have met his obligations for data protection in proper form.
5. Any liabilities for any other damages are excluded whatever the legal grounds are.
6. Lindenbaum is freed from the obligation to provide services in the event of force majeure.

§ 8 Data Protection

1. The Customer agrees on Lindenbaum collecting, storing, processing, and transmitting personal data, including telephone numbers, within the limits of the legal requirements and as far as necessary in order to fulfil the contract.
2. Lindenbaum commits itself not to publish any access data, transmitted data, or stored data.
3. The Customer agrees to serve as a business reference for Lindenbaum unless he explicitly disagrees.
4. The Customer agrees to receive product information and promotion material from Lindenbaum. If he decides otherwise, he will inform Lindenbaum in writing at the following address: Lindenbaum GmbH, Customer Care, Erbprinzenstr.4-12, Eingang A, D-76133 Karlsruhe, Germany.

§ 9 Final Provisions

1. Individual changes and amendments of this contract or of additional parts of this contract must be made in writing. In the event of a legal succession, both parties will assign the conditions of this contract to the legal successor. A legal succession requires the assent of the opposite party.
2. The contractual relations between the Customer and Lindenbaum are solely subject to the laws of the Federal Republic of Germany. Provisions of the Convention on Contracts for the International Sales of Goods are only applicable as far as they contain imperative regulations.
3. In the event that one of the provisions of this contract is or will become invalid or that an essential regulation is missing (in particular due to the still to be issued regulatory statutes of the telecommunication law), this will not affect the validity of the other clauses of the contract. Both contracting parties commit themselves to finding an amicable settlement if this is the case.
4. The place of jurisdiction is Karlsruhe, to the extent that the Customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law, or a Federal Special Fund under public law.