

## TeleTrader Software GmbH General Terms and Conditions

Valid as of 5<sup>th</sup> of July 2012 for the division of Web- and Mobile-Applications und Content-Providing.

### 1. Area of Application

All agreements with customers regarding projects in the business fields web and mobile applications (development and operation of websites and internet applications) and content providing (delivery of content data) as well as for all other services provided by TeleTrader are subject to these „General Terms and Conditions“. Upon signing of the agreement or offer, these General Terms and Conditions shall be deemed accepted and agreed on for all future business relations. The applicability of any purchasing terms or other terms and conditions of the customer's is herewith excluded for the entire business relationship.

Oral declarations as well as conditions to the contrary shall only be binding if there are expressly confirmed in writing by TeleTrader.

### 2. Contract Amendments

Within the scope of technical, operational and business requirements, TeleTrader may change the General Terms and Conditions, performance specifications and fees. Changes of fees may be effected, in particular for adjustments in view of costs relevant for price calculations (such as stock exchange fees etc.)

TeleTrader will inform the customer of any amendments in writing. They shall be deemed accepted if no objection is received by TeleTrader within 6 weeks following the notification. TeleTrader shall expressly indicate this consequence in the notification.

### 3. Offers and Contract Conclusion

Offers by TeleTrader are always subject to confirmation. TeleTrader shall not be obliged to accept orders by the customer. As far as not provided otherwise, TeleTrader may accept offers for the conclusion of agreements within six weeks. The contractual relationship shall come into being upon the written order confirmation by TeleTrader, or by a corresponding granting of services.

Contract conclusion may also be effected online in the Internet and by e-mail, as far as TeleTrader offers this possibility.

TeleTrader undertakes to provide customer with the stated services as quickly as possible. The date for the provision of the service shall result from the order confirmation or a separate notification. Delivery dates shall only be binding if they are expressly confirmed as such by TeleTrader after the placing of an order.

Delays in delivery shall not constitute cause for non-acceptance or for the raising of any claim for indemnification for any costs arising therefrom. The customer shall not be entitled to request from TeleTrader any third-party contractual penalty in case of delayed delivery.

As far as TeleTrader is responsible for the non-observation of any binding deadlines or time periods, or is in delay otherwise, the customer shall have the right to rescind the contract if an adequate grace period was set, under penalty of rescission. Further claims for delay are excluded, as far as TeleTrader did not act intentionally or grossly negligent.

Apart from that, reference is made to the provisions in para 19 of these General Terms and Conditions.

### 4. Terms of Payment

Recurring monthly charges shall be made in advance. Usage-dependent charges shall be invoiced after the provision of the services. If the charges are to be calculated for parts of a month, they shall be calculated with 1/30 of the monthly fee for each day.

Invoices shall be due immediately upon receipt, free of charges. Invoices from TeleTrader shall be deemed accepted if the customer does not raise objection in writing within a time period of four weeks after the invoice date.

Payment in installments shall only be permitted in exceptional cases upon previous arrangement with TeleTrader.

### 5. Invoicing

TeleTrader shall have the right to assign a consistent customer ID-number for all services by TeleTrader. In case of doubt, payments are counted against the oldest debt. TeleTrader shall have the right to count a customer's credit existing at the termination of a contract to other contractual relationships between TeleTrader and the customer.

The customer may only set off TeleTrader's claims against claims that have been established by a court or acknowledged by TeleTrader. The customer is not entitled to retain payments in full, but only with respect to an adequate part of the invoice amount.

In case of default of payment, TeleTrader shall have the right to charge default interest in the amount of 12 % annually. In case of default, compensation for the intervention of debt collection agencies in accordance with the ordinance of the Federal Ministry for Economic Affairs, BGBl No. 141/1996, as amended, shall be borne by the customer, as are the costs of any intervening attorneys.

### 6. Customers

TeleTrader shall have the right to request appropriate proof of identity from the customer (such as an official ID, registration form, or commercial register excerpt), and to verify the customer's information with respect to his creditworthiness, as well as obtain information from credit bureaus, in particular credit reporting agencies.

### 7. License Fees

In case of delivery of data protected by copyright or third party rights (e.g. price information, news, etc.), the customer agrees to conclude any necessary license agreements with the respective offerers of data on its own accord, and to pay the contingent fees at its own expense, or to compensate TeleTrader for such fees, as the case may be. TeleTrader will not be liable for third party claims resulting from the violation of these provisions by the customer. The customer shall hold TeleTrader harmless and indemnify TeleTrader for all related third party claims.

### 8. Acceptance

TeleTrader will inform the customer of the completion. Subsequently, the final acceptance is effected by the customer in the form of a final report within one week.

Any defects shall be recorded in the report, otherwise they are deemed accepted, whereby immaterial, remediable defects shall not affect the due date of the stipulated compensation.

If the acceptance by the customer is not possible due to a serious defect, a second acceptance shall take place after the remedying of the defect.

In case of a serious defect, TeleTrader agrees to remedy the defect within an appropriate time period, whereby the customer shall enable TeleTrader to implement all measures necessary for the remedying of the defect.

If after the final acceptance defects should arise that were not evident at the time of the acceptance, they must be asserted by written notice of defects without delay, under exclusion of any claims such as in particular warranty and liability claims.

Any start-up of the applications delivered by TeleTrader or the use of the data delivered by TeleTrader shall be equatable to the acceptance free of defects by the customer.

In case of any differences of opinion regarding the existence, type or extent of defects, a court-sworn expert shall be consulted by mutual agreement, the costs of which shall be borne by the party to the agreement that is defeated with respect to its viewpoint.

Apart from that, reference is made to the provisions in para 19 of the General Terms and Conditions.

### **9. Exclusivity**

All contracts are mutually non-exclusive. TeleTrader shall have the right to develop the subject matter of the agreement and its amendments as well as further developments, and use them itself, or offer them to third parties, and permit their use by third parties.

The use of TeleTrader services (e.g. use of data content) and products shall only be permitted within the scope of the contractual arrangement. The transfer of TeleTrader services and products to third parties as well as the use by third parties, whether for payment or without payment, is not permitted, and requires the prior express written consent by TeleTrader in exceptional cases.

The incorporation of pages provided by TeleTrader in so-called frames or I-frames shall only be permitted within the scope of the contractual agreement. The use of these pages on other websites not expressly listed in the contract is prohibited.

### **10. Use**

In order to avoid breakdowns of the system operations, the customer binds himself to only use the applications provided (in particular the TeleTrader Quotes-Interface) only in a manner that will not result in any negative consequences for the performance and stability of the entire system.

TeleTrader reserves the right to make improvement suggestions to the customer for the sequence and/or use of requests, if an analysis of the requests made by the customer show that this is necessary or that there are optimization possibilities.

The customer agrees to implement these suggestions for improvement without delay. If reasons exist making the implementation impossible, the customer shall bear the burden of proof.

If TeleTrader operates hardware and software on behalf of the customer, the hardware and software updates necessary for the running operations will be effected by TeleTrader, and charged to the customer at cost.

### **11. Performance Guarantee**

TeleTrader will strive to guarantee the permanent operation of the applications. In case of a breakdown of the system for more than 24 hours within one month during the time from 9:00 am to 10:00 pm on trading days, the monthly license fee shall be reduced by 30%.

The performance guarantee does not apply as far as breakdowns or maintenance work is concerned for which TeleTrader is not responsible, such as power outages, wiring failure, and failures that lie clearly on the part of individual or all stock exchanges, and thus concern all or individual providers of price data, as well as general failures or maintenance work of an internet provider.

As far as maintenance work is necessary, service hours will be established daily from 11:00 pm to 8:00 am. During these service hours, operations may be impaired. For times of maintenance work, no reduction of license fees shall apply, and no further claims shall accrue.

### **12. Fault Clearance**

In case of breakdowns of TeleTrader's communication network the reaction time until fault clearance is initiated shall be 4 hours during the time from 8:00 am to 10:00 pm; outside this time, 8 hours. This however requires the cooperation duties by the customer as far as reasonable. If the customer does not meet his cooperation duties in whole or in part, TeleTrader shall not be responsible for the ensued delays in fault clearance. In this case, the customer shall have no compensation claim or any other claim.

### **13. Third Party Industrial Property Rights**

TeleTrader guarantees that the developed Internet application is free of third party rights. In particular, TeleTrader guarantees that no industrial property rights of third parties are in opposition to the use.

Should any third parties raise claims to the Internet application, the parties will inform each other thereof in writing without delay. The customer shall not acknowledge rights claimed without the express written consent of TeleTrader.

If TeleTrader acknowledges third party industrial property rights, or if such rights are finally established in court proceedings, TeleTrader shall have the right to modify the software to the end that the third party industrial property rights are not longer encroached upon. TeleTrader shall further have the right to obtain the approval of the entitled third party to use the Internet application under a contract.

TeleTrader shall hold harmless the customer in any legal dispute regarding the infringement of third party industrial property rights to the developed Internet application. In selecting legal counsel for such legal dispute, the customer shall be bound to TeleTrader's approval. TeleTrader may object to an appointed legal counsel at any time. The obligation to indemnification shall cease to exist if the customer fails to promptly inform TeleTrader of an impending legal dispute, appoints a legal counsel without TeleTrader's approval or fails to revoke the power of attorney despite the request to do so by TeleTrader.

### **14. Duration of Contract**

The duration of the contract results from the contract concluded with the customer, but shall be at least one year. Fixed-term contracts may not be terminated before the expiry of the stipulated term. If TeleTrader delivers performance as agreed on after the expiry of the term, and the performance is accepted by the customer, the contract shall be extended by another half year, unless provided otherwise by the parties to the agreement. Termination requires three months notice, effective at the end of the year.

If the parties to the contract have not agreed otherwise in an individual contract, agreements concluded for an unlimited period may be terminated in writing with three months notice effective at the end of the year.

Upon termination of the agreement, all permissions to use the works shall cease. The customer however grants TeleTrader the right to use designs and logos in presentations even after the termination of the contract, whereby the customer affirms by conclusion of the contract that no third party rights are infringed thereby.

All data provided by TeleTrader shall be fully deleted from all customer's and its affiliates' data carriers upon termination of the contract. In case of written notes concerning the subject

matter of the agreement (such as printouts, copies etc.) by the customer or its affiliates, these must also be destroyed.

**15. Premature Termination of the Contract for Good Cause**

Each party shall have the right to terminate this agreement for good cause with immediate effect. Good cause is defined as a fact that renders it unreasonable for the affected party to adhere to the contract until the next possible termination date. Good cause is given in particular if

- bankruptcy proceedings have been initiated over the other parties' assets, or if an application for initiation of bankruptcy proceedings has been dismissed for lack of assets to cover the costs of the proceedings, or if the contractual partner suspends payments
- the other party infringes upon material obligations of the contract and this conduct is not ceased within 14 days despite written admonition with an indication as to the legal consequences, in particular under penalty of rescission from the contract, or
- a material price increase of the provision of data, hardware or data transfer for the developed application has occurred, and the customer is unwilling to bear the additional costs.

**16. Legal Consequences**

Upon termination of the entire business connection or individual parts thereof, any amounts owed thereunder become due with immediate effect. The customer shall further release TeleTrader from any obligations assumed for the customer.

**17. Obligation of Secrecy**

TeleTrader and the customer shall keep all business and technical information that becomes known to them in connection with this agreement and are not expressly intended for the transfer to third parties in strict confidence. This shall also apply after the termination of the agreement. TeleTrader and the customer shall procure that this obligation to secrecy is also observed by staff, subcontractors and agents.

The customer shall keep his passwords and terminal identification communicated to him secret. The customer shall be liable for any damages caused by lack of secrecy of passwords by the customer or by transfer to third parties.

In case of loss of the password or suspected knowledge by third parties, the customer shall notify TeleTrader without delay.

**18. Loyalty**

TeleTrader and the customer commit themselves to mutual loyalty. They will refrain from any enticement and employment of the other party's employees, even by third parties, for the duration of the contract and for 12 months after the termination of the contract. The offending party to the agreement shall pay lump-sum compensation in the amount of one year's salary of the affected employee.

**19. Indemnification and Warranty**

TeleTrader shall be liable for damages caused by TeleTrader, its employees or its agent only in case of intent and gross negligence. Liability for slight negligence, the compensation of consequential damages and lost profit, immaterial damages as well as lost data as well as third-party claims against the customer is expressly excluded. TeleTrader shall not be liable for claims arising from any operational breakdown, e.g. mutilation, omission or delays, nor for the completeness, correctness and timeliness of transmitted data. TeleTrader's obligation to pay compensation shall be limited to twice the value of the contract.

TeleTrader shall only be liable for the features stipulated in the performance specifications, but not for any other communication. In case of a deficiency, TeleTrader shall have the right to decide whether replacement or correction shall be carried out. The burden of evidence of the deficiency shall lie with the customer. In case of final failure of the correction of defects, the customer may request price reduction or conversion. In addition, the application of Secs 924 and 933b ABGB (Austrian Civil Code) is expressly excluded.

TeleTrader guarantees the functionality of the developed software application under the applicable program specifications, as far as these are used in accordance with TeleTrader's instructions. No warranties shall apply to any defects that cannot be reproduced. Apart from that, TeleTrader will correct any defects within an appropriate time period. Any price reduction is expressly excluded.

TeleTrader does not provide any guarantee for defects that are attributable to deficient hardware or unsuitable handling. TeleTrader further assumes no liability for the suitability of the developed software for the customer's business purposes.

No guarantee by TeleTrader shall apply to customer's equipment that is subsequently modified by the customer's staff or third parties. Likewise, no guarantee is provided for defects, failures, or damages that are attributable to incorrect wiring, lack of electricity supply or air conditioning, handling, effects of equipment attached by the customer, impairment by computer viruses or transportation damages. TeleTrader cannot be responsible for failures and breakdowns due to force majeure. The guarantee does not cover the replacement of parts subject to normal wear and tear.

TeleTrader shall not be liable for damages arising from the delayed execution of necessary adaption work if the delays are due to the fact that the customer failed to submit the necessary documents, data and information in due time.

**20. Delays**

Stipulated time periods and stipulated deadlines shall be extended by a reasonable time period in case of a temporary, non-foreseeable impediment to performance for which TeleTrader is not responsible. Such an impediment to performance is given in particular in case of non-foreseeable non-delivery by suppliers, geographic, technical or legal non-feasibility of data connection as well as in case of force majeure.

If the performance of services by TeleTrader depends on a prior performance to be delivered by the customer (e.g. delivery of specifications, layouts, data, interfaces, etc.) and the customer fails to deliver the stipulated performance at the stipulated deadline (or within 2 weeks, if no corresponding deadline was agreed on, as the case may be), then the deliveries by TeleTrader are extended by twice the delay caused by the customer. If TeleTrader should accrue additional costs by such delay, they may be charged to the customer in accordance with the applicable daily rate.

**21. Customer's Liability for Damages**

The customer undertakes not to employ TeleTrader's services in an abusive manner, and to observe the relevant legal provisions (Telecommunications Act, Criminal Code, Copyright Act, etc.).

The customer shall be liable for links on the servers operated by TeleTrader, their content as well as any illegal content of the website. In case of a violation, TeleTrader shall have the right to deletion, to notify abusive use to the competent authorities and to terminate the agreement with immediate effect. The customer shall indemnify and hold TeleTrader harmless in any case.



The customer shall raise no claims vis-à-vis TeleTrader arising from the fact that a third party obtains access to TeleTrader's facilities over the customer. The customer agrees to indemnify and hold TeleTrader harmless if TeleTrader is made liable under civil or criminal law, in court our out of court, for improper conduct (or for non-observance of relevant legal provisions, as the case may be).

## **22. Data Protection**

Based on the contract with the customer, TeleTrader will ascertain, save and process personal data (reference data, switching data) or the data of users (final customers), respectively, in accordance with the terms of the Telecommunications Act in connection with the Data Protection Act, to the extent necessary for the provision and settlement of the stipulated performance or for the compliance with statutory obligations or as agreed with the customer, respectively.

TeleTrader will treat the collected data strictly confidential and will exclusively make these available to the customer.

TeleTrader shall have the right to irrevocably delete data of final customers that did not perform access for more 12 weeks. Upon the customer's request, TeleTrader will send the final customers concerned an e-mail notification regarding the deletion, indicating the imminent deletion.

## **23. Delivery Address**

Customer's address stated in the contract shall be considered the delivery address for all documents sent by TeleTrader in fulfillment of the contract.

Unless agreed otherwise, TeleTrader's address stated on the invoice shall be the delivery address for all documents sent by Customer in fulfillment of the contract.

Changes of the name or company name, as the case may be, the address, the point of payment, the bank account, the credit card number, the credit card contract or the expiry date shall be notified to TeleTrader in writing without delay. If this notification is omitted, documents shall be considered received upon expiry of the fifth workday after the posting of the document, if the document was sent to the last valid address.

## **24. Miscellaneous**

If a notification in connection with an agreement is intended to trigger legal consequences, it requires the written form. As far as the making of a declaration is bound to time limits, the receipt of the declaration by the recipient shall be decisive. It is assumed that declarations by e-mail or by telefax are received on the same day and post on the fifth workday after the date of posting.

## **25. Final Clauses**

The conclusion of all contracts as well as their amendments and supplements as well as of side agreements and the present General Terms and Conditions, requires the written form, unless these General Terms and Conditions provide for an exception. Side agreements in writing do not exist. The requirement of written form also applies to the deviation from the written form requirement.

Should individual provisions of this agreement or the General Terms and Conditions be ineffective, or if this agreement or the General Terms and Conditions contain gaps, this shall have no effect on the remaining provisions. In place of the ineffective provision, the effective provision most closely corresponding to the ineffective provision in terms of sense and purpose shall be considered agreed on. In case of gaps, the provisions corresponding to what would have been agreed on if the matter had been considered from the outset are considered stipulated.

## **26. Applicable Law and Venue**

All contracts are solely subject to Austrian law under the exclusion of conflict of law rules. The application of UN Convention on Contracts for the International Sale of Goods is in any case excluded. Any legal disputes shall be exclusively decided by the courts in Vienna with subject-matter jurisdiction.