

## General Terms and Conditions for Hosting Products

of

**Distec GmbH Vertrieb von elektronischen Bauelementen**

Augsburger Str. 2b | 82110 Germering, Germany

- hereinafter "**DISTEC**" -

### § 1 SCOPE OF APPLICATION

1. The following General Terms and Conditions for hosting products (hereinafter the "**GTC**") apply to all orders, offers, deliveries and services carried out by DISTEC in the areas of "aushang.online", website support, setup and hosting.
2. In the context of an ongoing business relationship, these GTC also apply without these being expressly applied, unless other provisions are expressly agreed.
3. By accepting the services by DISTEC, the Customer agrees to these terms and conditions. Terms and conditions of the Customer departing from the above will not be recognised unless DISTEC acknowledges them in writing.

### § 2 SERVICES

4. The specifically agreed services are based on the offer agreed between DISTEC and the Customer.
5. DISTEC shall provide the Customer with its own website under its own domain for its own use [hereinafter the "**website**"]. The services include the initial provision and installation of a personalised website for use (rental) [hereinafter the "**facility**"], the provision of this website on the internet [hereinafter "**hosting**"] and the technical support of this website [hereinafter "**support**"].
6. Technical support includes the following services, all other ordered services shall be paid for separately:

Technical support by e-mail via the e-mail address provided by DISTEC for this purpose, improvements and rectification of malfunctions, software updates and adjustments, creation of regular backups.
7. Training courses or other events do not form part of the contract but can be agreed separately.
8. DISTEC expressly reserves the right to independently carry out software updates or to install appropriate software such as plug-ins, regardless of the agreed scope of support, in order to ensure the operation of the website.

### **§ 3 START OF CONTRACT | CONTRACTUAL TERM | END OF CONTRACT**

1. The contract establishing the Customer relationship is concluded as soon as DISTEC confirms the Customer's order.
2. The minimum contract period always ends at the end of a calendar month regardless of the start of the contract. Thus, the minimum contract term can be more than a full calendar year.
3. Unless otherwise agreed, the minimum contract period shall be one calendar year in accordance with paragraph 2 and the period for ordinary termination for both parties is one month to the end of the contract period. If no notice of termination is issued and nothing to the contrary has been agreed, the contract shall be extended for a further calendar year.
4. The right of both parties to extraordinary termination for good cause remains unaffected.
5. Regardless of the type of termination, this must be effected in writing.
6. If the contract has been terminated, DISTEC will provide the Customer with the data aggregated on the website at the end of the contract. At the end of the contract, the Customer shall lose its access to the website, which will be deleted at the end of the contract.

### **§ 4 REMUNERATION | TERMS OF PAYMENT | LATE PAYMENT**

1. The Customer pays a one-time provision fee for the initial provision of the website and a rental fee for use over the term of the contract, which is based on the offer price.
2. For the hosting and technical support of the website, the Customer shall pay a one-off sum over the respective entire contract period, the amount of which is based on the respective offer.
3. Invoices shall be sent electronically to the email address provided by the Customer.
4. The Customer is in default even without a reminder if it does not pay within ten days of receipt of the invoice.
5. In the event of default in payment, the Customer shall incur additional interest of 12% p.a. from the due date. The Customer is permitted to prove that no or a significantly lower interest loss has arisen.
6. DISTEC is entitled to suspend its support and hosting services if the Customer is in default of payment for more than 30 days. Regardless of this suspension, the Customer is obliged to make further payments. This refusal of performance resulting from a default in payment does not constitute a reason for termination for the Customer.
7. The Customer can only offset against claims of DISTEC with undisputed or legally established counterclaims.

## **§ 5 OBLIGATIONS OF THE CUSTOMER | ACCEPTANCE**

1. The Customer undertakes to regularly change passwords received from DISTEC for the purpose of access to the services of the latter, to keep them strictly confidential and to protect them from access by third parties. The Customer shall inform DISTEC immediately as soon as it becomes aware that a password is known to unauthorised third parties.
2. The Customer undertakes to actively participate in setting up/providing the website. In particular, the Customer shall provide DISTEC with all necessary information, documents, graphics and data records of any kind upon request without undue delay.
3. The Customer is solely responsible for all content that it saves or posts for retrieval on the website. DISTEC does not examine the content for possible legal or contractual violations. As part of its obligation to comply with the legal and contractual regulations, the Customer is also responsible for the behaviour of third parties that act on its behalf, in particular those of vicarious agents. This also applies to other third parties that are facilitated in a violation of the law through its behaviour.
4. When using its website, the Customer undertakes to refrain from using technologies that impair the integrity, security and availability of the networks, servers and software provided by DISTEC. DISTEC reserves the right to exclude the website with these technologies from access by third parties or by the Customer itself until the technologies have been eliminated/deactivated.
5. In addition, the Customer will sufficiently and comprehensibly document malfunctions (detailed description of the effects and the time of the malfunction, creation of screenshots, time log) and forward them to DISTEC.
6. The Customer is not permitted to sublet services.

## **§ 6 DOMAINS**

1. In the procurement and/or maintenance of domains, DISTEC only acts as an intermediary in the relationship between the Customer and the respective organisation for domain allocation. DISTEC has no influence on the domain allocation. DISTEC cannot guarantee that the domain applied for on behalf of the Customer will be assigned at all and/or that the assigned domains will be free of third party rights or that they will be permanently available.
2. The Customer warrants to DISTEC that the domain requested by it does not infringe any third party rights, in particular with regard to industrial property rights. The Customer is therefore obliged to examine this for any legal infringement (e.g. by inspecting the registers at the German Patent and Trade-mark Office and the Chamber of Industry and Commerce or via a commercial research service).

3. If the Customer cannot obtain an acceptable domain, DISTEC shall offer the Customer the creation of a subdomain on a DISTEC domain. Paragraph 2 applies accordingly.
4. When procuring and/or maintaining SSL certificates, DISTEC only acts as an intermediary in the relationship between the Customer and the respective certificate issuer. DISTEC has no influence on the issuing of the certificate. DISTEC cannot guarantee that the certificates applied for on behalf of the Customer will be issued at all or that they will be permanently valid.

### **§ 7 BACKUPS (SUPPORT SERVICES)**

1. If agreed, DISTEC will regularly create backups of the website for the Customer.
2. DISTEC will also carry out a full backup of the website at greater intervals at its own discretion. Performance of this full backup will overwrite the existing full backup.
3. The restoration of backups due to a problem caused by the Customer is not part of the service provided by DISTEC and must be commissioned separately by the Customer.

### **§ 8 REPAIRS | FUNCTIONAL FAULTS**

1. DISTEC will rectify any malfunctions reported by the Customer on the website within a reasonable period of time. In this regard DISTEC is particularly dependent on the cooperation of the Customer according to §5.
2. A malfunction to be eliminated within the scope of the contractual relationship is present if the website cannot be accessed in whole or in part when used in accordance with the contract, if essential functions of the website are not functional or essential graphic elements show malfunctions and if this has more than just an insignificant effect on the suitability of the website for the contractual use.
3. The methods of eliminating the malfunction at the discretion of DISTEC are as follows:
  - a. by installing software (bugfixes, patches, updates, etc.),
  - b. by providing a new, enhanced version of software or components of the website with which the malfunction no longer occurs,
  - c. individual rectification of the fault by accessing the web server or
  - d. instructions for the Customer that enable the malfunction to be circumvented or eliminated (workarounds).

4. DISTEC can restrict access to the services in the event of maintenance work or if there are any dangers to safety.
5. The limitation period for claims for defects is one year. With regard to the start of the limitation period, the statutory rules apply, except in the case of fraudulent concealment or gross negligence of a defect by DISTEC as well as in the case of damage to life, limb and health caused by a defect and in the case of a quality guarantee.
6. DISTEC explicitly points out that, according to the current state of technology, it is not possible to create software or a website in such a way that these function error-free in all application combinations or can be protected against any manipulation by third parties. In addition, DISTEC does not guarantee that the software used or provided by third parties will meet the Customer's requirements, that it will be suitable for certain applications, and that it is free from crashes, errors and malware. DISTEC only guarantees to the Customer that the software used or provided by third parties at the time of release, under normal operating conditions and with normal maintenance functions essentially in accordance with the third party service description and that DISTEC will not take any deliberate measures to limit this to the detriment of the Customer. In particular, DISTEC does not accept any liability for subsequent malfunctions in the corresponding software due to changes or updates from third-party providers.

## **§ 9 COPYRIGHTS | OFFENSIVE CONTENT**

1. The Customer expressly warrants that the provision and publication of the content of the website used by it does not violate German or other relevant national and international law, in particular copyright, trademark, name, data protection and competition law. DISTEC reserves the right to temporarily block content that it considers questionable in this regard. The same applies if DISTEC is requested by a third party to change or delete content on the website because it allegedly violates third-party rights.
2. In the event that the Customer provides evidence that no violation of third-party rights or any other legal violation is to be feared, DISTEC will make the website available again.

### **§ 10 BLOCKING (HOSTING)**

1. DISTEC will only make use of the technical possibility of blocking the Customer's access to the provided services in the necessary exceptional cases mentioned and will always take the Customer's legitimate interests into account. If DISTEC applies a block, DISTEC may be entitled to block all contractual services. The choice of the blocking measure is at the discretion of DISTEC.
2. DISTEC fulfils its notification obligations to prepare or indemnify against and carry out the block if it sends the respective notifications by email to the email address given by the Customer. It is the Customer's duty to ensure that the email address that it has specified can be accessed.

### **§ 11 LIABILITY**

1. DISTEC is only liable for itself and its vicarious agents in the event of wilful intent and gross negligence for the breach of obligations that are not directly related to essential contractual obligations. Essential contractual obligations are those obligations, the fulfilment of which makes the proper execution of the contract possible in the first place and on whose compliance the Customer can regularly rely or the violation of which restricts the Customer's rights that are granted to the latter under this contract according to its content and purpose. In this case, however, the claim for damages is limited to the foreseeable, contract-typical damage. The limitations of liability do not apply in the event of injury to life, body and/or health and in the event of liability under the Product Liability Act (ProdHaftG).
2. If the Customer is a merchant, legal entity under public law or a special fund under public law, the liability is limited to the sum of the total payments of the last two calendar years from the specific contractual relationship between the Customer and DISTEC, except in the case of intent and gross negligence.
3. In addition, DISTEC is not liable for profits forgone, lack of savings, damage from claims by third parties and other direct damage.

### **§ 12 INDEMNIFICATION**

The Customer shall indemnify DISTEC from any internal claims by third parties that are based on illegal or infringing actions by the Customer or errors in the content of the information provided by the Customer. This applies in particular to violations in the area of commercial legal protection, copyright, competition law, data protection and all other violations in accordance with § 9. The Customer shall reimburse DISTEC for the costs incurred in this context for a legal defence.

### **§ 13 DATA PROTECTION**

DISTEC will inform the Customer separately about the collection, processing and use of personal data or other data.

### **§ 14 CLOSING PROVISIONS**

1. Changes, additions or the cancellation must be made in writing to be effective. This also applies to the cancellation or amendment of the aforementioned written form requirement.
2. The place of jurisdiction and performance is - as far as legally permissible - Munich.
3. If a provision is or becomes invalid or if these GTC contain an omission, this shall not affect the legal validity of the GTC. The parties are obliged to replace an invalid provision with an effective one or to agree to the inclusion of a provision that fills the omission and comes as close as possible to the economic purpose of the ineffective or missing provision.