

General Terms and Conditions

Version dated 09.08.2021

The German version of these terms shall prevail. This English version is provided for information purposes only.

1. Applicability of these Terms

1.1 The offer of deliveries and services by Bloonix GmbH is directed exclusively to business customers within the meaning of Section 14 of the German Civil Code (BGB).

1.2 All deliveries and services provided by Bloonix GmbH (hereinafter referred to as "Bloonix") are rendered exclusively on the basis of these General Terms and Conditions (hereinafter referred to as "Terms and Conditions"). These Terms and Conditions shall also apply to future contracts between the parties in the area of hosting and monitoring, even if they are not expressly agreed upon again.

1.3 Deviating terms and conditions of the customer shall not be recognized unless we have expressly agreed to them in writing. Our General Terms and Conditions shall also apply if we perform our services without reservation while being aware of conflicting or deviating terms of the customer.

2. Conclusion of Contract

2.1 The customer's request to conclude the intended contract consists either of submitting the order form in written form to Bloonix or, where provided, by sending a corresponding electronic declaration. The customer is bound by this request for 14 days. The contract is concluded only upon the express acceptance of the customer's request by Bloonix or upon the first act of performance carried out by Bloonix.

3. Services

3.1 The scope of services for the respective service is determined by the applicable service description at the time the service is ordered.

3.2 The availability of Bloonix servers is at least 99% on an annual average. Excluded from this are periods during which the servers are inaccessible due to events beyond Bloonix's control, such as force majeure, technical problems outside Bloonix's sphere of influence, actions by third parties not commissioned by Bloonix, limited or discontinued functionality of the Internet, etc. Deviating agreements, in particular higher availability levels for individual products, may arise from the respective applicable Service Level Agreements (SLAs).

3.3 Bloonix is entitled to expand its services, adapt them to technical progress, and/or implement improvements. This applies in particular if the adjustment appears necessary to prevent misuse or if Bloonix is obliged to make such adjustments due to statutory provisions.

4. Customer Obligations

4.1 The customer assures Bloonix that all data provided to Bloonix is complete and accurate. The customer further undertakes to promptly inform Bloonix of any changes to this data.

4.2 Bloonix is entitled to send all information and declarations relevant to the contractual relationship in electronic form to the email address provided by the customer. The customer agrees to regularly check this email address for new messages.

4.3 The customer shall handle passwords and other access credentials with due care and keep them confidential. The customer shall change passwords regularly, and if they are assigned by Bloonix, they must be changed immediately.

4.4 The customer is obliged to inform Bloonix without delay if they become aware that unauthorized third parties have gained access to their passwords. The customer shall compensate Bloonix for all damages resulting from misuse of passwords by third parties or use of the passwords by unauthorized persons, insofar as the customer is responsible for this.

4.5 The customer is responsible for creating daily backups of their websites and other server contents. These backups must not be stored on the server.

4.6 The customer agrees to use the resources provided in such a way that the security and/or availability and/or system integrity of Bloonix systems is not compromised.

4.7 Bloonix is entitled to block systems or access if the customer or a third party violates the obligations under Section 4 "Customer Obligations."

5. Warranty

5.1 The customer shall immediately notify Bloonix of any defects and support Bloonix in rectifying such defects to the best of their ability, in particular by taking all reasonable measures to ensure data security.

5.2 Bloonix points out that, according to the current state of technology, it is not possible to create hardware and software that functions completely error-free in all application combinations or that is fully protected against any form of manipulation by third parties.

Bloonix does not guarantee that hardware and software used or provided by Bloonix meets the customer's requirements, is suitable for specific applications, or is free of crashes, err

6. Liability

6.1 Bloonix shall be liable, regardless of the legal basis, only in accordance with the following provisions.

6.2 Bloonix shall be liable for intent and gross negligence in accordance with statutory provisions.

6.3 In cases of slight negligence, Bloonix shall only be liable for the breach of an essential contractual obligation, the fulfillment of which is necessary for the proper execution of the contract and on the observance of which the customer regularly relies (cardinal obligation). In such cases, liability is limited to the foreseeable, typical contractual damage.

6.4 In cases of slight negligence, liability for all other damages, in particular consequential damages, indirect damages, or lost profits, is excluded.

6.5 In any case, Bloonix's liability for slight negligence shall be limited per customer and per claim to a maximum of EUR 250,000.

6.6 The above limitations shall not apply in cases of injury to life, body, or health, nor in cases of liability under the Product Liability Act.

6.7 Where Bloonix's liability is excluded or limited, this also applies to the liability of Bloonix's employees, other staff, representatives, and vicarious agents.

6.8 Within the scope of the German Telecommunications Act (TKG), the liability provisions of Section 44a TKG remain unaffected.

7. Payment Terms

7.1 Fixed charges that are independent of usage shall be payable in advance at the beginning of the respective billing period. Usage-based charges shall be payable at the end of the respective billing period.

7.2 Bloonix shall provide the customer with an electronic invoice for each payment transaction. Invoices are sent via email free of charge.

7.3 Prices may be adjusted by Bloonix at the beginning of a new contract term with reasonable prior notice of at least one month. If the customer does not object to this change within this period, the change shall be deemed accepted.

7.4 If the customer is in default with an amount corresponding to at least two monthly base charges, Bloonix may temporarily suspend the corresponding service. Temporary suspension of services does not affect the customer's fundamental payment obligation.

7.5 The customer shall also be in default without a reminder if payment is not made within 30 days of receipt of an invoice. In the event of default, Bloonix may charge default interest in accordance with Section 288 of the German Civil Code (BGB).

7.6 For unauthorized chargebacks, Bloonix may charge the customer for bank return debit fees.

8. Term and Termination of the Contract

8.1 The term of the contract is determined by the offer.

8.2 The contract shall automatically renew for the respective contract term unless the customer terminates it within the notice period specified in the respective offer.

8.3 Terminations must be in written form, whereby transmission by fax is sufficient to meet this requirement.

8.4 Bloonix is entitled to terminate the contract without notice for good cause. Good cause shall exist in particular if the customer:

- is in default with payment of an amount equivalent to three monthly base charges;
- culpably breaches a material contractual obligation and fails to remedy the breach within a reasonable period despite receiving a warning.

9. Website Content and Blocking of Web Content

9.1 The customer undertakes to comply with the statutory legal notice (imprint) obligations.

9.2 By transmitting websites or website content (to the provider), the customer releases Bloonix from any liability for the content and expressly warrants that no material will be transmitted or displayed that violates, disparages, or insults the honor of other persons or groups. The customer also warrants that any fees arising from the public availability of the data will be paid to the relevant organizations (e.g., collecting societies). Furthermore, the customer expressly warrants that no content or data will be published that violates applicable

laws of the Federal Republic of Germany. This also applies if such content is made accessible through hyperlinks or other interactive connections set by the customer on third-party sites. It is expressly prohibited to send so-called spam emails or similar from Bloonix servers in any way.

9.3 If the customer violates their obligations under Sections 9.1 and 9.2, Bloonix is entitled to block the relevant websites. Any costs incurred due to such blocking shall be borne by the customer. It is clarified that the customer's fundamental payment obligation remains unaffected.

9.4 Bloonix reserves the right to block or, in individual cases, prevent the operation of content that could impair normal operating behavior or the security of the server.

10. Domain Registration

10.1 Domain registrations are not offered as a service by Bloonix. If, by way of exception, Bloonix registers a domain on behalf of the customer at the customer's request, Bloonix acts as an agent for the customer. The contractual relationship required for the registration of the respective domain is established directly between the customer and the respective domain registry or registrar. The relevant contractual conditions of the registry apply. Bloonix emphasizes that it has no influence on the allocation of domains.

10.2 The customer warrants, to the best of their knowledge, that the registration or connection of the domain name and the transfer of their web content to the Internet under the domain will not infringe the rights of third parties and will not be used for unlawful purposes. The customer acknowledges that they are solely responsible for the choice of the domain name and agrees to indemnify Bloonix against any third-party claims for damages in connection with the domain name registration or connection. In the event that third parties assert rights to the domain name, Bloonix reserves the right to block the domain name until the legal dispute is resolved.

11. Email Services

11.1 The customer must regularly retrieve incoming messages in their email mailboxes.

11.2 Bloonix may refuse to forward emails addressed to its customers if there are indications that an email contains harmful software (viruses, worms, or Trojans), if the sender information is false or concealed, or if the email is considered spam.

11.3 The sending of so-called spam emails is prohibited. It is also prohibited to provide false sender information when sending emails.

11.4 If the customer sends spam emails as defined above, Bloonix may temporarily block the customer's email mailboxes.

12. Web Hosting

12.1 The customer is responsible for ensuring that the provision and publication of the content on their hosted websites or data does not violate German law or any other applicable national law, particularly copyright, trademark, name, data protection, and competition law. Bloonix reserves the right to temporarily block content that appears questionable in this regard. The same applies if Bloonix is requested by a third party to change or delete content on hosted websites because it allegedly violates applicable law or infringes third-party rights.

13. Administration and Use of Servers

13.1 If the customer has sole administrator rights, Bloonix cannot manage the server. As the server administrator, the customer is solely responsible for securing the server against unauthorized access and manipulation by third parties via the Internet. It is the customer's responsibility to install and activate appropriate security software, stay informed about known security vulnerabilities, and close such vulnerabilities. Installing maintenance programs or other programs provided or recommended by Bloonix does not release the customer from these obligations.

13.2 The customer is obligated to configure and manage their servers in a way that does not compromise the security, integrity, or availability of networks, other servers, software, or data belonging to third parties or Bloonix. If a customer jeopardizes security, integrity, or availability, or if there are objective indications that such a risk exists, Bloonix is entitled to temporarily block the server. This also applies if the customer is not responsible for the harmful action or condition, for example, if the customer's server has been compromised and is being used by third parties. In cases of intentional violation, Bloonix is additionally entitled to immediate termination of the contract without notice.

13.3 The commercial subleasing of servers to third parties is prohibited unless Bloonix has given prior consent in individual cases.

14. Bloonix's Response to Legal Violations and Threats

14.1 If third parties provide credible evidence that content on a website or a domain violates their rights, or if there are objective indications that a legal violation is likely, Bloonix may block the website for as long as the potential violation or the dispute with the third party continues. If the violation is committed through a domain, Bloonix may also take measures to make the domain inaccessible.

14.2 In cases of illegal content, Bloonix may, instead of merely blocking the content, also terminate the contract without notice. If the violation committed through a domain is considered certain based on objective evidence, Bloonix may also terminate the contractual relationship without notice.

14.3 If the customer sends spam emails, Bloonix may temporarily block the customer's mailboxes on the email server.

14.4 Bloonix's entitlement to payment remains in effect as long as services are blocked for the above reasons.

15. Indemnification

15.1 The customer agrees to indemnify Bloonix internally against any claims by third parties that are based on unlawful or infringing content or actions of the customer. This applies in particular to violations of copyright, trademark, name, data protection, and competition law. Furthermore, the customer is obligated to compensate Bloonix for any damages arising from such violations, insofar as the customer is responsible for them. Compensation also includes the reasonable costs of necessary legal defense by Bloonix.

16. Amendment of Contract Terms

16.1 Bloonix is entitled to amend or supplement these contract terms with effect for the future as follows: Bloonix shall notify the customer of the amendments or supplements at least six weeks before they take effect, in text form. If the customer does not agree with the amendments or supplements, they may object to them within six weeks of the intended effective date. The objection must be made in text form. If the customer does not object within this period, the amendments or supplements to the contract terms shall be deemed accepted. Bloonix will specifically inform the customer of the significance of failing to object when notifying them of the amendments or supplements.

17. Place of Jurisdiction and Applicable Law

17.1 If the customer is a merchant, a legal entity under public law, or a special fund under public law, the place of jurisdiction for all disputes arising from or in connection with the contractual relationship shall be the registered office of Bloonix. Bloonix is also entitled to bring an action against the customer at the customer's general place of jurisdiction.

17.2 The law of the Federal Republic of Germany shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

18. Data Protection

18.1 The contractual parties shall comply with the applicable data protection regulations, in particular those pursuant to the GDPR and the German Federal Data Protection Act (BDSG). If Bloonix acts as a processor on behalf of the customer within the meaning of Article 28 GDPR, Bloonix undertakes to fulfill all requirements listed in Article 28(3) sentence 2 letters (a) to (h) GDPR. In addition, Bloonix and the customer shall conclude a separate data processing agreement.

19. Miscellaneous

19.1 Should any provision of the contract be or become invalid, or should the contract contain a gap requiring supplementation, this shall not affect the validity of the remaining provisions. The parties undertake to replace the invalid provision with a valid one that comes closest to the economic purpose of the invalid provision. The same applies in the event of a contractual gap.