

## **General Terms and Conditions for the EITO Portal**

### **§ 1 General**

(1) These General Terms and Conditions ("**General Terms**") shall apply to all orders for goods and services ("**Products**") placed via the Internet portal [www.eito.com](http://www.eito.com) ("**EITO Portal**") operated by Bitkom Research GmbH ("**Bitkom Research**"), unless Bitkom Research expressly waives their applicability in written form.

(2) The products offered over the EITO Portal are directed to registered users of the EITO Portal ("**Client**"). Orders cannot be placed by consumers within the meaning of Section 13 of the German Civil Code (*Bürgerliches Gesetzbuch*) living outside the European Union.

(3) The Client's standard terms and conditions shall not become an integral part of the Purchase Agreement, even if Bitkom Research has not expressly rejected their applicability. Further, if Bitkom Research replies to any communication of the Client that refers to the Client's general terms and conditions or any other set of terms and conditions, such reply shall not constitute an acceptance of such terms and conditions.

### **§ 2 Purchase of Products**

(1) All offers of Products displayed in the EITO Portal ("**Products**") shall not represent a binding offer.

(2) The order of Products by the Client (by clicking on the button "Buy now") constitutes a binding offer to Bitkom Research. Bitkom Research will confirm the receipt of the offer by sending an order confirmation e-mail ("**Order Confirmation**"). Said Order Confirmation does not constitute an acceptance of the Client's offer. The Client will receive the General Terms together with the revocation instructions in text form in the Order Confirmation.

(3) The acceptance of the Client's offer occurs when Bitkom Research explicitly confirms the acceptance of the order by way of an e-mail or written declaration in text form ("**Order Acceptance**"). The Order Acceptance establishes the contractual agreement for the purchase of the Products ("**Purchase Agreement**").

(4) Should a Product ordered not be available for delivery or if Bitkom Research does not accept the Client's offer for any other reason, Bitkom Research will immediately inform the Client that the order has not been accepted due to the non-availability or such other reason.

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### **§ 3 Right of Revocation**

(1) In case the Client is a consumer within the meaning of Section 13 of the German Civil Code (*Bürgerliches Gesetzbuch*), the Client has a right of revocation according to Section 4 of these General Terms. A consumer means every natural person who enters into a legal transaction for a purpose that is outside his trade, business or profession.

(2) The right of revocation shall no longer apply with regard to Products in the form of document and/or data downloads once the Client has successfully completed the download of a specific Product and in regard to Subscriptions once the Client has made use of the Subscription for the first time.

### **§ 4 Revocation instructions**

(1) If the Client is a Consumer in accordance with Section 3 of these General Terms, the Client may revoke his contractual declaration in text form (for example by sending a letter, fax, or e-mail) or - if the goods are left to the Client before the end of this two week term - by returning the item within two weeks without providing any reasons. The two-week term shall commence after these revocation instructions are received by the Client in text form. For compliance with the revocation term-, it is sufficient to return the item or to send the revocation notice within the time permitted. The revocation notice should be sent to:

Bitkom Research GmbH  
Albrechtsraße 10, 10117 Berlin,  
Telefax:+49.30.944002-49,  
E-Mail: [service@eitocom.com](mailto:service@eitocom.com).

(2) Should the contractual declaration have been effectively revoked, the goods and payment received and emoluments taken (e.g. interest) are to be returned by the respective parties. If the Client cannot return the goods or the performance, either wholly or in part, or should he be able to return them only partially or in a deteriorated condition, the Client will have to pay Bitkom Research a corresponding compensation for the deterioration in value. This does not apply if the deterioration of the item results exclusively from the Client's inspection of the product, such as might have been the case in a retail business. In all other regards, the Client may avoid an obligation to pay compensation for such deterioration in value that is due to an intended use of the product if he does not put the item into use as his property and refrains from any actions that might reduce its value. The Client must pay the return shipping costs for items that are shippable as a parcel if the item to be returned is the same as the item ordered and if the price of the item does not exceed 40 Euros. The Client must also pay shipping costs for items for which the price is higher than 40 Euros if he has not yet paid the full purchase price, or a contractually agreed-upon partial payment, as of the time of the revocation. With respect to services provided, the Client's right of revocation shall expire ahead of schedule if Bitkom Research began to provide services prior to the end of the revocation period with the Client's express consent, or if

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the Client itself induced Bitkom Research to do so. Items that can be shipped parcel post shall be returned thereby to Bitkom Research; Bitkom Research shall carry the costs as well as the risk of said shipping. Items that cannot be shipped by parcel post will be picked up at the Client's place of residence. All refund payment obligations must be met within 30 days. For the Client, the period shall begin with posting either the signed statement of revocation or the goods, as applicable. For Bitkom Research, the period shall begin with the receipt of said revocation or goods.

### § 5 Prices and Shipping Costs

(1) The prices displayed at the EITO Portal are prices without value added tax and final prices including value added tax, depending on the tax liability derived from German and Intercommunity tax laws as well as the German price regulation ("*Preisangabenverordnung*").

(2) In case the Client orders a Product to be delivered by mail, a fee for shipping costs will be added. Shipping costs are not subject to any discounts granted.

(3) In case the Client requests a Product to be delivered by mail to a place outside the territory of the Federal Republic of Germany, all additional tax, duty, customs, fees or other charges whatsoever imposed on the invoiced prices shall be borne by the Client or shall be reimbursed by the Client to Bitkom Research.

### § 6 Conditions of payment

(1) Payment for the Products purchased can be made by credit card or by direct debit (Germany only). Bitkom Research accepts credit cards of the following credit card organisations: American Express, Mastercard, Visa. The invoice amount will be charged to the Client's credit card immediately upon the conclusion of the Purchase Agreement. By providing its credit card or bank account information in the course of placing the order, the Client grants to Bitkom Research the right to deduct the invoice amount from the credit card or bank account.

(2) In case, the Client purchases a Product in the form of a Subscription, the invoice amount for the Subscription is due at the beginning of the term of the Subscription.

(3) If there is a delay in payment, the default interest rate will be assessed according to the rates set forth by law. Bitkom Research hereby retains its right to pursue claims for further compensation or a higher interest rate based on other legal grounds.

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(4) With respect to Bitkom Research's claims for payment, the Client is permitted to offset only uncontested claims or claims that have been confirmed as valid.

### **§ 7 Reservation of title**

Bitkom Research retains legal ownership of the Product until payment has been made in full.

### **§ 8 Rights of use**

(1) All Products offered through the EITO Portal are the property of Bitkom Research and/or its partners and are protected by German and international copyright laws and conventions.

(2) If the Client purchases a Product in the form of a document and/or data download and/or a Subscription, Bitkom Research grants to the Client a non-exclusive right to use the Product in an unaltered form subject to the following conditions. The Client is only entitled to make use of said Product within the Client Account and to download said Product and to create a back-up copy of said Product, which copy must carry the copyright notice of the original Product. In addition, copies of said Product are not permitted for any other purpose, except to the extent they are required in the ordinary course of the Product's execution. The rights of use granted to the Client are non-transferable. The foregoing notwithstanding, the Client is entitled to redistribute said Product if he does not retain a copy of the Product.

The Client must obtain a corporate license if more than one person would like to use the product. This can be purchased by directly contacting customer service. For contact details see §4.

(3) If the Client wishes to quote from any Product, Bitkom Research requests the Client to provide Bitkom Research with a sample of the intended use of the information by e-Mail to [service@eitocom](mailto:service@eitocom). This will enable Bitkom Research to ensure accuracy, currency and the proper context. All excerpts of text, data, tables and figures rightfully used by third parties shall mention in a manner clearly visible to the reader the source name below the corresponding data table or figure and the year of appearance.

(4) Bitkom Research does not allow its name or logo to be used without written permission of Bitkom Research. The same applies to the EITO trademark and logo.

### **§ 9 Warranty**

(1) The statutory provisions on warranty shall apply.

(2) The EITO Portal and all its content and information are provided "as is" and "as available". Bitkom Research aspires to provide information that is

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accurate. However, Bitkom Research explicitly disclaims any and all warranties, including but not limited to any warranties as to the accuracy and completeness of any information provided through the EITO Portal.

(3) Bitkom Research is not responsible for any deficiency that is due to incorrect input of data by the Client in regard to his Client Account and that is due to a misuse of the Client Account that is due to a Client's default.

(4) The EITO Portal is set up to be available to clients 24 hours daily, seven days the week. However, short-term shut-downs for technical reasons and maintenance are inevitable. Bitkom Research shall not be responsible for any failure in the accessibility of the EITO Portal that is less than two percent per annum or for any failure in the accessibility that is a result of force majeure or for technical reasons beyond Bitkom Research's control.

### **§ 10 Limitation of Liability**

(1) Bitkom Research, its legal representatives and agents necessary to Bitkom Research for the fulfilment of its obligations under the law are liable to the Client for damages - regardless of legal basis - in the event of an intentional tort, gross negligence and for simple negligence only in the event of a breach of a material contract obligation if the Client is permitted to rely on its fulfilment. In the last case, the liability is limited to compensation for reasonably foreseeable damages. This limitation on liability is not applicable to a death, bodily injury or health problem resulting from the acts of Bitkom Research, its legal representatives and agents necessary to Bitkom Research for the fulfilment of its obligations under the law nor for liability under products liability law.

(2) In the event of loss or damage to data, Bitkom Research shall only be liable up to the amount of the costs to recreate per availability proper back-up copies. This limitation does not apply to cases of grossly negligent or intentional acts.

### **§ 11 Data protection**

Any personal data in regard to the Client will be collected, processed and used by Bitkom Research solely in accordance with the applicable data protection laws. Further information in this regard is to be found in Bitkom Research's [privacy policy](#).

### **§ 12 Client Accounts**

(1) The EITO Portal offers Clients the possibility of registering a Client account. The Client must provide a member name and password. Opening a Client account is free of charge. Upon completion of the registration, the Client receives an individual account of unlimited duration.

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(2) The Client is responsible for the security of the data administered in their particular account. The Client agrees not to display the password to third parties and to protect it against access by third parties.

(3) If the personal data of the Client changes, the Client shall immediately amend his member profile at the EITO Portal. If this is not possible, the Client shall inform Bitkom Research of the changes in writing or by e-Mail to [service@eito.com](mailto:service@eito.com).

(4) Bitkom Research reserves the right to refuse to open a Client account or to subsequently cancel a Client account due to a significant reason.

### **§ 13 Deactivation of a Client Account**

(1) The Client is entitled to request Bitkom Research to deactivate his account at any time in writing or by e-Mail to [service@eito.com](mailto:service@eito.com). The account will be deactivated within 48 hours of receipt of the request by the Client.

(2) In case the Client purchased a Product in form of a Subscription, a deactivation of the account has no effect on the term of the Subscription.

### **§ 14 Subscription**

(1) For certain Products in the form of a document and/or data download, Bitkom Research offers a continuing subscription ("**Subscription**"). The term for a Subscription is twelve months.

(2) The subscription terminates automatically at the end of the last month of the Subscription.

(3) During the term of the Subscription, the Client has unlimited access to all purchased Products and to their updates, as long as these fall within the period of the Subscription. Upon termination of the Subscription, the documents and data stored in the established Client Account will remain available for access by the Client for twelve further months. At the end of said further period of twelve months, the documents will be automatically deleted from the Client Account.

(4) Bitkom Research reserves the right to modify the nature and extent of the services supplied during the period of subscription. In particular, individual lines or sections of the material can be added or removed, provided the customer can reasonably be expected to agree. This applies, in particular, if the alteration is of no legal or commercial disadvantage for the customer, e.g. in the case of improvement or updating. Prior to any other significant alteration in a service when compared to the beginning of the respective period of subscription, the customer will be informed by Bitkom Research by e-mail with at least one month's notice before it takes effect. Should the customer not agree to a proposed alteration, they have the right to object to it within one

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month of being informed. The consent of the customer to the alteration is taken as given if they have not entered a written objection within one month of notification. Bitkom Research will explicitly draw this consequence to the attention of the customer when informing them of the alteration.

### **§ 15 External Links**

The EITO Portal contains hyperlinks to other websites in the Internet. Bitkom Research has no influence on the design and content of the linked pages. Therefore, Bitkom Research explicitly distances itself from all content of third party pages and claims no responsibility for their content.

### **§ 16 Final provisions**

(1) Bitkom Research reserves the right to amend its General Terms with effect for the future. If the Client purchased a Product in form of a Subscription, Bitkom Research will inform the Client about any amendments by e-mail to the e-mail address supplied by the Client at least four weeks before the amendments come into effect. Instead of supplying the complete text, notice of the Internet address at which the new version can be accessed shall be sufficient for this purpose. If the Client does not object to the amendments within a period of one month, the amended form of the General Terms will be considered as accepted. If the amendments have adverse consequences for the Client, the Client may terminate the Purchase Agreement without notice within one month of receipt of the notice of amendment.

(2) The legal relationships of Bitkom Research with the Client arising from or in connection with the Purchase Agreement including with respect to these General Terms will be exclusively governed by and construed in accordance with the laws of Germany to the exclusion of its conflicts of law provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).

(3) If the Client is an entrepreneur, a legal entity under public law or a special fund under public law, the exclusive venue for all legal conflicts arising from or in connection with the Purchase Agreement executed by and between Bitkom Research and the Client, including with respect to these General Terms, shall be in Berlin.

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