

# General Terms and Conditions

## Beck Online Portals and E-Mail Services

### Important notice:

This is a translation of the General Terms and Conditions in German language into English for convenience purposes only. The German wording of the General Terms and Conditions is the only legally binding version.

### 1. Scope

1.1 In addition to the licence agreement entered into by the Customer and the Publishing House C.H.BECK (hereinafter the "Publishing House"), these General Terms and Conditions (hereinafter the "T&Cs"), as effective at the time of the order by the Customer, shall apply to the business relationship between the Publishing House and the Customer with regard to *beck-online.DIE DATENBANK*, *beck-online STEUERN & BILANZEN*, *beck-personal-portal*, *NomosOnline*, and *beck-wahlen-online* (hereinafter each a "Database"), as well with regard to E-Mail Services. "E-Mail Services" shall mean, in particular, *beck-fachdienste* and the E-Letters combined with publications such as, e.g., *ArbR*, *FamFR*, *GRUR-Prax*, *GWR*, *SteuK* etc.

1.2 These T&Cs shall not apply to the *beck-online WIRTSCHAFTSDATENBANK*, which shall be governed by legally separate terms and conditions.

1.3 Any conflicting, deviating or supplementary general terms and conditions of the Customer shall not apply, unless the Publishing House expressly approves to their applicability.

### 2. Conclusion of contracts

2.1 Any display or presentation of a Database and/or an E-Mail Service on a website or in other media featured by the Publishing House shall not constitute a binding offer by the Publishing House. Rather, the Customer is given the possibility to submit a binding offer for the conclusion of a licence agreement.

2.2 For user subscriptions for up to nine (9) users, Customer may place an online order. In such case, the Customer may submit an offer by clicking the button "order against payment" after completing the online order process. After submission of the offer, Customer will be sent an order confirmation by e-mail to the e-mail address as indicated in the order. The order confirmation constitutes the acceptance of the offer made by Customer by the Publishing House.

2.3 For multi-user subscriptions for ten (10) or more users, Customer may place an individual order request with the sales department. The Publishing House will thereupon send a licence agreement to Customer. The licence agreement shall become effective upon receipt of a signed copy by the Publishing House.

2.4 *NJW* subscribers shall have online access via *beck-online* to *NJWDirekt* at no additional cost subject to the scope of their subscription. For access, the activation of an individual activation code on the website is required.

2.5 Section 2.4 above shall apply *mutatis mutandis* to other print publications which may be subscribed in combination with a direct module, as well as to E-Letters combined with Specialist Publications (Beraterzeitschriften).

### 3. Trial period and right of termination

3.1 Upon conclusion of the license agreement, Customer shall have the right to test the modules of the Database as subscribed by Customer, as well as the subscribed *beck-fachdienste*, in full scope and free of charge for a free trial period. Unless agreed otherwise, the free trial period shall be four weeks. No free trial is granted for content which is not included in the subscribed product. The free trial will be granted only once per product.

3.2 In case Customer decides against subscribing the modules or *beck-fachdienste*, Customer has the right to terminate the license agreement within the trial period. The license agreement will end upon the end of the trial period.

3.3 For eLearning modules, no free trial period will be granted. With regard to the term and termination of licenses for eLearning modules, Sections 13.4 and 13.5 shall apply.

3.4 License agreements for the use of *beck-treffer* do not provide for a free trial period and may be terminated at any time without notice.

3.5 The right of revocation for consumers as provided in Section 4 shall remain unaffected.

### 4. Right of revocation for consumers

The Publishing House grants a right of revocation to Customers who act in the capacity of a consumer in accordance with the instructions on the right of revocation below.

A "consumer" is a natural person who concludes the agreement for a purpose which cannot be attributed to a commercial or self-employed activity (§ 13 German Civil Code).

### INFORMATION CONCERNING THE EXERCISE OF THE RIGHT OF WITHDRAWAL

#### Right of withdrawal

You have the right to withdraw from this contract within 14 days without giving any reason. The withdrawal period will expire after 14 days from the day of the conclusion of the contract.

To exercise the right of withdrawal, you must inform us (Verlag C.H.BECK oHG, Wilhelmstr. 9, D-80801 Munich, telefax: +498938189297; e-mail: [beck-online@beck.de](mailto:beck-online@beck.de)) of your decision to withdraw from this contract by an unequivocal statement (e.g. a letter sent by post, fax or e-mail). You may use the attached model withdrawal form, but it is not obligatory. To meet the withdrawal deadline, it is sufficient for you to send your communication concerning your exercise of the right of withdrawal before the withdrawal period has expired.

#### Effects of withdrawal

If you withdraw from this contract, we shall reimburse to you all payments received from you, including the costs of delivery (with the exception of the supplementary costs resulting from your choice of a type of delivery other than the least expensive type of standard delivery offered by us), without undue delay and in any event not later than 14 days from the day on which we are informed about your decision to withdraw from this contract. We will carry out such reimbursement using the same means of payment as you used for the initial transaction, unless you have expressly agreed otherwise; in any event, you will not incur any fees as a result of such reimbursement.

### END OF INSTRUCTIONS ON THE RIGHT OF WITHDRAWAL

#### Model withdrawal form

(complete and return this form only if you wish to withdraw from the contract)

— To Verlag C.H.BECK oHG, Wilhelmstr. 9, D-80801 Munich, telefax: +498938189297; e-mail: [beck-online@beck.de](mailto:beck-online@beck.de):

— I/We hereby give notice that I/We withdraw from the provision of the following service (\*),

— Ordered on:,

— Name of consumer(s),

— Address of consumer(s),

— Signature of consumer(s) (only if this form is notified on paper),

— Date

## 5. Access to the Database; Purchase of E-Mail Services

5.1 Customer's access to the modules subscribed by Customer is password-protected, and Customer shall use the access data as assigned to him by the Publishing House. In cases of multi-user subscriptions, each authorised user will be assigned an individual password and access data. The Customer shall keep all access data and passwords confidential and shall prevent any unauthorised use by third parties; the Customer shall also ensure compliance of all users with this confidentiality obligation. Log-in via a single sign-on (SSO) is permitted.

5.2 Courts, law firms, enterprises, public authorities and other institutions and organisations which have a static IP address may access the Database via IP check subject to an individual agreement. In such case, the users will not be obliged to register with their user name and password, as their workstations will be permanently connected to the Database.

The use of the personalised functions of the Database, in particular, the management of electronic files and the logging of searches, comments and mark-ups, require a personal user registration with user name and password. At Customer's request, an IP check may be set up such that individual Customer accounts will be assigned their own access data and passwords.

The Customer shall have the obligation to limit access to the Database via IP check to computers operated on Customer's premises as well as to users authorised under the Customer's subscription.

5.3 The Customer shall inform the Publishing House without undue delay if the Customer becomes aware of any misuse of access data or passwords, or of the access via IP check. In the case of a misuse, the Publishing House may block the access to the Database until the facts and circumstances have been cleared up and the misuse has been stopped. Customer shall be liable for any misuse for which the Customer is responsible.

5.4 In the case of the subscription of an E-Mail Service, the Customer will receive the technical information by e-mail. Customer shall notify the Publishing House of the Customer's e-mail address.

## 6. Customer's duties of cooperation

6.1 Customer shall be responsible for providing all technical equipment necessary for accessing the Database, in particular, hardware, operating system, Internet connection and current browser software. The Publishing House will specify on the website which browsers are supported and will update such information from time to time.

6.2 In the case of innovations and modifications to the database system, the Publishing house will provide the appropriate information. Customer shall then be responsible for making the necessary adjustments to his IT infrastructure.

6.3 The proper usability of the Database requires that the time and time zone are set correctly in the systems used by the Customer and that Customer's systems accept the cookies as placed by the server of the Publishing House. Customer shall be responsible for the relevant technical settings.

6.4 Customer shall take the necessary steps to secure its systems and the Customer shall, in particular, use the established security settings of the browser and up-to-date protective mechanisms to prevent malware.

## 7. Scope of services; Availability; Right to make modifications

7.1 The modules of the Database accessible to Customer within the scope of Customer's subscription, and/or the content provided to the Customer within the scope of subscribed E-Mail Services, are set out in the licence agreement.

7.2 Any statements made by the Publishing House with regard to the Database or the E-Mail Services in advertising materials, on websites, as well as in the documentation, shall be a description of the product only, and shall not constitute a guarantee or a warranty of a characteristic feature.

7.3 The Publishing House will use its usual standard of care in selecting and maintaining the content accumulated in the Database and the E-Mail Services. The Publishing House will continuously update the content with regard to court decisions and legislation, however the Publishing House will have to rely on the accuracy of information provided by third parties. Author's works (including but not limited to commentaries, manuals, encyclopaedias and form books) will be added to the Database in their then current edition from time to time. Beck's online commentaries will be updated continuously; the date of the then current edition will be stated on the relevant page. The same applies to update notes pertaining to printed publications which may be published online from time to time prior to the new edition in print. Customer is advised to conduct a plausibility check for all content before using it in a particular context.

7.4 The Publishing House will use reasonable efforts to achieve an average availability of the Database of 98% per calendar year. Metering point for determining the availability of the Database shall be the interface between the database system and the Internet. The availability shall be determined in accordance with the following formula:  $\text{Availability} = (\text{total time less total downtime}) / \text{total time} * 100\%$ .

In determining the total downtime, the following times will not be considered:

- a) downtime caused by malfunctions of the Internet or other circumstances for which the Publishing House is not responsible, in particular, force majeure;
- b) downtime caused by scheduled maintenance work, which is regularly carried out daily between 6.00 and 8.00 a.m.;
- c) downtime caused by mandatory unscheduled maintenance work required to remove malfunctions; if possible, Customer will be notified of such maintenance work by a notice on the website;
- d) downtime caused by temporary deficiencies in Customer's technical infrastructure, such as malfunctions of the Customer's hardware.

7.5 The Publishing House will use reasonable efforts to continuously adjust the Database to changing requirements from time to time. Therefore, the Publishing House reserves the right to adjust the system according to the technological state of art and to make improvements to the system, in particular to improve user-friendliness. The Publishing House reserves the right to modify the content, provided such modifications are necessary for error correction, for updating and for supplementation, and/or are necessary due to optimised programming technologies, and/or are required due to licensing restrictions. If any such changes result in a material loss in value of the services subscribed by Customer, then Customer may either demand a reduction of the remuneration in proportion to the loss of value or terminate the licence agreement without notice. The right of termination may be exercised within eight weeks from the occurrence of the change.

## 8. Remuneration; Adjustment of remuneration; Payment terms

8.1 The remuneration payable by Customer for subscriptions to use the Database or for subscription of E-Mail Services is set out in the licence agreement.

8.2 The remuneration for subscriptions of the Database or the subscription of *beck-fachdienste* shall be paid in advance for a period of six months ("Subscription Period"). If the Publishing House offers subscriptions or the subscription of *beck-fachdienste* on special conditions as part of special promotions, the prepayment period may be 12 months. The remuneration for the subscription of eLetters in connection with the subscription of a printed journal is included in the remuneration for the subscription of the respective journal for a period of one year.

8.3 For the retrieval of single documents from the Database which are not included in the modules subscribed by Customer, as well as for the retrieval of single documents as part of the service *beck-treffer*, remuneration is payable per single document in accordance with the then current price list as of the time of retrieval; this applies also to subscriptions during the trial period. The price for the respective single document will be displayed to the Customer before the retrieval of such document. The remuneration for the retrieval of single documents will be charged monthly in arrears. The Publishing House shall have the right to suspend Customer's access to the retrieval of single documents if customer is in default of payment of at least two subsequent invoices for the retrieval of single documents.

8.4 Unless a price is expressly referred to as a gross price, all prices are net prices and statutory VAT at its then current rate will be added and shall be paid by Customer.

8.5 Invoices by the Publishing House are due for payment upon their receipt by the Customer without any deductions. The Customer may pay by bank transfer, credit card (Master, VISA, Amex, JCB) or direct debit.

8.6 If additional contents are added to a subscribed module or a *beck-fachdienst*, the Publishing House may increase the remuneration in proportion to the addition. Insignificant additions shall not be considered. The increase of the remuneration will take effect for the first time for the Subscription Period following the addition (see Section 8.2 above). In the event of an increase, the Customer has the right to terminate the licence agreement for the respective module, or for the respective *beck-fachdienst*, without notice as to the end of the then current Subscription Period.

8.7 Notwithstanding the provisions of Section 8.6 above, the Publishing House may increase the remuneration for subscriptions by giving three months' written notice to the end of a month to the extent that either the

costs incurred by the Publishing House in order to perform the services, including but not limited to, the necessary costs of maintaining and developing the technical infrastructure, and/or the costs required for the licensing of third-party works (while also considering any cost savings achieved), have increased as a whole, or to the extent that the market prices for the printed works included in the modules have increased. The adjustment of the remuneration will be notified to the Customer in writing. The Customer may terminate the contract without notice as of the date when the price adjustment takes effect.

## 9. Property rights

9.1 Customer acknowledges that the Database is a database created by the Publishing House, and constitutes a database within the meaning of Sec. 4, para. 2, and/or Sec. 87a, para. 1 German Copyright Act (UrhG). Any related computer programs are protected by Sec. 69a et seq. UrhG, manuals and documentations are protected under Sec. 2 UrhG. Any third-party rights to the protected works shall remain unaffected.

9.2 All content published in the E-Mail Services is copyrighted. This applies also to the published court decisions and their guiding principles to the extent that they were edited, or revised, by a third party or the editorial staff.

9.3 Trademarks, company logos, other marks or protective notes, notices of authorship, serial numbers or other identifying features may not be removed or modified in electronic formats or printouts.

## 10. Customer's rights of use

10.1 Subject to the payment of the remuneration, the Customer will be granted, in accordance with the provisions of the licence agreement and the provisions below, a non-exclusive, non-transferable right, limited to the term of the licence agreement, to use the subscribed modules of the Database, or to use the single documents retrieved or the contents of the purchased E-Mail Services, for Customer's own purposes and for the contractually defined authorised users for their own purposes. For the purposes of this Section 10, "document" shall mean the respective webpage displayed by the browser.

10.2 The right of use includes the right to conduct searches and the right to read access, to download and save one copy of a document on the computer of the Customer or on the computer of the authorised user, and to make one print-out of the document. Any other reproduction or other utilisation of documents or other elements of the Database require the prior written consent by the Publishing House, unless the reproduction or other utilisation is made only once and not systematically and only relates to an immaterial element of the Database in terms of the type and scope. The systematic and automated retrieval of documents, the preparation of systematic compilations from retrieved documents, as well as the systematic transmission of documents, or the systematic making available of documents, to third parties is not permitted.

10.3 Downloaded documents may only be stored for the term of the subscription and must be deleted thereafter; the Publishing House hereby waives the right to have the copies returned. The permanent archiving of downloaded documents or elements is not permitted. Excepted therefrom is the case-related, process-related or file-related archiving to a minor extent. For archiving purposes, the Customer may print, or permanently store on data storage media, up to 50 documents per case, process or file.

10.4 If the Customer subscribes to the retrieval of single documents from *beck-online.DIE DATENBANK* in accordance with the licence agreement, the Customer may retrieve a second copy of the document during a period of 15 calendar days from the retrieval of the first copy without additional cost. In *beck-online.DIE WIRTSCHAFTSDATENBANK*, the subscription to the retrieval of single documents is restricted to the one single retrieval.

10.5 The use of the Database is limited to the number of authorised users within the Customer's organisation as stated in the licence agreement. The term "institution" shall not include customers sharing an office but with separate legal identities. Unless an access via IP check is agreed, the Customer must identify all users by name. The users' right to access the service will be confirmed by the Publishing House in writing or by e-mail.

10.6 The use is limited to the retrieval of a maximum of 200 separate documents per authorised user and calendar day. An additional remuneration shall be charged for the retrieval of additional documents; the then current price list for the retrieval of single documents shall apply. The Publishing House further reserves the right to reduce the access, retrieval and download speed for the respective user and workstation used by such user for the rest of the calendar day if the aforementioned volume is exceeded.

10.7 The access right for authorized users per session is not limited in time. Authorised users may sign on to the Database with their user name and password only once at the same time. In case of a second sign-on

during an ongoing session by use of a different browser or a different device, the current session will be terminated automatically.

10.8 Any statutory rights of use which may be exercised under statutory licences, e.g. in accordance with the provisions of Sec. 53, Sec. 55a, Sec. 87c and Sec. 87e German Copyright Act (UrhG), are not included in or granted under the licence agreement and/or these T&Cs and shall remain unaffected.

10.9 The Publishing House has the right to take technical measures to prevent a use in excess of the permitted scope and may, in particular, implement relevant access restrictions. The Customer may not use any devices, products or other means which serve the purpose of bypassing, or overcoming, the technical measures taken by the Publishing House. In particular, the Customer may not use any Web crawler and spider programs or comparable technologies which automatically retrieve content from the online database. In the event of a misuse, the Publishing House may immediately block the access to the Database. Any other rights and remedies of the Publishing House, including but not limited to, the right to terminate for good cause and claims for damages, shall remain unaffected.

10.10 Customer shall instruct the authorised users on the provisions above and shall ensure compliance by all users.

## 11. Claims in the event of defects

11.1 The Publishing House shall repair any defects of the database system within a reasonable period of time. In that respect, the responsibility of the Publishing House extends only to the network access point between its systems and the Internet, but not to the Customer's systems and data transmission lines beyond that point.

11.2 The Publishing House will exercise reasonable care in the selection and updating of the content. The completeness, accuracy and currentness of the content cannot, however, be warranted.

11.3 The Customer shall notify the Publishing House of any defects, malfunctions or damage without undue delay.

## 12. Liability for damages

12.1 Irrespective of the legal grounds of any claims, the liability of the Publishing House shall be limited within the framework of applicable statutory law as set out in Sections 12.2 to 12.6 below.

12.2 The Publishing House shall be liable without limitation for any damage to life, body or health as well as for any damage caused by intent or gross negligence on the part of the Publishing House or any of its legal representatives or agents, as well as for any damage resulting from the non-compliance with a guarantee or warranted characteristics given by the Publishing House, or on account of maliciously concealed defects.

12.3 For damages incurred as a result of a slightly negligent breach of material contractual obligations by the Publishing House or any of its legal representatives or agents, the Publishing House shall be liable only limited to the damage which is foreseeable and typical for the contract. Material contractual obligations are obligations whose fulfilment is essential for the achievement of the purpose of the agreement or whose fulfilment can be normally relied on by the other party.

12.4 The liability of the Publishing House for other cases of slightly negligent conduct is limited to an amount of EUR 25,000 per individual damage.

12.5 The non-fault liability of the Publishing House for defects existing at the time of conclusion of the contract according to Sec. 536a, para. 1 sentence 1 German Civil Code is hereby excluded.

12.6 Any liability under the German Product Liability Act shall remain unaffected.

## 13. Commencement, term and termination

13.1 Unless agreed otherwise in the licence agreement, the provisions of this Section 13 shall apply to the commencement, term and termination of the licence agreement.

13.2 A license agreement for the use of the Database, or the use of *beck-fachdienste*, will be concluded in accordance with the provisions of Section 2 above.

13.3 Upon conclusion of the license agreement, a free trial period will begin. Unless agreed otherwise, the term of the trial period is four weeks. The free trial period may be used only once per product. The Customer may terminate the license agreement anytime during the trial period without notice and without a specific form. If no notice of termination is given, the contract will renew to a Subscription Period of six months, calculated from the end of the trial period (if applicable, 12 months in the case of special promotions).

13.4 Notwithstanding Section 13.3 above, no free trial period is offered for the subscription of an eLearning module. The license agreement commences upon the sending of the user ID and the password to Customer and shall run for a Subscription Period of six months.

13.5 A license agreement may be terminated by either party by giving a four weeks' notice to the end of the then current Subscription Period. Without termination, the contract shall automatically renew by periods of six months each.

13.6 License agreements for the use of *beck-treffer* do not provide for a free trial period and may be terminated at any time without notice.

13.7 Commencement, term and termination of license agreements for the subscription of eLetters in combination a printed journal are set out in the relevant subscription agreement.

13.8 The above provisions shall not apply to license agreements with users of Beck CD and DVD products and of printed publications (such as *NJW*, *JuS*, *Beck'sche Online-Kommentare*) who use the access to the Database included therein, as well as with users who have a free access to the Database for any other reason (e.g., authors).

13.9 Each party's right to terminate for good cause shall remain unaffected.

13.10 Upon termination of the license agreement, the Publishing House may immediately block the Customer's access to the Database, and/or discontinue the E-Mail Services.

13.11 The right of revocation provided in Section 4 of these T&Cs shall remain unaffected.

#### **14. Data protection; Confidentiality**

14.1 The Customer is hereby informed that the Publishing House will collect, process and use personal data in machine-readable form within the scope and for the purposes of the of the license agreement. All personal data will be treated confidentially.

14.2 Each party shall maintain confidentiality with regard to the information from the other party's sphere of which it becomes aware in performing the license agreement.

#### **15. General provisions**

15.1 The place of performance is Munich/Germany. Likewise, the exclusive place of jurisdiction for any disputes arising from contracts with merchants, or public law legal entities shall be Munich/Germany.

15.2 German law shall exclusively apply to any disputes in connection with the use of the Database and the E-Mail Services, regardless of the legal grounds, to the exclusion of any conflict of law provisions which refer to another jurisdiction. The UN Convention on International Sale of Goods shall not apply.

as of 3 February 2015

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Wilhelmstraße 9, D-80801 Munich, Germany  
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