

Art. 1 Scope of validity

All services of COMPUTERLINKS within the scope of Professional Services shall be performed exclusively according to the following General Terms and Conditions of Business. COMPUTERLINKS does not recognise terms of the Client that are contrary to or deviate from this General Terms and Conditions of Business, unless COMPUTERLINKS has explicitly agreed to the validity hereof in writing. The Terms and Conditions of Business of COMPUTERLINKS shall also apply in the event COMPUTERLINKS performs services without reservation in knowledge of the contrary or deviating terms.

Art. 2 Conclusion of contract

A contract between the Client and COMPUTERLINKS (hereinafter referred to as Service Agreement) shall become effective once the offer for a special product at a specific production site submitted in writing by COMPUTERLINKS to the Client is accepted. The deadline for acceptance is 14 days.

Art. 3 Services within the scope of Premium Support Services

1. The 'Premium Support Guide' and General Terms and Conditions of Business valid at the time of contract conclusion specify the nature and scope of COMPUTERLINKS services proffered under the Service Agreement. Unless explicitly agreed otherwise in writing, COMPUTERLINKS shall provide no guarantees as to function, availability and/or specific product qualities.
2. Services provided as part of a Service Agreement: All services of COMPUTERLINKS (with the exception of those specified under clause 3) are governed by the law on service contracts as defined by Art. 611 ff. of the German Civil Code (BGB). Within the framework of the Service Agreement, COMPUTERLINKS shall undertake appropriate measures to provide the service/support requested by the Client as per agreement in a professional manner. COMPUTERLINKS provides no guarantees as the success of these measures.
3. Services within the scope of a Service Agreement: As part of the 'Technician On-site' optional service, COMPUTERLINKS shall ensure the replacement of a defective hardware device with a functioning unit as described in the 'Premium Support Guide'. COMPUTERLINKS assumes no further obligations.

Art. 4 Warranty

1. These General Terms and Conditions of Business shall not affect any warranty claims of the Client conferred under a purchase agreement with COMPUTERLINKS or mutual rights and obligations under the legal or contractual regulations.
2. With respect to the contractual services, the following applies to any warranty claims arising therefrom: COMPUTERLINKS shall provide contractual services according to the current state of technology. Warranty claims shall expire after one year. The warranty periods shall begin upon the completion of work by COMPUTERLINKS.
3. This shall not apply to claims for damages of the Client arising from death, bodily injury or a breach to material contractual obligations (cardinal obligations) as well as liability for other damages caused by breach of duty through gross negligence or wilful neglect on the part of COMPUTERLINKS, its legal representatives or vicarious agents. Material contractual obligations are obligations that must be carried out to achieve the intended purpose of the Agreement.
4. The provisions of the German Product Liability Act remain unaffected therefrom.

Art. 5 Liability

1. Any further claims of the Client as specified in articles 3 and 4, whatever the legal basis, are excluded. The liability of COMPUTERLINKS is furthermore limited in all cases to the support price for one year as due by contract.
2. Liability for consequential damage of any kind and/or indirect damage (lost profits, data loss, other damage to property, etc.) is excluded. This exclusion and the abovementioned limitation on liability to the support price shall not apply insofar as the cause of damage results from wilful misconduct or gross negligence on the part of COMPUTERLINKS or COMPUTERLINKS violates by gross negligence a major contractual obligation that was intended to safeguard the Client against the asserted claims. In the event of any violation of material contractual obligations, the liability of COMPUTERLINKS shall be limited to the typical, foreseeable damages if the violation was the result of simple negligence unless the Client's claims for damages arise from death, bodily injury or damage to health. These limitations shall also apply in favour of legal representatives and vicarious agents of COMPUTERLINKS in the event claims are asserted directly against these parties.
3. Liability under the German Product Liability Act remains unaffected from the above clause.
4. General risks such as virus attacks or third-party access to IT infrastructure shall be borne by the Client, unless gross negligence or wilful misconduct of its duty to safeguard the public may be alleged against COMPUTERLINKS.

Art. 6 Impediments to performance

1. Unforeseeable and unavoidable events or events beyond the control of or not caused by COMPUTERLINKS, such as force majeure, war, virus attacks, natural disasters, third-party actions, disruptions to the data processing system/data network and labour conflicts, shall release COMPUTERLINKS from the obligation to perform for the duration of the event. Liability is insofar excluded. The stipulated periods of time for performance shall be extended by the duration of the disruption; the Client shall notify COMPUTERLINKS when the disruption occurs. If it is not possible to foresee the end of the disruption or it lasts longer than one month, each party is entitled to withdraw from the Agreement. This shall also apply if the circumstances cited above arise at a supplier or sub-contractor of COMPUTERLINKS.
2. In the event COMPUTERLINKS relies on the delivery of goods, which it does not produce itself or does not have in stock at the time of the disruption, for the provision of its services, COMPUTERLINKS is entitled to withdraw from the Agreement insofar as COMPUTERLINKS is not supplied by its own supplier, COMPUTERLINKS is not responsible for the failure of delivery or COMPUTERLINKS is unable to procure the required products, despite reasonable efforts, or it can only procure these products at unreasonable cost. COMPUTERLINKS shall notify the Client without delay that the services are unavailable and reimburse (pro rata) the Client for payments rendered to date.

Art. 7 Obligations of Client

The Customer shall support COMPUTERLINKS in the provision of contractual services where required and appropriate. The Client shall ensure that all parts to be replaced are readily accessible from the outside.

Art. 8 Data protection

The Client is hereby notified in accordance with the German Federal Data Protection Act (BDSG) that COMPUTERLINKS as Contractor automatically processes machine-readable data for purposes of activities arising from this Agreement. COMPUTERLINKS shall undertake to comply with all data protection regulations. COMPUTERLINKS shall oblige its employees and other parties who are involved in the completion of this Agreement to uphold data confidentiality in accordance with Art. 5 of the German Data Protection Act (BDSG) and the technical and organisational measures as required under Art. 9 of the BDSG to implement the provisions herein. COMPUTERLINKS is entitled to publish subscriber data in compliance with the regulations of Art. 28 of the German Federal Data Protection Act (BDSG) insofar as the publication serves the purpose of the performance of this Agreement. The same shall apply in the event the publication is required to identify, isolate or remedy disruptions to or errors in the data processing system of the Client or the above third parties.

Art. 9 Data security

1. COMPUTERLINKS undertakes to protect all data it obtains from unauthorised access by third parties and against virus attacks and other attempts at sabotage during transfer and processing. It is not however possible to guarantee total protection at the current state of technology and, as such, liability is expressly excluded. The Client shall be explicitly informed of the associated residual risk.
2. COMPUTERLINKS requires that the Client has a data security system in place which is fully operational at all times during business hours. The performance and guarantee of appropriate data security measures are the sole duty of the Client, unless COMPUTERLINKS is explicitly obliged in writing to perform this duty. Claims for damages on the part of the Client against COMPUTERLINKS arising from the loss of data are excluded.

Art. 10 Shipment/transfer of risk

Goods are shipped from the warehouse of COMPUTERLINKS. The risk of accidental loss of or damage to any delivery is transferred to the Client once the goods are turned over to the shipping company, also in cases where carriage paid deliveries were agreed. If shipment is delayed due to events caused by the Client, the risk passes to the Client as soon as notification that the goods are ready for shipment has been sent.

Art. 11 Confidentiality

1. COMPUTERLINKS accepts that due to the nature of its relationship with the Client as part of this Agreement it has access to certain information and materials deemed confidential by and of substantial value to the Client. With this acknowledgement, COMPUTERLINKS agrees not to exploit such information provided by the Client in any form for its own financial benefit or the benefit of a third party or disclose said information to unauthorised third parties. COMPUTERLINKS shall only reveal confidential information to its own employees or authorised suppliers who (a) are directly involved in the performance of this Agreement; (b) have been instructed as to the confidential nature of the information; and (c) are subject to a contractual restriction with respect to non-disclosure and the proper treatment of confidential information of the Client. COMPUTERLINKS undertakes to handle such information confidentially to the extent and in the manner COMPUTERLINKS safeguards its confidential and protected information of a similar nature or type. At the request of COMPUTERLINKS, the Client shall provide instructions on whether any specific information or materials are to be considered confidential.
2. COMPUTERLINKS may not publish any technical product descriptions that goes beyond those provided to the Client. In the event of termination or expiration of the Agreement, COMPUTERLINKS shall not use or publish confidential information of the Client nor produce or contract the manufacturing of products that use confidential information of the Client.

3. The provisions under this article shall not apply to information that was (or is) disclosed to the public in a way other than through the breach of this Agreement or another obligation or that was already in the possession of COMPUTERLINKS prior to disclosure by the Client or was obtained by COMPUTERLINKS independently under circumstances where it is at the discretion of COMPUTERLINKS as to whether to disclose such information or this information is inconsequential or apparent.

Art. 12 Right to set-off

The Client is only entitled to the right to set-off only in the case of legally founded counterclaims or in the event the counterclaims of the Client are uncontested or recognised by COMPUTERLINKS. The Client is not authorised to exercise a right of retention or right to withhold performance.

Art. 13 Unenforceability of a clause

If any provisions contained in this General Terms and Conditions of Business are or become invalid, this shall not affect the enforceability of the other provisions. The invalid provision shall rather be replaced by a valid provision which comes as close as possible to the commercial purpose of the invalid provision.

Art. 14 Content and requirement of written form

Subsidiary agreements, assurances or other agreements made prior to or at the conclusion of the written agreement must be given in writing. Any amendments and supplements to the signed written agreement must be made in writing; this also applies to this requirement of written form. The signed written agreement represents the full agreement on the service obligations of COMPUTERLINKS.

Art. 15 Place of performance, place of jurisdiction, applicable laws

The place of performance for all obligations of COMPUTERLINKS and the Client arising from agreements between these parties shall be Munich. The place of jurisdiction for any disputes arising from such agreements shall be Munich in cases where the Client is a businessman, a legal entity under public law or a special fund under public law. German law shall apply to the exclusion of all others. The application of the United Nations Convention on Contract for International Sales (CISG) is expressly excluded.