

# Terms Of Service

As of 15 November 2010

## 1. Definitions

- 1.1. "FAXONLINE" shall mean Faxonline GmbH (FN 284906 f [commercial court "Handelsgericht" Vienna, Austria]) and subcontractors employed by FAXONLINE.
- 1.2. "Customers" shall mean the natural or juristic persons that either intent to, or already have, contracted FAXONLINE.
- 1.3. "Provider contract" ("Contract") shall mean the contract entered by FAXONLINE and the Customer for the purpose of providing fax services in exchange for financial compensation.
- 1.4. "Order" shall mean the purchase order initiated by the customer with the intent to form a business relation regarding a Provider contract with FAXONLINE.
- 1.5. "Service" shall mean the transmission service with the purpose of sending and receiving faxes over the internet according to the specification of services or service information.
- 1.6. "Faxonline terms of service" shall refer to this document.

## 2. Scope of contract

- 2.1. Unless agreed upon otherwise, the Provider Contract is composed of:
  - 2.1.1. The data that is provided by the customer during ordering [1.4] ,
  - 2.1.2. clauses agreed upon by FAXONLINE and the customer,
  - 2.1.3. the specification of services / service information,
  - 2.1.4. the current (barring print errors or mistakes) prices of the services provided by FAXONLINE,
  - 2.1.5. the Terms of Service [1.6]
- 2.2. The components of the contract complement each other. In cases of conflicts, the regulations on the top of the list in [2.1] supersede those below.

## 3. Contract Formation

- 3.1. The Provider contract [1.3] comes about by a placed order of the customer and subsequent acceptance of FAXONLINE. The customer may place his order by mail, telephone or electronically. The customer is bound to his order three weeks after receipt of the order by FAXONLINE.
- 3.2. Upon electronic order, or order by phone, the customer is informed that the Faxonline terms of services apply. The customer may view the latest terms of service on FAXONLINE's web site at [http://faxonline.co.uk/info/terms\\_of\\_service](http://faxonline.co.uk/info/terms_of_service) and print for his records by means of downloading them.

- 3.3. Referring to 2.2, FAXONLINE invariably finalises contracts by applying the Faxonline Terms Of Service.
- 3.4. FAXONLINE accepts the customer's order [1.4] either by:
  - 3.4.1. Fulfilment (establishing or activating of the service) or
  - 3.4.2. an electronic or written declaration of acceptance.
- 3.5. Electronically submitted declarations of acceptance are valid without a signature.
- 3.6. The Faxonline Terms Of Service apply during the entire further business relation, i.e. for eventual subsequent contracts, even without a factual connection to the original contract.

#### 4. Object of Agreement, Receiving and Sending of Faxes

- 4.1. The object of the provider contract is the provision of fax services from FAXONLINE for the duration of the agreed contract period in exchange for monetary compensation.
- 4.2. Those services consist of the transmission (sending and / or receiving) of faxes without the need for a traditional fax device. This service is provided by means of software that is provided from FAXONLINE via its web site.
- 4.3. If, and if so, which additional services (add-ons) are provided from FAXONLINE for the customer depends on the contents of his placed order. Additional services provided by FAXONLINE are dependent on the customer's place of residence and may include, amongst others, the "Faxprinter" software, text message notifications, or the email gateway.
- 4.4. The customer initiates the despatch of his fax by submitting the document and the recipient's telephone number on FAXONLINE's web site, after which FAXONLINE transmits the fax by conventional means. Upon receipt of a fax on FAXONLINE's side, an email is despatched to the customer by the means of an email with a Adobe® PDF™ document attached.
- 4.5. Commencement of service is simultaneously with the moment in that FAXONLINE actually provides its services. Unless otherwise agreed upon, the moment of **TODO**
- 4.6. FAXONLINE is entitled to employ subcontractors in order to provide its services.
- 4.7. FAXONLINE is entitled to adapt the services covered by the contract to the respective current state of technology, provided that the scope of the alteration is objectively justified or insignificant. An amendment of law, or a juridical and / or regulatory order may oblige FAXONLINE to alter or discontinue services covered by this contract. The customer may not derive compensation in such an event.
- 4.8. The customer accepts that it is – due the current state of technology – not possible to provide internet services with absolute reliability. Amongst the reasons for this situation is the fact that FAXONLINE employs the networks of multiple internet service providers, and is thus bound to their technical, economic and legal limitations. Internet services are in principle available to the customer for 24 hours per day. Variations in workload of national and global telecommunication networks may, however, lead to limitations in the its availability.
- 4.9. The customer is bound to use software provided by FAXONLINE in accordance with the respective terms of service.

## 5. Usage of User Data

- 5.1. "User data" encompasses all data capable of identifying the customer (for example user name, password, personal identification numbers (PINs), and similar).
- 5.2. In order to prevent the malicious use of the FAXONLINE services, the user is obligated to
  - 5.2.1. store his user data with care, keep them secret and refrain from passing them on to others.
  - 5.2.2. inform FAXONLINE on suspected abuse of his user data immediately, either by telephone or email.
- 5.3. The customer is obliged to compensate for damages inflicted upon FAXONLINE by abuse of his user data. He adopts measures to prevent the unauthorised usage of the services provided by FAXONLINE.

## 6. Fees, Terms of Payment

- 6.1. TODO
  - 6.1.1. TODO
  - 6.1.2. TODO
- 6.2. The monetary compensation may be brought about by the customer by the payment methods offered in your country as noted on FAXONLINE's web site.
- 6.3. Unless otherwise agreed upon, all fees noted in the contract are expressed in the currency described on FAXONLINE's web site.
- 6.4. Incoming payments are, regardless of the customer's possibly divergent original intent, applied first on possible judicial or non-judicial recovery costs, then on default costs and only then on other, outstanding debts. **TODO**

## 7. Delayed Payments / Arrears

- 7.1. In case of delayed payments, the customer is due to pay statutory default interest, however not less than 10% per annum. Additionally to interest and other inflicted damages, expenses and cash expenditures at FAXONLINE's charge, the customer is held accountable for all costs for appropriate extrajudicial collection services. These costs follow the regulations of the ministry of economy concerning the maximum rate for collection agencies, BGBl. 1996/314 idgF. FAXONLINE is entitled to collect those fees should it choose to practise itself. The minimum rate is £12 net per correspondence.

## 8. Exclusion of Set-Off and Legal Succession

- 8.1. The customer is prohibited to set-off claims from FAXONLINE unless with written permission or adjudication of a court.
- 8.2. The complete, or partial accession of a third party into the contractually awarded rights and responsibilities requires the explicit written consent of FAXONLINE.

## 9. Liability, Rectification of Faults

- 9.1. FAXONLINE conducts its internet services thoroughly and reliably. Still, interruptions or delays in service can't be ruled out. Interruptions or delays in service, that do not exceed the usual extent, do not affect the customer's duty of payment.
- 9.2. FAXONLINE can not be held liable for content, validity, or completeness of data, messages or information that is transmitted, sent or received via the services FAXONLINE provides. FAXONLINE is only accountable in cases of gross, not petty negligence. The burden of proof is for the customer to bear.
- 9.3. FAXONLINE's accountability is limited to the extent of the contractually set total fee. FAXONLINE is not liable for purely financial losses, indirect damages, lost profit, consequential damages, damages originating in third-party claims, as well as the loss of data and/or programs and ensuing restoration.
- 9.4. Furthermore, FAXONLINE is not liable for damages, that can be traced back to
  - 9.4.1. the customer's disregard of the operating instructions, computer virus contamination;
  - 9.4.2. Interruptions of services for maintenance reasons;
  - 9.4.3. Acts of God
- 9.5. Compensation claims expire by limitation six months after initial awareness of the customer.
- 9.6. If necessary, the customer will contribute to FAXONLINE's troubleshooting. Furthermore, the customer obliges to undertake all measures necessary to enable an amicable fulfilment of the contract, and refrain from all actions that may compromise it.
- 9.7. In the case that FAXONLINE is informed of a disturbance, that is actually nonexistent or within reasonable limits, the customer is to compensate FAXONLINE for the accrued effort.

## 10. Adherence to Legislation

- 10.1. The customer is solely responsible for his transmitted, sent, or received data, messages or information. This responsibility extends to third parties that he enables to use FAXONLINE's services.
- 10.2. With regard to the content of information elucidated in [10.1], the customer is to adhere to existing austrian legal regulations, for example: criminal law [Strafgesetzbuch], denying or grossly minimisation of the holocaust [Verbotsgesetz], pornography law [Pornografiegesetz], e-commerce law [E-Commerce-Gesetz], the austrian telecommunication act of 2003 [Telekommunikationsgesetz 2003], et al. The customer is explicitly alerted of the regulations of § 107 TKG 2003, whereupon the sending of faxes for promotional purposes without prior consent of the receiving party is prohibited by law.
- 10.3. FAXONLINE is not liable in circumstances where in which the customer violated established law.

## 11. Prohibition of Abuse

- 11.1. The customer is to use the services as intended. He is prohibited to use the services provided by FAXONLINE in an abusive manner. The definition of abuse in this context includes above all (but is not exclusive to)
  - 11.1.1. the customer's careless handling of user data [5.1], the culpable breach of his obligation of secrecy of above-mentioned data and unauthorised proliferation to third parties;
  - 11.1.2. the unauthorised violation of third party's rights, for instance copyright, trademark and related laws.
  - 11.1.3. any reconnoitre of system operations or data, that are not meant for the customer's retrieval, whether those data is stored on FAXONLINE's facilities, or facilities of third parties.
- 11.2. The customer is liable for all damages that he inflicted through abuse of FAXONLINE's services.

## 12. Ban

- 12.1. FAXONLINE is entitled to ban a customer from using it's services either partially or in their entirety in important cases, especially if
  - 12.1.1. reasonable suspicion exists that the customer has either abused the services provided by FAXONLINE, or used them to violate established law
  - 12.1.2. if reasons that entitle FAXONLINE to terminate the contract exist.
- 12.2. The customer is to bear costs for reactivation of his account, as well as compensation for possible damages. The extent of the costs correspond to the magnitude of the effort required for banning, and subsequent unbanning of the customer.

## 13. Privacy, User Data, Traffic Data

- 13.1. FAXONLINE is entitled to store, process and relay personal data under compliance of data protection regulations (Datenschutzgesetz 2000, Telekommunikationsgesetz) within the scope of the fulfilment of the provider contract. The customer may not derive legal consequences of the disclosure of information based on legal obligations.
- 13.2. The customer is to inform FAXONLINE of changes in data that is vital for fulfilment of the contract (especially name, address, bank account information [if applicable], commercial register number [if applicable], or other registration numbers, legal form. Should the customer neglect to inform FAXONLINE of changes to his address, documents despatched to his address are considered to be delivered.
- 13.3. The customer agrees, that FAXONLINE stores traffic data for reasons pertaining the fulfilment of the provider contract, the development of the service and guidance for the customer, market assessment and operational strategy. The agreement may be revoked at any time.
- 13.4. TODO
- 13.5. TODO

## **14. Contract Period**

14.1. TODO

14.2. TODO

14.3. TODO

14.3.1. TODO

14.3.2. TODO

14.3.3. TODO

14.3.4. TODO

14.3.5. TODO

14.3.6. TODO

14.4. TODO

14.5. TODO

## **15. Miscellaneous Clauses**

15.1. TODO

15.2. TODO

15.3. TODO

15.4. TODO

15.5. TODO