

# General terms and conditions for the usage of the Traidax Website

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## **Status (11.2011)**

The following general terms and conditions of business shall apply to the usage of the hereinafter named website:

[www.traidax.com](http://www.traidax.com) (Hereinafter the website will be referred to as “platform”)

### § 1 Scope of application and general notes

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1. These general terms and conditions of business (GTC) shall apply to the usage of the platform through the Traidax-members. The registration is exclusively permitted for entrepreneurs.
2. The usage of the platform is exclusively based on these GTC. The current version of these terms and conditions shall apply to all contracts between Traidax and their members regarding the usage of the Traidax-Business-Directory. In addition, the current version of the terms and conditions shall apply to provide evidence as well as to arrange contracts of sales of products and services based on the usage of the Traidax-Business-Directory.
3. These GTC shall apply exclusively. This also applies in the case of a member referring to their own GTC during communication and Traidax has not disagreed.
4. The platform is available in the German, English and Russian.
5. The GTC are available in German, English and Russian. Legally binding and mandatory is solely the German version. The English as well as the Russian version simply serve for a better understanding.

## § 2 Availability of the platform and disturbances

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1. The platform may only be used in the current state of the art. Traidax does not guarantee the platform's availability and usability at all times. Therefore, it may occur in rare cases that only some of the Traidax services can be used. Traidax can only grant the availability and usability of the platform within their field of responsibility which means only until the contact point of the internet. An availability of 99% can be granted within this field of responsibility. Nevertheless Traidax remains responsible for breaches of contracts which are due to intention or gross negligence.

### § 3 Registration and conclusion of contract

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1. For the purpose of registration with Traidax the interested party has to fill out a registration form. All data within the registration form must be complete and correct. The registration form will be submitted online through confirmation of the registration data by the interested party. The interested party is free to choose a membership name as well as the password, provided that these aren't in use yet and meet the required standards. The registration with Traidax constitutes an offer to conclude a contract.
2. In addition, the interested party must submit proof of entrepreneurial activity, for example, in form of a trading licence, a certificate of registration or another valid certification. Freelancers are obliged to submit valid certification in the form of accreditation certificates, membership cards of the professional association or similar documents. The documents can either be submitted within the registration form or forwarded to Traidax via E-Mail, letter or fax within three weeks after registration. Traidax reserves their right to verify the transmitted documents.
3. In order to begin authentication of the required data and documents, to afterwards accept the offering according to § 3 (1) and to finally open the membership account, all of the required data and documents must be submitted.
4. The interested party shall have no claim for registration. In the event of lacking creditworthiness, impending or actual insolvency, divergences between the documents of verification and the registration data, apparent misstatements or the attempt to base one's registration on technical infringements Traidax remains their right to reject the membership request.
5. Having successfully been registered as a Traidax-member, the member will receive a confirmation E-Mail which will enable the member to complete the registration and to eventually activate the account. Through the confirmation E-Mail Traidax accepts the offering of conclusion of contract by the interested party according to § 3 (1). Moreover, the confirmation E-Mail contains the member's assigned customer number.
6. Integral part of the contract between Traidax and the interested party are these GTC as well as the pricelist which was valid at the time when the contract was concluded or renewed.

#### § 4 Period of contract and termination

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1. The contract is concluded for a fixed period of time between Traidax and the interested party. The price list shows the periods of contracts available. The interested party states the desired period of contract within the registration form.
2. If the contract has not been terminated within a period of 4 weeks before the end of the contract period, the contract automatically extends for the initial period of contract.
3. Both parties are entitled to terminate the contract extraordinarily without meeting the notice period. If contrary to § 5 the member does not keep their access data undisclosed, permits an unauthorized third party to use their access data, displays illegal contents, falls in arrears with an amount higher than one installment or if insolvency proceedings have been opened or have been rejected to a lack of insolvency assets, Traidax is allowed to terminate the contract extraordinarily.
4. In the event of extraordinary termination, fees and commissions which have already been paid will not be refunded.

## § 5 Responsibility for the access data

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1. The member must ensure that their customer number, membership name and password are kept under lock and key and are not accessible to any unauthorized third party. The member holds the responsibility to ensure that the platform is only accessible to the member, their employees or an authorized third party.
2. The member is liable for any kind of breach of contract or infringement that is committed via the membership account. The liability is precluded if the member did not act culpable.
3. If there is any cause of concern that the member's access data has been or will be accessible to an unauthorized third party or if the member has become aware of any abuse of their access data, the member is entitled to advise Traidax immediately.

## § 6 Terms of use and contents

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1. The services offered by Traidax are solely available for members.
2. Members are allowed to use the offered services, data and information solely for their own purposes. Passing these on to a third party as well as trading with company, person, product, offer or item data is strictly forbidden.
3. Members are obliged to regularly check the data given during the registration process concerning person, company and address to ensure accuracy and currency. In the event of changes concerning the relevant data the member shall immediately advise Traidax thereof. Any changes of company or person data must be proven with a valid document of certification according to § 3 (2).
4. Traidax offers its members the possibility to display their own contents within the platform. These contents must not contradict the Traidax GTCs as well as legal regulations. In the event of infringement Traidax reserves the right to remove contents and offers from the platform. Moreover, Traidax is allowed to terminate the membership extraordinarily according to § 4 (3) in the event of infringement.
5. The member grants Traidax the free and assignable right of use of the contents posted and uploaded through displaying those within the platform. This right of use assigned to Traidax includes the right of storing the contents within the Traidax server, the right to publish those contents in order to make the contents publically available within the platform, the right to edit and reproduce, as far as necessary in order to store or public the contents, as well as the right to pass on any right of use towards a third party (even if against payment). This right of use shall be terminated as soon as displayed contents are removed from the platform by the member. Nevertheless, rights of use assigned to any third party shall remain in force. Traidax is allowed to keep copies of the contents for the purpose of data security, proof and fulfillment of legal archiving obligations.
6. The individual offer may not violate legal conditions or these GTC.
7. Contents and offers, which are displayed within the platform or transmitted towards Traidax, will not be checked regarding their lawfulness, correctness and completeness by Traidax. In addition, the contents and offers published by the members do not represent the opinion of Traidax.
8. Traidax can provide contents and offers within the platform in other languages. Traidax is reserves the right to translate these contents and offers automatically.

1. The Traidax-Components-Database depicts a professional catalogue of machines as well as components regarding the field of brewery. The Database enables its members to search for components within the field of brewery. Having completed a search successfully the member obtains information of the component concerning its technical features as well as drawings. Moreover, Traidax offers contacts of suppliers, which offer the searched components.
2. The member is free to choose whether he wants to get in contact with the supplier directly or via a contact-inquiry within the Traidax-platform. In both cases Traidax acts as an intermediary. Therefore no claims regarding conclusion of a contract can be raised towards Traidax. In the event of a contract conclusion, which was approached through the Traidax-platform, Traidax can not be claimed for contractual fulfillment of none of the two parties.
3. The Traidax-Components-Database does not guarantee to be gapless.



## § 8 Fees and commissions

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1. In order to use the Traidax-Business-Directory a periodical user fee will be charged. The member and Traidax will negotiate a user fee before registration.
2. Traidax may choose to temporarily change the fees and commissions for the Traidax-services for promotional events (such as free listing days). The members will be informed about such changes via E-Mail.
3. The user fee is due as the contract is concluded between Traidax and the member. In the event of extension of the agreed package the user fee will be due at the first day of the new contract period.
4. In order to change the agreed upon package the member must send an inquiry to the Traidax team. The change must be approved by Traidax in order to become effective. Traidax is not obliged to agree to a change. When a change becomes effective, the fees and commissions will be based on the pricelist of Traidax which was valid at the time of the package change unless the parties had agreed on individual fees and commissions. The contract period will not be affected in the event of a package change unless the parties reached a different agreement.
5. Traidax reserves the right to amend the pricelist partially or in total at any time without quoting any reasons. Traidax members will be notified of the changed pricelist via E-Mail. The member may object to the new pricelist within a period of one month after receiving notification of change. If the member does object to the amendments within such one month period, this will terminate the contract at the next possible date. Up to this date the previous pricelist will remain effective for the disagreeing member. Afterwards the new pricelist will become effective.

## § 9 Membership duties and consequences in the event of infringement

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1. The member is obliged to use the Traidax-Business-Directory exclusively for the purposes which are foreseen within this contract. In addition, the member is required not to use the Traidax services in any unlawful or illegal manner. Legal transactions, which violate any law, rights of a third party, morality or fair business practices are forbidden and may result in termination of the membership.
2. If a member becomes aware of any infringement of another member according to §9 (1) of these GTC, the aware member is obliged to immediately advise Traidax about the infringement. This duty shall protect all members towards unfair business practices.
3. The lists of companies, products, offers and items, which are provided within the Traidax-Business-Directory and displayed on the platform, are protected by copyright. The members are allowed to use this data for their own business purposes as far as provided within this contract. Transferring data concerning companies, persons, products or offers to a third party or trading with this data is strictly forbidden.
4. The pictures, graphics, logos, data and documents which are used within the homepage and are available for download as well as the platform itself are protected by copyright. It is forbidden to copy, save, reproduce, edit or use those afore mentioned in any other way without approval of Traidax. In the event of infringement Traidax will assert their right regarding omission, disclosure, compensation of damages etc. The just mentioned deeds might occur to be offences according to § 106 et seq. UrhG. In the event of infringement or attempt of infringement Traidax reserves their right to directly press charges against the disobeying party.

1. Traidax offers its members the possibility to display their own contents on the platform within the scope of this contract. These contents may not contradict the Traidax GTC as well as legal regulations. Traidax is not obliged to check the contents and lawfulness of the members' offers before publishment. Traidax operates as a (information) provider. Traidax is not responsible for offers, data or any other information published by its members. The member is solely responsible for the legal and professional information content of its published data in general.
2. The member is only allowed to display offers if it holds the respectively necessary rights. This especially involves the respectively necessary copyright, patent, brand and trademark right as well as utility and design patents or licences along with the right of utilization, publication, reproduction and distribution. Furthermore, all publishments on the platform mustn't violate trademark and personal rights or the right to a name. The member alone shall be reliable for the admissibility of its offers and advertisements relating to competition and administrative law.
3. The member shall be obliged to hold Traidax harmless on first demand from any claims asserted by a third party resulting from the publishment of data or offers which the member displayed on the platform. The indemnification includes compensation of damages and reimbursement of futile expenditures, as well as restitution of appropriate defense costs (e.g. legal charges and fees) which Traidax incur for defending alleged claims. In addition, the respective member shall be obliged to support Traidax in the foresaid event through providing all necessary information, data, licences or further documents free of charge and all-embracing.

1. Traidax is not responsible for third-party contents linked to on the platform. These homepages are provided by a third party and contain foreign content, on which Traidax does not have any influence and which does explicitly not become adopted by Traidax as its own content. Liability for contents of a third party homepage which is linked to Traidax won't be assumed by Traidax. If Traidax shall become aware that a homepage which is linked to Traidax acts unlawfully or immorally respectively if the third party homepage violates these GTC, this link will be removed immediately.
2. Traidax shall be liable, regardless of the legal basis, for compensation of damages or reimbursement of futile expenditures in full only
  - a. for damages resulting from harm to body, life and health which were caused through intentional or negligent breach of duty by a legal representative or an agent of Traidax and
  - b. for damages which were caused through intentional or negligent breach of duty by a legal representative or an agent of Traidax
3. If none of the events described in 2 a) to b) occurs, Traidax liability shall be limited to the contractual foreseeable damage, which is reasonably predictable upon conclusion of the contract only if it violated essential contractual obligations. Essential contractual obligations are those obligations the fulfillment of which the contractual parties rely on upon conclusion of the contract and which are an essential requirement for the conclusion of the contract.
4. Any further liability for compensation of damages or reimbursement of futile expenditures beyond clause 2 and 3 shall be excluded.
5. Traidax shall be liable for damages, which were caused through the loss of data, solely for the amount which would have accrued if the member had done a duly data security by itself. Any further liability of Traidax shall be excluded.
6. Traidax shall not be liable in the event of non-availability of the Internet in general or damages of the member's local system.
7. When the contract is concluded both parties assume that the following amount shall be sufficient to cover the foreseeable damages, which are reasonably predictable upon conclusion of the contract, according to clause 3: Euro 25.000 to Euro 100.000. If the member's opinion on the maximum amount for damages shall differ to the aforementioned, the member will advise Traidax before conclusion of the contract, in order to negotiate an adequate amount to cover the member's risks.

1. Place of payment is Obertshausen.
2. This Agreement shall be governed exclusively by the laws of the Federal Republic of Germany to the exclusion of the UN Sales Convention.
3. In the event of disputes or conflicts due to this contractual agreement, the parties agree to initially try to settle an mutual agreement with the help of negotiations
4. If a mutual agreement cannot be settled via negotiation, the parties agree to appeal to arbitration in order to solve the dispute or conflict partly or totally before turning to a court of law. If the parties can't agree on the mediating party within 30 days after a party applied for the mediation process a mediator will be nominated by EUCON, Europäisches Institut für Conflict Management e.V., Brienner Str. 9, 80333 Munich. Insofar as the parties don't agree on any deviant mediation process, it will be executed as to the code of procedure of EUCON ([http://www.eucon-institut.de/download/regelwerk/eucon\\_1\\_verfahrensordnung.pdf](http://www.eucon-institut.de/download/regelwerk/eucon_1_verfahrensordnung.pdf)).
5. Execution of mediation requires that both parties mandate a mediator jointly, do at least attend one mediation session and do express themselves regarding the issue, if necessary within a confidential person-to-person discussion. One of the parties is only allowed to institute a court procedure if the party itself fulfills the minimum conditions of having attended at least one mediation session or if the other party rejected or restrained the mediation.
6. Neither party shall be inhibited to initiate a judicial injunction, especially an attachment or injunctive proceeding.
7. Provided that the contractual partner of Traidax is a businessman as defined in the German Commercial Code (HGB), a non-public separate estate or a corporate body as defined in public law it is agreed that Frankfurt am Main shall exclusively be the legal venue for all disputes resulting from the licence agreement and these GTC. This shall also apply if the residence of the contractual partner is abroad or unknown.
8. The contractual language is German. In the event of inconsistency between wordings of the contract, which were translated into another language than German, and the German wording the German wording shall be binding.

1. Traidax reserves the right to amend any provision of these GTC partially or these GTC in total at any time without quoting any reasons. The amended GTC will be send to the members one month before their commencement via E-Mail. If the Contractual Partner does not object to the amendments within two weeks after receiving, the amendments shall become effective after expiry of the four week period. Traidax will emphasize the meaning of this period within the E-Mail regarding the amended GTC. If the member does object to the amendments within such two week period, this will terminate the contract at the next possible date. Up to this date the previous GTC will remain effective for the disagreeing member.
2. If any provision in this Agreement is held invalid or unenforceable, the other provisions of this Agreement will remain in full force and effect. The parties agree to negotiate in good faith a valid, enforceable substitute provision that most nearly affects the parties' original intent in entering into this Agreement. The same shall be applied in the event of any lack of regulation.