



**Legal terms and conditions  
of BPI-Systeme IT Service GmbH  
concerning all offers and services of  
fairio.com  
(Status 01.11.2005)**

**1. In general**

These general terms and conditions are part of all bilateral agreements between BPI-Systeme IT Service GmbH (hereinafter called the provider) and a contract partner (hereinafter called the customer) concerning the offers from fairio.com (<http://www.fairio.com>, and other domain endings). This Agreement shall not be modified, amended, extended, renewed or cancelled except by written instrument signed by both parties making specific reference to this agreement. The provider does not accept the customers reference to legal terms in set form.

It is compulsory that all customers have connection to the internet.

**2. Subject of the contract**

The provider offers its customers internet webhosting services. This means in particular webhosting, supplying disc space on servers and domain services. Details result from the webhosting packages chosen and their description.

**3. Contract conclusion**

When the order is placed the customer makes a binding proposition to conclude a contract. The provider accepts the agreement by sending confirmation separately via email and/or by assigning the ordered disc space and allocating a password. When the customer orders, he assures that he is 18 years or older. The provider only accepts contracts with persons of 18 years of age and above.

**4. Fees and conditions**

All prices are subject to confirmation and without obligation until the contract is concluded. All offers are subject to restriction as according to their descriptions (<http://www.fairio.com/us/webhosting/>). The provider is entitled to charge additional fees if the amount of traffic, as according to the offer description, is exceeded (1,99 Dollars per GB). The customer has the possibility to limit traffic to the amount included in the package using an administration tool to avoid exceeding the amount of traffic stated.

All prices are gross and therefore include VAT. The German VAT rate is 16%. If a businessman should need an invoice without VAT he/she has to quote their VID number in the customer menu or when registering. Unfortunately, it is not possible to change an invoice after it has been issued. A VAT identification number (tax payer identification number) is needed before an invoice can be issued.

**5. Terms of payment**

Invoices are sent solely per email to the email address stated by the customer. The amount is due immediately on receipt of the invoice. If there is any cause for complaint in regard to invoices which are use dependent, the customer has to submit a written objection immediately on receipt of the invoice, or within the following 8 weeks at the latest.

After paying (creditcard, paypal or bank transfer) the amount is credited to the customers account. Current package and Domain fees are deducted from the assets on the customers account. If the assets reach a low amount, the customer is informed that loading is necessary. Consequences for not reloading assets despite active webhosting packages or domains can be found in point 15.

**6. Customer obligations (server load), right to block the offer due to safety impairment**

The customer has to avoid excessively overloading the server system. The provider is entitled to block contents, which can impair the operational behaviour rules and/or the security of the server, or temporarily prevent operations after examining each individual case. This particularly concerns scripts, which are not held ready in the program library. If possible, the customer is informed before the blockage occurs, so he/she can remedy the problem if possible. The provider however reserves the right to block the customers package without preliminary warning, if the customer runs his own programs which impair the operational behavior or the security of the server. In this case the provider also has extraordinary right of notice / cancellation. Amounts that have been already paid are recompensed if the provider practices the extraordinary right of notice / cancellation.

**7. Data security, customers obligation to cooperate**

The customer indemnifies the provider from all demands of third parties regarding relinquished data. If the provider receives data - no matter in which form - the customer must on all accounts make backup copies. The backup copies are not allowed to be stored on the disc space rented from the provider. All servers make a backup regularly. If for any reason data is lost, the customer is obligated to transfer lost data free of charge.

The customer receives a user name and password so he can administer his package. The customer must handle this information as strictly confidential and will be made responsible for any misuse resulting from unauthorised password usage. The customer is aware that there is a possibility that information can be intercepted while being transferred. The customer accepts the risk.

The customer will receive an email address from the provider. The customer is obligated to fetch the emails on a regular basis. The intervals should not exceed four (4) weeks. The customer is also obligated to fetch emails from the space provided by the provider and to delete the emails after four (4) weeks at the latest.

#### **8. Service description, duration, cancellation**

The contract is accounted for in accordance with the valid price list, price increases during the contract running time are not possible. Data for the registration of domain names is automatically passed on free of charge, however in an automated procedure without guarantee, to the respective NIC. The customer can only act on the assumption that a domain has been assigned if it has been confirmed by the respective NIC. Due to the fact that the provider has no influence on these factors, adherence and guarantee on the part of the provider, concerning the assignment of ordered domain names are not possible.

**Webhosting contracts** generally have a duration of one month. The customer can however choose a contract duration of a year. A reimbursement for amounts paid in advance is not granted.

A contract is extended by the original contract running time, if it is not cancelled within a period of 14 days before the contract ends. Webhosting contracts can be cancelled over the customer menu on Fairio.com. The cancellation becomes effective with receipt of the cancellation confirmation.

**Domains** have a contract duration of 12 months. A contract is extended, if it is not cancelled within a period of 2 months before the contract ends. The notice of cancellation must be in written form, such as a simple letter or per fax. There is a separate form for domain cancellation. It can be found in the customer area on Fairio.com

#### **9. Published Contents**

When the customer transfers the web pages, he exempts the provider from all responsibility concerning contents and guarantees not to transfer material that offends the rights of third parties. Using the package for pornographic or download offers (in particular hacker- and serialtools) is forbidden. The installation of software, from which traffic cannot be accounted for according to standard (www- traffic, mail traffic and FTP traffic are measured), in particular installing daemons, is not allowed and will lead to an immediate shutdown of the account (until the software has been removed). All additional traffic caused by the installed software will be charged with 1,99 Dollars per GB. Due to the narrow price calculation, it is not possible for the provider to make a detailed examination of each individual case to check if the demands of third parties are legitimate or not. The provider is therefore entitled to block access on demands of third parties and/or if the customer cannot, without doubt, be identified as the holder of rights for published contents or programs/software. If the customer should publish contents, suited to offend someones honour, suited to degenerate or insult persons or groups of people, the provider is entitled to block access to the corresponding contents straight away, even if no legitimate claim should exist. The same applies to contents which could offend effective laws of germany, the EU and the USA. It is however up to the customer to prove the harmlessness of contents. If the contents are proved as harmless, the offer will be reactivated. The provider reserves the right to block the offer, if the customer uses programs, that affect the servers operating performance.

#### **10. Guarantee**

The provider guarantees an annual mean server availability of 99%. 1% of the operating time can however be used for maintenance. Excluded are the times the server is not available due to technical problems, or other problems which are not in the providers sphere of influence (vis major, disturbance due to third parties, ect.). If technically possible, maintenance will proceed between 2am and 6am MEZ and will be announced in advance. The providers offers services to keep the customers web pages ready, so they can be accessed on WWW-servers. The provider cannot be made responsible for disturbances in the internet.

#### **11. Liability, compensation**

The provider disclaims all liability for damage caused by negligence unless caused by breach of essential contractual obligations, if the guarantee is affected, or if claims are based on the product liability act (Produkthaftungsgesetz). The same applies for neglected duties of agents acting on behalf of the provider.

If substantial responsibilities are neglected, due to simple negligence, liability is limited to predictable claims directly associated to the contract.

**12. Mass mailing in newsgroups or mass mailing per e-mail, use of postboxes**

Sending mass mails or serial letters (identical messages send to many different recipients) using the customers account is forbidden if one and the same message is sent to more than 100 recipients in one single month. Sending unsolicited commercial e-mails ("UCE") is also forbidden. If we should find out, that the customer is sending unsolicited commercial e-mails, the provider reserves the right to block the account temporarily or on a long term basis. This also applies to commercial emails in public newsgroups.

Email boxes are only allowed to be used to handle email traffic. In particular it is strictly forbidden to use email boxes to save other files and data.

**13. Consumers right of cancellation****Cancellation information**

For the purpose of these terms and condition, **consumers** are natural persons with whom we are doing business, without being able to assign a commercial, industrial or freelance occupation to their person.

The customer, who is (the) consumer, can cancel the contract in writing (i.e. letter, Fax, e-mail) without giving reasons.

The time limit granted to cancel contracts will begin on receipt of this information at the earliest. Sending the cancellation before the time limit expires time is enough to ensure meeting the cancellation deadline. Send the cancellation notice to:

fairio.com  
c/o BPI-Systeme IT-Service GmbH  
Lindener Straße 15  
D-38300 Wolfenbüttel  
Germany  
E-Mail: [support\\_us@fairio.com](mailto:support_us@fairio.com)  
Tel: +44 800 358 11 59 (freecall)  
Fax: +44 871 720 53 32 (freecall)

**Consequences resulting from cancellation:**

If a cancellation becomes effective, both sides must return all received benefits.

**Specific notices:**

**The right to cancel the contract expires, if the provider has already started executing services (preparing the server, domain application), with the customers explicit approval, before the end of the granted time limit. The same applies if the customer has initiated execution (e.g. activating customer accounts ect.)**

**End of cancellation information****14. Legal protection of the domain names**

By registering the domain name, or connecting and uploading pages to the domain name, the customer insures not to impinge upon anyones rights, and not to pursue illegal purposes. The customer accepts that he/she alone is responsible for the chosen domain name, and furthermore agrees to accept all legal consequences and exempts the provider from all compensation to third parties in association with registering the domain and/or connectivity. In case somebody claims the rights to a domain name, the provider reserves the right to block or, return the corresponding domain name to the registration centre, until the issue has jurisdictionally been clarified.

**15. Terms of notice for domains, package apportionment (extra domain – main domain)**

If a domain is cancelled, and is to be deleted at the end of the contract duration, or is to be transferred to a different provider, the provider is entitled to delete it earlier, if the provider has to avoid accounting in the following year. The same rule counts for transferring a domain to another provider.

If a customer cancels a contract, wishes to transfer his domain to another provider, but the provider does not take over the registration and the registration goes into a new year, the provider will charge the customer another year for the domain.

If an extra domain is to be changed into a main domain, a handling charge of 9,00 Dollars will be charged. If running cost cannot be paid from the customers credit, the webhosting package will be deleted. If the credit is not enough for a domain, the domain will be accordingly deleted or returned to the registrar.

#### **16. Privacy Policy**

The provider will only use and process the customers personal data without consent as needed to create a contract, process a contract, and for invoicing. This reference corresponds to the regulations § 33 exp.1 Bundesdatenschutzgesetz (German Federal Law for Data Protection (BDSG)). The customer is entitled to request information from the provider concerning personal data saved by the provider. If the customer wishes to have personal data deleted or changed, he can request to do so by sending an email to [privacy-policy@fairio.com](mailto:privacy-policy@fairio.com).

#### **17. Other Terms, Area of Jurisdiction**

If these terms and conditions, partially or completely, did not become part of the contract, are not part of the contract, or have become ineffective, the contract as a whole is effective. If the terms are not part of the contract or if they should become inactive, the contents of the contract become subject to legal regulations. The contract only becomes ineffective, if even under consideration of a to legal regulations, the changes made are of unacceptable severity for one of the contract partners. The provider is entitled to transfer the contract, including all rights and liabilities, to a legal sucesor, if the provider vouches to supply the due services. The contractors area of durisdiction is Braunschweig, Germany. The provider also has the right to sue the customer at their home city/district or their area of jurisdiction.

If in any way doubt should arise concerning any of the articles above, reference will be made to the german legal terms and conditions (GTC), which also can be found on [fairio.com](http://fairio.com). The german legal terms and conditions apply during all legal proceedings.