

General terms and conditions

§ 1 General points

The terms and conditions hereunder apply to all reports supplied by Bürgel at present, as well as those to be supplied at a future date, irrespective of whether or not the customer is referred to these terms and conditions by Bürgel on further occasions.

§ 2 Subject matter

- Bürgel supplies its customers with various forms of business information, relating to both companies and private individuals, both in Germany and abroad, for the customers' commercial purpose.
- Ordering a report is defined as an instruction to supply commercial information on the basis which has become known to Bürgel and which is considered fundamental for an assessment of the circumstances. Certain report products consist of data available from the database and do not involve additional research or a check on up-to-dateness.
- Bürgel is authorized to make extensions and alterations within the scope of further development and improvement of the products, provided that the purpose of contract is not or merely marginally affected.
- Requests for reports on other credit-reporting agencies cannot be complied with. We reserve the right to decline reports for any well-founded reason. Individual reasons need not be expounded upon further.
- The customer agrees not to disclose the origin of the information received.

§ 3 Charges and fees

- The customer is to pay Bürgel the charges and fees stipulated in the relevant contracts.
- In the case of overdue payment, Bürgel is authorized to exclude the customer from receiving future commercial information until payment is complete.
- The points purchased by the customer with regard to obtaining business information are valid for one year. After this, these points will expire, without replacement, unless other differing written agreements are made between the contracting parties.
- The customer may only offset the claims of Bürgel or effect a right of retention when the customer's counterclaim is indisputable or non-appealable.

§ 4 Liability and guarantee

- Bürgel cannot guarantee that the information is final and definite nor guarantee the inspection of official and other registers.
- In addition, all damage claims are excluded unless the legal proxy, Bürgel employee or any other assistant involved in the performance of duty have acted wilfully or grossly negligently or damages are based on the breach of contractual duty, the performance of which allows for orderly execution of the contract and the adherence of which the contractual partner may regularly rely upon.
- Bürgel is only liable for typically foreseeable damages. This amounts to a maximum sum of EUR 250.000 per claim and is limited to EUR 500.000 per calendar year, irrespective of the number of claims.
- The aforementioned disclaimers and limitation of liability are not applicable for liability due to injury of life, personal harm or injury of health.

§ 5 Prohibited disclosure of information

- An assignment of claim of the right to convey business information and/or the further disclosure of information or the right to retrieval or viewing of information held in readiness – albeit to or by affiliated companies, subsidiaries or other third parties unaltered or after further processing, in short summaries or in part is prohibited.
- Should wilful or negligent breach of these regulations occur, a contractual penalty for each case of violation which is to be set by Bürgel as appears just and in disputed cases to be checked by the competent court will be imposed upon the customer. Bürgel reserves the right to assert further damages incurred.
- The customer is solely liable for damage arising to himself, affiliated companies, subsidiaries or any third parties arising from the disclosure or further processing of information, in breach of contract.

§ 6 Data protection

- According to the Federal Data Protection Act (BDSG), the transmission of personal data requires among others definite proof of professional interest. With regard to the personal data contained within commercial reports, the customer agrees to produce plausible evidence of his professional interest, when required, as stipulated in § 29 Para. 2 item 1 BDSG. Bürgel reserves the right to examine proof of professional interest, in a particular case, without having to substantiate this.
- The customer may only use or process information received for the original purpose for which it was intended. The processing or use for alternative purposes is only permissible under the terms of the BDSG.
- The customer is obliged to bind staff and other third parties who may need access to confidential data, to utmost secrecy. In order to ensure the protection and security of data entrusted to him, the customer is obliged to take suitable precautions against unauthorized access by personnel or third parties. These precautions should be equivalent to those exercised by the customer in securing his own confidential files.
- The customer is hereby informed that identification data and other useful data, e.g. address information and order date, are electronically stored and are used for documentation and accounting purposes as well as data security checks.
- Data protection provision for obtaining score products
Bürgel advises that when acquiring or using the score products of Bürgel the customer has the obligation in accordance with § 28b Para. 4 Federal Data Protection Act (BDSG) to notify the concerned person, verifiably prior to the calculation of probability values, e.g. by defining a corresponding indication in his General Terms and Conditions, that amongst other things address data are used for their calculation. Bürgel will make a proposed formulation available to the customer.
Bürgel advises that without such a corresponding notification of the concerned person and documentation of the such, acquisition of the score products is not permissible and may entail administrative fines.

§ 7 Place for fulfilment of contract, court of jurisdiction and applicable law

- Bürgel headquarters serve as the place for fulfilment of contract as well as the court of jurisdiction for all contracts made by registered traders. Bürgel headquarters also represent the fixed court of jurisdiction should the customer transfer his head office abroad after conclusion of the contract or should whereabouts of the customer be unknown at the time when a claim is filed.
- The conditions of the report contract are subject to German law.

§ 8 Final clauses

- All copyright is reserved.
- All alterations, supplementary details, collateral agreements and special arrangements pertaining to a report contract cannot take effect without Bürgel's written consent. The same applies to any possible reversal of this clause.
- Should any regulations featured within these terms and conditions not be applicable or become null and void, the validity of the remaining terms is unaffected. The contractual parties pledge themselves to replace possible ineffective regulations by such which seem most similar to the economic purpose of this contract.

General terms and conditions for online service

§ 1 General points

- Bürgel enables the customer via an automated retrieval procedure to access the central database of Bürgel Wirtschaftsinformationen GmbH & Co. KG. This database stores various information including name, company name, address, birth date, marital status, professional activities, financial condition, possible liabilities as well as details on payment behavior.
- Reason and purpose of the retrieval procedure is to enable the customer for his commercial purpose to gain quickest possible access to the commercial information stored in the database.
- Bürgel Wirtschaftsinformationen GmbH & Co. KG, Gasstrasse 18, 22761 Hamburg, phone: +49 (0)40 898 03-0 (hereafter referred to as „BWI“) technically processes the online transactions for Bürgel.

§ 2 Access to the database

- The customer may access the database via the Internet or a computer-computer connection from his IT-system by means of an interface.
- If the parties agree to access via the interface, Bürgel makes an interface description available to the customer free of charge. The customer is obligated to program and maintain the interface in accordance with the interface description on his own responsibility and at his own expense. The customer is informed that the set interface as well as the correctness of transmission of data delivered to or by Bürgel are not verified by Bürgel. Bürgel is not liable for faulty programming or maintenance of the interface and damages resulting thereof, in particular due to the supply of incorrect data. Bürgel's copyright to the interface description is reserved.

§ 3 Access and data security measures

- For utilization of the online service one or several access authorizations are made available to the customer, which are to be treated confidentially. The access authorization consists of a multidigit user identification (User-ID) and a multidigit personal password. Upon first log-in the personal password is to be changed by the customer. The personal password is to be replaced within 120 days at the latest and may not be repeated within the following three years.
- BWI ensures that all particulars relating to an enquiry are recorded. This includes the date entered during the enquiry, the date and the time of the enquiry, the authentication, the database identifications and the retrieved data. In case of incorrect recording the retrieval procedure is discontinued. These recordings are only used for data protection control, in particular to monitor the permissibility of the retrieval, to ensure proper functioning of the data-processing system and in case of legal proceedings. They are deleted after three years, unless they are still required until completion of an already instituted data protection control procedure or pending legal proceedings.

§ 4 Authorized users

- For each user a separate access authorization is to be applied for. The customer ensures that only the individually authorized database user can gain access to the database.
- It is incumbent on the customer to take adequate security measures in order to ensure that the access authorizations and retrieved data are not misused by unauthorized persons.
- Bürgel is to be informed immediately should the customer have reason to believe that an unauthorized staff member or any third person has gained access to the access authorization. In this case the access authorization will be suspended and a new access authorization will be made available to the customer.
- In case an authorized user leaves the company the customer is to immediately change the old password so far used or is to let the password be blocked by Bürgel.

§ 5 Availability

- The availability of the online service is subject to technical and organizational limitations.
- Bürgel does not guarantee functional efficiency of technical equipment and the IT program for data retrieval as well as access to certain data.

§ 6 Data protection

- Utilization of the online service is subject to the regulations of the Federal Data Protection Act (BDSG). In case of violations against the Federal Data Protection Act the respective contractual partner assumes liability within whose area of responsibility the violations come.
- In accordance with § 33 BDSG the customer is hereby informed that his identification and protocol data, e.g. log-on identification, date and time are processed and used by Bürgel and BWI for data security checks, documentation and accounting purposes. The customer pledges himself to inform his authorized users accordingly.
- Responsibility for the permissibility of each retrieval is borne by the customer. The permissibility of the retrieval is only checked by Bürgel should the occasion give rise. The customer guarantees that the permissibility of the transmission of person-related data can be ascertained and checked by means of appropriate random sampling by Bürgel and that on request he will make his records available.
- If it becomes known to Bürgel that the customer does not use the data for legally permissible purposes or uses the data in an inadmissible manner and/or does not fulfil his obligation in accordance with § 18 List of Debtors Ordinance (SchuVVO) Bürgel is obligated to exclude the customer from the retrieval procedure.

§ 7 Liability and guarantee

- Bürgel bears no liability for damage, that arise for the customer resulting from the misuse or loss of the code word or other log-in identifications. Any costs and fees that may arise in this context shall be borne by the customer.
- Bürgel bears no responsibility for proper functioning of the transmission lines including the data security and availability of the data lines.
- As for the rest the disclaimers and limitations of liability stated in the General terms and conditions for the supply of business reports are applicable.

§ 8 Duration of utilization and exclusion

- The authorization for connection to the online service automatically ends upon termination of the underlying contract for the supply of business information.
- In case of non-compliance with these General terms and conditions Bürgel is entitled to immediately suspend the online access, even before receipt of a declaration of termination. Possible claims for damages will remain unaffected.

§ 9 Final clauses

- Should any regulations featured within these terms for utilization of the online service not be applicable or become null and void, the validity of the remaining terms is unaffected. The contracting parties pledge themselves to replace possible ineffective regulations by such which seem most similar to the economical purpose of this contract.
- As for the rest Bürgel's General terms and conditions for supply of business reports are applicable.