

General Terms and Conditions – Online (GTC – Online)

A. Preamble

The web portal of *Vienna Business Agency*. A service offered by the City of Vienna (henceforth Vienna Business Agency), located at www.wirtschaftsagentur.at, provides information and services for the Vienna business community and international investors. A portion of the web portal is dedicated to descriptions of individual economic development programs offered by the City of Vienna and online applications for funding programs. When applying for funding online, users of the website **www.wirtschaftsagentur.at** establish direct contact with the Vienna Business Agency.

The following “general terms and conditions – online” (GTC – Online) apply to anyone who uses the services offered on the Vienna Business Agency web portal (**www.wirtschaftsagentur.at** and the associated sub-pages linked directly to the Vienna Business Agency). These terms and conditions (GTC – Online) apply to all users, even when **www.wirtschaftsagentur.at** is accessed from outside the Republic of Austria. They also apply to future transactions, even in cases in which these are not explicitly named, as well as to users who are redirected or otherwise referred to the Vienna Business Agency web portal from another website.

These terms and conditions (GTC – Online) apply to all services, especially with regard to the provision of consulting and services, in particular services related to the processing of grant applications. These terms and conditions (GTC – Online) apply to all paid and/or complimentary transactions carried out between the Vienna Business Agency and users of the Vienna Business Agency web portal. The GTC – Online form an integral part of every contract between the Vienna Business Agency and users of the Vienna Business Agency web portal.

Reference made by Vienna Business Agency web portal users to their own terms and conditions or any other proprietary terms and conditions has no legal authority, even in cases where the Vienna Business Agency has not explicitly denounced their inclusion. This likewise extends to situations in which the Vienna Business Agency provides users with contractual services and deliveries in full knowledge of conflicting conditions.

The GTC – Online are available on the Vienna Business Agency web portal under the acronym "GTC," and during normal business hours, Monday to Friday 8:30am to 3:30pm and Friday 8:30am to 2:00pm, at the Vienna Business Agency offices. A free copy of these will be supplied upon request.

B. Definition of Terms

Funding: Public funds granted by a government agency or other entrusted institution to a private body. The condition for a positive funding decision is the fulfillment of all the formal and material requirements or stipulations issued by the contracting authority. There is no legal claim whatsoever to receive a grant.

Online Submission: A procedure for submitting one or more grant applications that potential applicants can use to apply for funding. In order to submit a funding application online users must register with the Vienna Business Agency system and disclose personal, company-related, and project-related data. The date of submission of an online form to the Vienna Business Agency is considered the moment in which the form has been verifiably uploaded to the Vienna Business Agency servers. However, the date of submission is only valid on the condition that the "Certificate of Application Authenticity" arrives at the Vienna Business Agency within five working days of the day after the date of the online submission. Online applications that are not certified by the Certificate of Application Authenticity are not considered submitted.

C. Amendments to the GTC - Online

Users can request free copies of the GTC – Online upon conclusion of the contract or amendment of the guidelines. Changes to the GTC – Online and specifications pertinent to the present services and fee provisions will be published on the Vienna Business Agency homepage at least one month before

going into effect. The provisions of paragraph 25 article 3 of the *Telekommunikationsgesetz* (TKG) (Austrian telecommunications act) remain unaffected.

Vienna Business Agency homepage will supply web portal users with detailed information regarding any changes to the GTC – Online. If the Vienna Business Agency is in possession of a user's e-mail address, the user will also be informed via e-mail of any potential alteration to the GTC – Online. Pursuant to paragraph 107 of the *Telekommunikationsgesetz* (TKG) (Austrian telecommunications act), such communications may even occur in instances in which users have opted out of receiving newsletters and advertising e-mails. Vienna Business Agency is in no way obligated to obtain up-to-date or functioning e-mail address from its users. If a user changes their e-mail address he/she supplied to the Vienna Business Agency, he/she must notify the Vienna Business Agency of these changes. Should users fail to communicate said changes to the Vienna Business Agency, fees for unsuccessful or failed postal deliveries will be charged to users who have not complied with the notification requirements.

Any changes to the GTC – Online will come into effect four weeks following notification via e-mail or four weeks following the initial announcement listed on the Vienna Business Agency homepage. Regardless of the nature of their agreement, the originally agreed upon GTC – Online will continue to apply to users who have objected to these alterations within the abovementioned deadlines.

D. Rights

The Vienna Business Agency provides users with individual access rights to a personalized area exclusively assigned to individual users. Users' personal data and grant applications are stored in this area. All data submitted to the Vienna Business Agency by users are stored on the servers of one of Vienna Business Agency's providers.

The data stored on said servers are subsequently copied to the Vienna Business Agency servers, and thus made available for further processing to agents of the Vienna Business Agency.

Use of the "online submission" and the services offered by the Vienna Business Agency, the transmission of data of any kind, and use of services offered by the Vienna Business Agency occurs at users' own risk; i.e. the Vienna Business Agency assumes no legal liability whatsoever in this regard.

E. Special Provisions for Online Submissions:

1. General

"Online Submission" services offered by the Vienna Business Agency adhere to set formal requirements. The formal requirements mentioned in the GTC – Online are binding for all users of said services.

2. Registration

Users have the option – unless revoked by the Vienna Business Agency, which can be done at any time and without disclosing grounds – to pick a username of their own choice. According to the "first come, first serve" principle, this username will be accepted by the Vienna Business Agency as long as it has not been taken and appears lawful.

In their choice of user-name users are prohibited from infringing third-party trademark rights (naming rights, trademark rights, etc.) or other property rights, or assuming the identity of others without their consent.

In order to ensure timely and efficient communication, users must supply the Vienna Business Agency with a working e-mail address. E-mail address registration is obligatory, and results in receipt of an automatically generated password. This automatically generated password allows one-time access to the Vienna Business Agency web portal. After registering, users are immediately prompted to choose their own new password.

Should a user forget his/her password the Vienna Business Agency will, upon written request, send a new automatically generated password to the e-mail address associated with that account at the time of registration. This new password allows one-time access to the Vienna Business Agency web portal. After registering, users are immediately prompted to choose their own new password. The name of the authorized user(s) is necessary for registration. The registrant must be a natural person who is acting either on his/her own behalf or that of a company.

Only authorized user are allowed access to the portal.

Users must guard their usernames and passwords, and these should not be shared with a third party.

Users must immediately inform the Vienna Business Agency should they become aware of the

unauthorized use of their authorization access. In the case of authorization misuse or the suspicion of misuse the Vienna Business Agency is permitted to block an account. If an account is inactive for more than 2 years, the account user will be notified at his/her last known address or e-mail address and the account will be erased. This erasure will include all user account data. Users are free to change all registration data, with the exception of username, at any time.

3. Logging in upon Successful Registration

Logging in to the Vienna Business Agency web portal is achieved by entering your personal username and password. Users who have forgotten their passwords can request a new one in writing, and will be sent a new automatically generated password to the e-mail address associated with that account at the time of registration. This new password allows one-time access to the Vienna Business Agency web portal, upon which users are immediately prompted to choose their own new password.

4. Submitting Grant Applications

a. *Web Form Profile:*

Following registration and logging in, users are directed to the company profile query page within their personal funding cockpit. The company profile refers to users' personal data. Users must complete the company profile form. The system saves the company profile, and automatically transfers this information to each new funding application form. The user is free to change the data contained in a section of the company profile sections at any time. Users cannot change the data located in another section, which is explicitly marked as such. In order to change data in the latter section users must contact the Vienna Business Agency with a written request and a brief justification. The Vienna Business Agency reserves the right not to make said changes.

b. *Application Web Form:*

After logging in and submitting the profile form, users can submit applications online using the application web form. The data from the company profile form (see E 4. a) is automatically inserted into the corresponding application form. All mandatory fields must be completed prior to submitting application forms.

A "Certificate of Application Authenticity" is necessary for grant applications to be considered binding or submitted. The "Certificate of Application Authenticity" must be printed out, signed by an authorized company representative, and this original copy must be sent by post to:

Vienna Business Agency
"Certificate of Application Authenticity"
Mariahilfer Strasse 20
1070 Vienna, Austria

Certificates may be submitted independently of online applications, however, the "Certificate of Application Authenticity" must be received by the Vienna Business Agency within five working days of the day after submission of the online application in order for the application to be considered formally submitted (this effective from the day of receipt of the online application).

F. Website Use

The Vienna Business Agency reserves the right to temporarily or permanently deny or prohibit use of the website to any party and without reason. Vienna Business Agency does not assume any liability whatsoever for the content of the website nor for any damages that may arise from downloading data on the site. The Vienna Business Agency reserves the right to charge for individual downloads upon proper notification. Users acknowledge that the current state of the art does not provide absolute security nor full functionality.

Connectivity to other network operators takes place in accordance with the scope of technical possibility. Unless otherwise stated, access to the provided information and services is granted at the closest technologically possible Point of Presence (POP).

In using the web portal users must comply with all applicable legal provisions. Adherence to network etiquette (netiquette) by the users is strongly recommended. "Netiquette" is a set of behavioral standards to which Internet users worldwide voluntarily submit. Users agree not to use contractual

services in ways that could lead to the impairment of third parties, nor in ways that could result in safety or operational hazard to the Vienna Business Agency, affiliated companies pursuant to paragraph 228 section 3 of the *Unternehmensgesetzbuch* (UGB) (Austrian enterprise code), or other third parties. A contractual agreement arises in the moment that the Vienna Business Agency accepts a written or electronic transmission of a user's identity (otherwise known as registration). In registering, users acknowledge these GTC – Online.

When utilizing services provided by the Vienna Business Agency connection charges apply to the applicable Internet service provider. These charges — as well as all other access charges, e.g. via cable — are charged to the users of the respective providers according to their rate structures and are — along with third-party services — not subject to the Vienna Business Agency contract.

Users are furthermore advised that postage costs incurred for sending the "Certificate of Application Authenticity" or other documents pertinent to the grant application must be borne by users themselves, and that they are free to submit documents in person.

G. Access

The Vienna Business Agency web portal is generally accessible to customers 24 hours a day, and as far as allowed by capacity utilization, traffic conditions, or operating statuses of national or international telecommunications equipment and networks used to access the website and process the service, with the exception of necessary maintenance and back-up.

The Vienna Business Agency will keep all application data stored for up to seven years from the date of submission. Should the data be lost in whole or in part before the end of the seven years, however, the Vienna Business Agency assumes no liability whatsoever for resulting damages. Users should therefore back-up their data in a location independent of the Vienna Business Agency archive.

H. Copyrights and Trademarks:

All rights, in particular property rights, trademarks, copyrights, and other usage rights shall remain in full with the Vienna Business Agency. Any use, modification, duplication, and disclosure of information and downloads, in whole or in part, for any purpose or by any means whatsoever beyond the sole use of obtaining information and submitting online applications, is prohibited.

I. Obligation of User Cooperation

Users must pay particular attention to the following obligation to the Vienna Business Agency:

Users must inform the Vienna Business Agency of any changes to their name, company, email address, postal address, or the address of another receiving agency designated by them immediately and in writing. If users do not disclose changes to their addresses, written or e-mailed notifications from the Vienna Business Agency will be considered received once they have been sent to the last postal or e-mail address supplied to the Vienna Business Agency.

J. Due Care when using Telecommunication Equipment

When users make orders or other pronouncements via telecommunication, they have to take appropriate precautions against transmission errors and abuses. In particular, users may not pass on their usernames or passwords to third parties, and must keep these in a safe place. Users must immediately inform the Vienna Business Agency of any of suspicions misuse. The Vienna Business Agency will subsequently block associated accounts, inform affected users, and dispatch new passwords.

K. Software Conditions

Users of the Vienna Business Agency web portal are granted a non-transferable and non-exclusive license to use the software and its accompanying documentation for the duration of the contractual relationship. License transferal is not permitted. Pt. S of these GTC – Online applies to all damages for

the Vienna Business Agency and its affiliated companies pursuant to paragraph 228 section 3 of the *Unternehmensgesetzbuch* (UGB) (Austrian enterprise code). The Vienna Business Agency does not guarantee that the software it provides will comply with all user requirements, nor that said software functions properly with users' other software. Neither does the Vienna Business Agency guarantee that said software is continuously maintained, functions properly, or that potential software bugs can be fixed. The Vienna Business Agency will furthermore not guarantee, nor is it liable for, any defects or damages caused by users' alterations to the configuration of the software/hardware and the prerequisite system settings on their PCs.

L. Block, Termination, Deletion Without Notice

The Vienna Business Agency is entitled to refuse services (block), in part or whole and without stating the reason, in particular if users violate these GTC – Online. The Vienna Business Agency is furthermore entitled to terminate users' accounts and existing business relationships at any time, and without reason, subject to a 4-week period of advance notice.

The Vienna Business Agency is also entitled to terminate accounts and existing business relationships with immediate effect without notice, and to delete accounts if there is good cause. Significant grounds for such course of action would be user misuse of accounts or services offered, user providing inaccurate information regarding relevant information such to their personal data, or use of their account in a way that damages or is otherwise disadvantageous to the Vienna Business Agency or its affiliated companies pursuant to paragraph 228 section 3 of the *Unternehmensgesetzbuch* (UGB) (Austrian enterprise code).

M. Liability

The Vienna Business Agency is not liable for temporarily unavailable services or loss of stored data. In particular, the Vienna Business Agency is not liable for the content, completeness, or accuracy of transmitted data. Users are subject to legal restrictions regarding the retrieval, storage, transmission, dissemination, and presentation of content (e.g. *Strafgesetzbuch* (criminal code), *Pornographiegelgesetz* (pornography law), *Verbotsgesetz* (punishable acts under the law banning National Socialist activities), *Telekommunikationsgesetz* (telecommunications act), *Mediengesetz* (media law), *Urheberrechtsgesetz* (copyright law), *Gesetz gegen den unlauteren Wettbewerb* (unfair competition act), *Persönlichkeitsrechte nach Zivil- und Strafgesetz* (personal Rights under civil and criminal law). For violations of these restrictions, see pt. S.

N. Limitation of Liability

The Vienna Business Agency is not liable for any damages resulting from benignly negligent behavior. The Vienna Business Agency is only liable for grossly negligent or intentional behavior of up to a maximum amount of € 5,000 per claim and user; in total, liability for gross negligence and intent per damaging event is limited to a maximum of € 200,000. If the total damage exceeds the maximum limit, the compensation claims of the individual injured parties will be reduced proportionately.

O. Declaration of Consent Pursuant to Paragraph 107 of the *Telekommunikationsgesetz* (TKG) (Austrian telecommunication act)

Users declare their consent for the Vienna Business Agency to send newsletters and promotional e-mails to any e-mail address known to the Vienna Business Agency. Users are expressly informed by the Vienna Business Agency that they can object to the receipt of newsletters and advertising e-mails in writing.

P. Data Retention Consent:

Users agree that their data will be stored on the servers of the Vienna Business Agency or those of its affiliated companies pursuant to paragraph 228 section 3 of *Unternehmensgesetzbuch* (UGB) (Austrian enterprise code), as well as on the servers of the provider commissioned by Vienna Business Agency. The Vienna Business Agency agrees to treat all data confidentially and in accordance with the provisions of the Data Protection Act.

Q. Consent to Data Processing and Data Transfer

Web portal users agree that all personal data disclosed to the Vienna Business Agency or the jury members appointed by the Vienna Business Agency and the City of Vienna, in particular the municipal department 5 (MA 5), may be processed for the purpose of examining, granting, and processing the grant. Personal data will be sent to:

- The City of Vienna municipal authorities, the *Stadtrechnungshof* (Vienna municipal court of auditors), as well as the City of Vienna funding bodies
- The Republic of Austria funding bodies, the *Bundesrechnungshof* (federal court of auditors) as well as the Republic of Austria federal states
- The institutions of the European Union (European Commission, European Court of Auditors) for the purpose of examining, granting, and processing the grant

Web portal users have the right to revoke their consent at any time in writing to the Vienna Business Agency; all data usage that is inadmissible without consent shall cease immediately upon receipt of revocation by the Vienna Business Agency.

The revocation of consent by web portal users may lead to the revocation of awarded funding and a request for refund of all disbursed subsidies.

R. Data Protection

Users are responsible to ensure that they remain in compliance with the provisions of the Data Protection Act when using the Vienna Business Agency online service. Users who transmit personal data to the Vienna Business Agency are responsible for all applicable data protection regulations. According to the data protection law, and in the event that the Vienna Business Agency storage facilities are used to store users' data, users are considered clients or liable parties. Users who make information or data regarding third parties publicly available via the Vienna Business Agency assume the status of media owner in the sense of media law, and the obligation of providing an imprint.

S. Choice of Law and Jurisdiction

This contract is subject to Austrian substantive law and is excluded from the UN Sales Convention. The court of jurisdiction is Vienna. All disputes that arise out of, or in connection with, this contract will fall under the exclusive jurisdiction of the applicable court in Vienna. The place of jurisdiction for actions brought by a consumer or against a consumer upon conclusion of the contract with the Vienna Business Agency remains valid even if the consumer has moved his domicile abroad, providing that Austrian judicial decisions are enforceable in that country.

T. Indemnity Against Claims and Litigation

Users commit to offer the Vienna Business Agency and its affiliated companies pursuant to paragraph 228 section 3 of the *Unternehmensgesetzbuch* (UGB) (Austrian enterprise code) indemnity against all manner of claims and litigation with respect to any damages that may result from use of the web portal. In particular, any false and/or incorrect information provided by Vienna Business Agency users is provided at the expense of those users who make use of the wrong and/or incorrect information.

U. It is noted that this GTC-Online shall be translated into English. However, only the German version shall be legally binding.