

General Terms and Conditions of Business



Phonesty GmbH

Date: May 25 2018

The terms and conditions below apply for the telecommunications services of Phonesty GmbH, Schatzbogen 58, 81829 Munich, entered in the Commercial Register of the Local Court of Munich under Register No. HRB 164872. VAT ID: DE 251 388 905, represented by managing director Florian Trinkwalder. The services are provided for a fee.

2.) Compensation

2.1) Service Plans

Phonesty offers the following service plans:

Phonesty Free

- no monthly fee
- fees for dial-out calls charged by the second depending on the line being called
- Phonesty does not charge for dial-in calls to our system

Phonesty Premium

- monthly basic fee per account
- fees for dial-out calls charged by the second depending on the line being called
- Phonesty does not charge for dial-in calls to our system

Phonesty Premium

- monthly basic fee per account and conference room
- fees for dial-out calls charged by the second depending on the line being called
- Phonesty does not charge for dial-in calls to our system

2.2) The Customer compensates the Provider for its services through a) a basic fee for the *Phonesty Premium* and *Phonesty Professional* service plan.

The fee is due in advance for each invoicing period and is invoiced by the Provider to the Customer at the beginning of the invoicing period or, in the first month, immediately after conclusion of the agreement, through the website of Phonesty. Payment is made by credit card (VISA or Mastercard), by bank transfer to the German bank account indicated on the Provider's website or by direct debit.

The invoicing period is generally one month.

If the agreement begins during an invoicing period, the monthly fee is not charged for the first month.

and

b) payment of the per-minute rates indicated in the country table on the Phonesty website (www.phonesty.com), under the *Phonesty Free* and *Phonesty Premium* payment plans. These rates may vary depending on the payment plan selected, the country/region selected from the Phonesty system and the type of line.

The Customer should consult the country table to ascertain the current per-minute rates before any new call through the Phonesty system. Those rates may vary, since they depend on the prices of the providers employed by the Provider.

The Customer may deposit funds in his or her account with Phonesty GmbH in stages.

Charges for calls are assessed by the second.

The assessment of charges for dial-out calls begins with the lifting of the receiver, i.e. once the call is answered by the recipient of the call.

Existing calls are ended if the remaining balance in the Phonesty customer account is not sufficient for one more full minute with the

code dialed.

Likewise, no more calls may be made if the balance is lower than the rate for a full minute with the code dialed.

Accordingly, it is possible for a small residual balance to remain in a Phonesty customer account which cannot be used for outgoing calls.

2.3) Adaptation of Fees

The Provider may adapt the fees to general list prices on a daily basis. The Customer has a right of termination if fee rates increase by over 10%.

2.4) Process

Unless otherwise stipulated, the compensation is assessed through a per-minute fee for calls made, which may vary by destination country and the type of network of the recipient of the call, and possibly a basic monthly fee at the rates indicated in the latest version of the Provider's price list. Fees are generally indicated as a gross amount, including any value-added tax.

3.) Customers/Registration

3.1) Users

Legal entities or natural persons 14 years of age or higher can register at Phonesty.

Phonesty customer accounts can only be opened by persons with residence or permanent establishment within the European Union.

3.1.1) *Phonesty Free*

This service is available to natural persons with residence in the European Union and 14 years of age or higher for private use.

Teenagers between 14 and 18 years of age may deposit a balance of no higher than EUR 20 in their Phonesty account. *Phonesty Free* is limited to one customer account per person.

3.1.2) *Phonesty Premium*

This service is available in addition to 3.1.1 for non commercial use to recognized charitable associations and non profit organizations located in the European Union.

3.1.3) *Phonesty Professional*

This service is available in addition to 3.1.1 and 3.1.2 for commercial use to businesses with permanent establishment in the European Union. For businesses with permanent establishment outside of Germany invoices without VAT can be provided. This requires that a valid "VAT Identification Number" is provided. A „proof of registration for VAT purposes in the country of residence“ may also be required in some cases.

3.2) Requirements for Use

As a requirement for use, the Customer must first register on the website of Phonesty GmbH. For calls into the PSTN (Public Switched Telephone Network), i.e. the landline and mobile phone network, the Customer must first transfer funds to the Customer's personal account. In order to use the telecommunications services of Phonesty GmbH, the Customer must have the necessary terminal devices, e.g. PC, headset, landline, cell phone or SIP phone.

4.) Conclusion of Agreement, Term, Compensation, Payment, Reservations, Early Cessation, Termination, Deadlines

4.1) Conclusion of Agreement

The agreement is concluded when the Customer confirms the order to open a customer account with Phonesty GmbH. An agreement relating

to paid services is concluded when the Customer confirms the order to open a personal Phonesty account.

4.2) Assessment

The Provider may charge a basic fee each month. The fee for dial-out calls (outgoing calls through the Phonesty system) is assessed immediately after use. Both fees are deducted from the Customer's Phonesty account. If the fee for services is charged by expense, the Provider will document the type and duration of the activities and convey this documentation to the Customer, upon request, together with the invoice, for a separate fee.

All invoices, except insofar as payment was made by prior deposit to the customer's account, are generally due immediately after receipt including transaction fees, without deduction. Invoices will be sent after payments in pdf format by e-mail to the Customer's e-mail address indicated in the registration.

The Customer may only set off claims or withhold payment against claims which are undisputed or established by final and binding judgment.

4.3) Withholding Payments due to Defects

The Customer may only withhold payments due to defects in an amount proportional to the defect, and only if the defect is not in doubt. The Customer has no right of retention based on defect claims which have expired.

The Provider is entitled to prohibit further use of the services for the duration of the Customer's default on payment. This does not constitute rescission of the agreement. § 440(2) of the Civil Code remains unaffected.

4.4) Return of Services

If the Customer or its customers return the services, acceptance of the services by the Provider does not constitute rescission except insofar as the Provider expressly declares rescission. The same applies for the attachment of reserved goods or rights to reserved goods by the Provider.

4.5) Customer's Inability to Pay

If the Customer is financially unable to perform his or her duties towards the Provider, the Provider may end existing exchange agreements with the Customer without notice through rescission and continuing obligations through termination, even if the Customer files a petition for insolvency. § 321 of the Civil Code and § 112 of the Insolvency Code remain unaffected. The Customer will notify the Provider in a timely manner of an impending inability to pay, in writing. If the Customer is in default on payments by more than one monthly, the Provider may terminate the agreement without notice.

4.6) Term

This agreement has an indefinite term. The invoicing period is the calendar month. The basic fee for the month in which the agreement is concluded will not be charged to the Customer by Phonesty. In other words, the first monthly fee will be due at the beginning of the first full month of membership.

4.7) Termination

The Customer may terminate the agreement at any time in the member area of the Phonesty website or in writing, by letter or fax, effective the end of the following month.

Phonesty GmbH may terminate the use relation without citing grounds, observing a notice period of 6 weeks.

4.8) Right of Modification and Suspension by the Provider

Phonesty GmbH is entitled to modify or suspend the

telecommunications services and terms of use. The Customer will be notified in suitable fashion, e.g. by be-mail, in such a case.

4.9) SEPA-Debit

The Phonesty GmbH agrees with its customers on a different period for sending the preliminary information on SEPA debits. The period shall be at least 5 days for initial debits and at least 2 days for subsequent debits.

The Phonesty GmbH also agrees with its customers that the mandates for SEPA debits can also be done in compliance with the written form without handwritten signature by means of electronic transmission.

5.) Cooperation, Cooperative Duties, Confidentiality

5.1) Duties of the Customer in case of Defects

The Customer is obligated to assist the Provider to the extent necessary and to create all necessary conditions within the Customer's sphere for proper execution of the order.

The Customer must report defects immediately in detailed and comprehensive form, indicating all information expedient for identification and analysis of the defects, in writing. In particular, the Customer must indicate the actions which led to discovery of the defect, as well as the form and impact of the defect.

The Parties will impose these obligations upon their employees and any third parties which they employ.

If the Customer fails to report defects to the Provider without delay, any claims of the Customer against the Provider for compensation of damages or refunds will expire.

5.2) Security Risks in Communication

The Parties are aware that electronic and unencrypted communication (e.g. by e-mail) involves security risks. Accordingly, they will not assert claims based on the absence of encryption in this form of communication except insofar as encryption was stipulated beforehand.

5.3) Recording of Conferences

If a user records a conference, i.e. records in any audio format onto a sound or data storage medium, the consent of all other conference participants must be obtained first. It has no bearing in this regard whether the recording was performed through the Phonesty system itself or through another technical means.

5.4) The Customer can set two PINs for use of the Phonesty service (an Admin PIN and User PIN), as well as a password. The password and the Admin PIN for the restricted-access section of the website, as well as for the Phonesty services available directly by telephone (see 3.2 above) must be kept strictly confidential by the Customer. If the Customer breaches these duties to exercise due care and if disposals are made by an unauthorized third party based on knowledge of this data, the Customer is responsible for those disposals.

5.5) A lot of important communication between Phonesty and the user (also concerning the contract) is done by e-mail. The user therefore obligates to provide a valid e-mail address during registration, to retrieve new message on a regular basis and to inform Phonesty immediately when the e-mail address changes.

5.6) All changes which could influence the line of communication have to be reported to Phonesty immediately. This obligation includes in particular:

- Address change of the customer
- Change of e-mail address

5.7) The user is only allowed to use the services of Phonesty according

to the (telecommunication) laws and regulations in the relevant version. The user obligates that he will not abuse the offered services to means which could contradict these terms.

6.) Disruptions in Performance of the Service

6.1) Disruptions for which the Provider is not Responsible
If observance of deadlines is impeded by a cause for which the Provider is not responsible, including strike or lock-out ("disruption"), deadlines will be extended by the duration of the disruption, including a reasonable restart phase if necessary.

6.2) Rescission by the Customer based on Defects
If the Customer may rescind the agreement based on improper performance by the Provider or alleges such a right, the Customer will declare in writing, at the Provider's request, and within a reasonable period, whether the Customer intends to assert this right or prefers to continue performance of the service. In case of rescission, the Customer must reimburse the Provider for the value of pre-existing use rights.

6.3) Default, Availability and Compensation of Damages
If the Provider defaults on performance of the service or if performance of the service as a whole is impossible, any compensation for damages or reimbursement of expenses to the Customer is hereby excluded.

6.4) Phonesty GmbH particularly reserves the right to shut off national and international telephone numbers at a month's notice and replace them with new numbers.

6.5) Phonesty GmbH is not responsible for the freedom from error, availability and usability of the telecommunications services offered thereby.
In case of a delay in performance, the Customer has a right of rescission, within the bounds prescribed by law, only if the Provider is responsible for the delay. The Customer has no claim for compensation of damages or reimbursement of expenses in lieu of performance based on such delays.

In the Phonesty Professional service plan the Phonesty GmbH guarantees the accessibility of its telecommunication systems to 95% in annual average.

7.) Material Defects and Reimbursement of Expenses

7.1) Immaterial Deviations
No claims based on material defects exist for immaterial deviations in the Provider's services from the contractual quality.

7.2) Additional Exclusions
Claims based on defects also do not exist in case of excessive or improper use, natural wear and tear, the failure of components of the system environment, software defects which are not reproducible or otherwise demonstrable by the Customer and in case of damages based on specific external factors.

7.3) Modification of Websites and Functions by the Customer
The Customer is not entitled to modify the software, the content of the websites or other functions of the Phonesty service.

7.4) Limitation of Claims based on Material Defects
Claims based on material defects expire within one year of the date the statutory limitation period begins. The statutory periods for recourse claims in accordance with § 478 of the Civil Code remain unaffected,

as well as claims based on intentional or grossly negligent breach of duty by the Provider, malicious concealment of a defect and in case of injury to life, limb or health.

The processing of a material defect notice by the Provider only suspends the limitation period insofar as the statutory requirements are met. The limitation period does not begin anew as a result.

Subsequent performance (redelivery or repairs) may have an impact only on the limitation period of the defect which triggers the subsequent performance.
The Provider may request reimbursement of its expenses insofar as

a) it acts based on a report and a defect does not exist, except insofar as the Customer could not recognize at reasonable expense that no defect existed;

b) a reported disruption is not reproducible or otherwise demonstrable by the Customer as a defect; or

c) additional expenses accrue due to improper performance of the Customer's duties.

This particularly applies in case of cancellation by credit companies due to insufficient funds in the Customer's bank account or unjustified cancellations of credit card payments by the Customer ("chargeback"). In such cases, Phonesty GmbH will charge the Customer a processing fee of EUR 50.00 in each case.

If the Customer requests the transfer of funds paid in to the Customer's account by banking transfer or debit entry to another account (refund), Phonesty will execute the transfer only after the debit entry amount has been credited to the Customer's account for at least six months.
If a payment initiated by debit entry is not executed for reasons for which the Customer is responsible, such as erroneous information, revocation or insufficient funds in the originating account, Phonesty will charge the Customer the fees assessed by the involved banks and payment providers.

If the Customer selects the "bank transfer" payment method on the payment website of Phonesty GmbH and a specific payment amount and then transfers a sum which deviates from the selected amount to Phonesty GmbH, Phonesty will charge a processing fee of EUR 2.00 in each case.

These fees may be deducted from the Customer's account balance.

Otherwise, Phonesty reserves the right to hire a collection company to enforce any claims.

7.5) Quality Inspection
The Customer will inspect the service within 7 calendar days to ensure freedom from defects, particularly the contractual quality (quality inspection) and report any defects to the Provider by e-mail without delay.

The Customer will properly report any defects arising during or after the quality inspection without delay, though no later than seven calendar days after obtaining knowledge. Only if defects are reported without delay does the customer have a right to compensatory damages or refunds, if such a right exists.

7.6) Duties of the Provider
The Provider warrants for the conformance of the services with the contractual quality upon contractual use. The GTCs of Phonesty

GmbH apply exclusively for material defects and defects in title. The Customer has defect claims only if reported defects are reproducible or otherwise demonstrable.

8.) Defects in Title

The Provider is only liable for the infringement of third-party rights by its services insofar as the service is used in accordance with the agreement and, particularly, within the use environment stipulated in the agreement.

The Provider is only liable for the infringement of third-party rights within the European Union and the European Economic Area, as well as to the place of contractual use of the service.

If a third party asserts claims against the Customer alleging that a service of the Provider infringes upon its rights, the Customer will notify the Provider immediately. The Provider and its upstream suppliers, if any, are entitled, but not obligated, to contest the alleged claims at their cost, to the extent possible.

The Customer is not entitled to acknowledge third-party claims without giving the Provider reasonable opportunity to contest the third-party rights in another fashion.

If third-party rights are infringed by a service of the Provider, the Provider will, at its choice and at its own cost, give the Customer the right to use the service, make the service free of infringements or take back the service and refund the fees paid by the Customer (minus a reasonable compensation for use) if the Provider cannot implement any other remedy at reasonable expense.

Reasonable consideration is to be given thereby to the interests of the Customer.

9.) General Liability of the Provider

The Provider is liable to the Customer in each case

- α) for damages caused through intentional action or gross negligence by the Provider, its legal representatives or vicarious agents;
- β) in accordance with the Product Liability Act; and
- γ) for damages arising from injury to life, limb or health for which the Provider, its legal representatives or vicarious agents are responsible.

The Provider is not liable in case of slight negligence except insofar as it breaches a material contractual duty.

In case of property and pecuniary damages, this liability is limited to typical and foreseeable damages.

The Provider is expressly not liable for lost profit and unrealized savings. Liability for other indirect consequential damages is excluded.

Liability for each individual damage event is limited to the contractual value, or to the amount of compensation per year of the agreement in case of recurring compensation. 7.4 above applies accordingly with respect to the limitation period.

The Provider is liable for compensating damages under warranties only if such damages are expressly included in the warranty.

Otherwise, the Provider is not liable for compensating damages except insofar as intentional or grossly negligent failures exist on its part.

The Provider is not liable for the loss of data. The Customer hereby acknowledges that Phonesty is not responsible in any way for customer data stored in the Phonesty system, such as is the case e.g. for telephone book or calendar entries. This applies for the loss, damage

and accuracy of the data.

The Customer is responsible for securing his or her data e.g. through routine back-up copies.

A current version of a common internet browser, such as Microsoft Internet Explorer or Mozilla Firefox, is necessary for use of some services of Phonesty GmbH and for the Customer's initial registration. The Provider is not liable for breakdowns or inability of use due to an incompatible system configuration on the Customer's computer.

10.) Miscellaneous

The Customer is responsible for complying with import or export laws applicable for the services or deliveries, particularly those of the United States of America and the European Union. In case of cross-border service or delivery, the Customer will pay any tolls, fees and other duties. The Customer is responsible for handling statutory or official procedures in connection with cross-border services or deliveries unless expressly stipulated otherwise.

German law will apply.

The applicability of the UN Sales Convention is hereby excluded.

The place of jurisdiction is the registered office of Phonesty GmbH in Munich, Germany.

The Provider provides its services based on its General Terms and Conditions of Business (GTCs). The Customer's GTCs do not apply, even if the Provider does not expressly object thereto.

The acceptance of services by the Customer constitutes recognition of the Provider's GTCs and a waiver of the Customer's GTCs.

Other terms and conditions are binding only if expressly recognized by the Provider, and the Provider's GTCs will apply additionally in that case.

Modifications and additions hereto may only be made in writing.

11.) Rights of Use and Protection from Unauthorized Use

Use of the services of Phonesty GmbH is limited to legal entities, or private individuals aged 14 years or higher.

Otherwise, all rights remain with the Provider.

The Provider is entitled to take reasonable technical measures to protect against use in violation of the agreement. The use of software in an alternate or trailing configuration may not be materially impaired thereby.

The Provider may revoke the Customer's use right if the latter commits a material breach of use limitations or other provisions for the protection against unauthorized use. The Provider must set a grace period for the Customer to pursue remedies prior to revocation. In case of repetition or unusual circumstances which, weighing the interests of both parties, justify immediate revocation without a grace period, the Provider may pronounce revocation without a grace period. The Customer must confirm cessation of use to the Provider in writing after revocation.

12.) Delivery and Passage of Risk

Unless otherwise stipulated, the Provider will deliver the service objects on its website to the Customer through electronic transmission or by making them available for download. If the service objects are made available for download, the Provider will notify the Customer of their availability.

Insofar as the service objects are transmitted electronically, the risk of accidental loss will pass to the Customer upon receipt by the tele-

services provider employed by the Provider for the transmission. Insofar as the service objects are made available for download, the risk of accidental loss passes to the Customer upon availability and notification of the Customer thereof.

The Provider is not liable for the non-availability of its services e.g. due to technical disruptions affecting the Customer, its internet and/or telephone providers or the internet and/or telephone provider of Phonesty GmbH, due to failures in the computing/data centers employed by Phonesty GmbH or their internet and/or telephone providers or other service providers, and due to maintenance and optimization work to the services of Phonesty GmbH.

13.) Hotline

The Provider will set up a hotline for the Customer. This hotline will process the Customer's inquiries in connection with technical requirements and conditions for use of the telecommunications services offered, as well as specific functional aspects.

The hotline will not provide services in connection with the use of non-approved environments (particularly uncommon PCs, operating systems and internet browsers).

Acceptance and Processing of Inquiries

In making inquiries to the hotline, the Customer will make use of forms made available by the Provider, if any. The hotline accepts such inquiries by e-mail during the Provider's normal business hours. Those are Monday through Friday, 9 AM to 5 PM, Central European Time. The Customer has no claim to process of his or her inquiry by the Provider within a certain period of time.

The hotline will assess proper inquiries in the course of ordinary business and answer them to the extent possible. The hotline may answer inquiries by referring to the documentation available to the Customer and other educational material, particularly the online help and "FAQ"(list of frequently asked questions on the website of Phonesty GmbH).

14.) Right of Use

14.1) Versions

The Customer's rights to use new versions and other modifications of the Phonesty service conform to the rights to use the previous version of the Phonesty service. With respect to rights of use, rights to new versions and other modifications take the place of rights to previous versions and other modifications after a reasonable transitional period, usually no more than one month.

14.2) Delivery

The enabling of use of new versions and modifications is made in the same way as provision of the first version used by the Customer.

15.) Right of Rescission

The Customer is entitled to rescind the agreement within 14 days if the conclusion thereof without citing grounds. This can be done in the member area of the Phonesty website or with a written notice by letter, fax or e-mail to the Provider.

Services received by both parties will be returned upon the Customer's rescission of the agreement. Any benefits gained must be returned or refunded (e.g. calls which were already made).

16.) Scope of Use

16.1) Consent of the Recipient

Communication through the Phonesty service may only be made with subscribers who consent to such communication or whose content may be assumed.

Use for abusive purposes such as telephone marketing or "spamming" is prohibited.

The Customer hereby agrees to comply with the laws in force in the Federal Republic of Germany (particularly laws for the protection of youth).

16.2) Paid Service Numbers

The Phonesty system can also be used to reach paid service numbers (in Germany, e.g. 0190 or 0180x) in various countries. In rare cases, operators temporarily change the fees for such numbers so that the prices and fees deposited in the Phonesty system for those numbers are not up-to-date. In such cases, Phonesty GmbH reserves the right to charge additional fees as soon as it receives knowledge of the change in the service provider's fees.

In rare cases, such service numbers are set up, in Germany and abroad, for the purpose of abusing the services of providers like Phonesty GmbH. In such cases, Phonesty GmbH will charge the user for the damages it sustains. Phonesty GmbH also reserves the right to take legal action in that regard.

17.) Resale

The services of Phonesty GmbH may not be resold by the Customer. Deviations from the above sentence must be agreed upon with Phonesty GmbH separately and in writing.

18.) Data Protection

The personal data of Customers of Phonesty GmbH are treated confidentially and are only processed lawfully and fairly within the scope allowed by the Data Protection Laws of the Federal Republic of Germany and the General Data Protection Regulation of the European Union.

The data is electronically processed.

Phonesty ensures by using adequate technical or organizational measures the appropriate security of the personal data, including protection against unauthorized or unlawful processing and against accidental loss, destruction or damage.

Phonesty GmbH never transfers personal data to third parties except when it's legally dictated following all legal requirements.

Phonesty does not process personal data for automated decision-making or profiling.

Only data is stored and processed which is necessary for the fulfillment of the contract or for compliance with legal obligations.

Personal data is only stored and processed within the scope of the following laws and regulations: §89 of the Telecommunications Act, §5(1) and §6(1) of the Telecommunications Data Protection Regulation and §5 and §6 of the Tele-Services Data Protection Act.

The following data is collected at registration and stored as long as the Phonesty membership exists. The data is necessary for billing and for

communication with the Customer.

- Organization (optional)
- Gender
- Firstname
- Lastname
- Postal address
- Date of birth
- E-Mail address

After timely cancellation all personal data is deleted unless other laws or regulation dictate further storage of the data.

Call data is stored within the storage period stipulated by law unless the customer expressly requests deletion of the Customer's data in writing.

The following data is stored.

- Date and Time
- Direction (in/out)
- CallerID
- Hangup Cause
- Duration
- Rate

Call data is automatically deleted after 3 months.

Cookies: Phonesty does not store cookies when visiting the public Phonesty webpages. For the member area cookies are stored for authentication. When logging out the cookies are deleted.

The following cookies are used.

- __ac_user
- __ac_session

You have the right to request information about, access to and rectification or erasure of your personal data or restriction of processing concerning the data subject or to object to processing as well as the right to data portability. If you want to execute any of these rights please send an e-mail to support@phonesty.com.

There is a right to lodge a complaint with Bundesnetzaagentur.

Data protection official is Florian Trinkwalder (Contact: support@phonesty.com).

19.) Severability

Any invalidity of a provision hereof shall not affect the validity of the remaining provisions.

The invalid provision shall be replaced in that case by the provision which most closely approximates the intended meaning.

20.) Notes

20.1) "pdf" is a trademark of the Adobe company.

20.2) "Phonesty" is a trademark of Phonesty GmbH