

## **General Terms and Conditions for Using Aracuba Experts Services**

valid from 24.05.2018

Service provider: Aracuba GmbH (hereafter 'provider')

### **1. Scope of Validity**

- 1.1 The following terms and conditions apply for all services offered by the provider on the platform, Aracuba Experts, and regulate their use.
- 1.2 By registering, the user expressly accepts these general terms and conditions and the data protection declaration.
- 1.3 Persons under the age of 18 are not permitted to use any of the provider's services.

### **2. Registration/Contract Completion**

- 2.1 In order to use the provider's services, it is necessary to register on [www.aracuba.info](http://www.aracuba.info). Registration on [www.aracuba.info](http://www.aracuba.info) requires an email address and a password selected by the user.
- 2.2 The user is obliged to provide fully complete and accurate information while registering. The provider reserves the right to check certain entries for correctness in individual cases.
- 2.3 Registration is not a right. The provider is permitted to reject a registration without providing a reason.
- 2.4 Each user may create a maximum of one user account. If several experts from the same company would like to use the provider's service, each expert is obliged to create their own individual user account.
- 2.5 When registering on [www.aracuba.info](http://www.aracuba.info), a registration confirmation will be sent to the email address provided by the user to confirm the registration. The user must click on the activation link in the email in order to complete the registration process.
- 2.6 Registration creates a contractual relationship between the provider and the user, which is governed by these general terms and conditions and the data protection declaration.
- 2.7 The customer can access the provider's service once the first annual fee has been paid. Once the first annual fee has been paid, the user will receive access information (URL, password, log-in identification) for the user's user account ('account') that can be used to log in.

### **3. Services**

- 3.1 The provider offers the user access to a platform in the following ways:
  - via the provider's domain, such as <https://www.aracuba.info> (this will be used to represent all domains below)
  - via a cooperation partner's website linked to the provider's service and website – this may adapted to suit the cooperation partner's graphic design
- 3.2 The provider allows the user, as a member of the platform, to present him/herself and his/her achievements, and facilitates the forming of cooperations with other platform users. There are two types of membership. Established experts can register as Aracuba Experts. Up-and-coming experts and interested laypersons can register as Aracuba Future Experts.
- 3.3 The platform includes Aracuba Expert profiles, which all Aracuba Experts can view. Aracuba Experts can:
  - create a profile (at most for him/her personally and his/her company) and upload photos (portraits, logos etc) and data (e.g. project descriptions)
  - communicate with other users (e.g. send and receive messages)
  - create and comment on content
  - take part in contests for Aracuba Experts

- 3.4 An Aracuba Future Expert can follow the content and discussions of Aracuba Experts and take part in contests for Aracuba Future Experts. An Aracuba Future Expert can become an Aracuba Expert by taking part in contests and external further education (completed training and/or professional experience in the field of renewable energy is required), and will then have the opportunity to register as an Aracuba Expert.
- 3.5 The provider is permitted but not obliged to check content created by the user for compliance with legal requirements and these general terms and conditions, and may, if necessary, delete this content at their own discretion without prior notification to the user.
- 3.6 The provider is permitted to make changes to its services at any time based on the technical and economical development of the internet, legal regulations or legal requirements, as well as for the purposes of developing the provider's own products and those of third parties.

#### **4. Costs and Payment Conditions**

- 4.1 The use of daily news, external studies, reports and links to educational services is free of charge.
- 4.2 The user can only fully benefit from the Aracuba Expert platform, i.e. use all features without restrictions, by becoming a member.
- 4.3 Membership fees are outlined here.
- 4.4 If the user would like to become a paid member, he/she will be notified of this payment obligation in advance. The applicable costs for paid membership, as well as relevant payment methods, will be explained.
- 4.5 Any objections to costs debited or invoiced must be communicated to the provider by the user within 14 days of the debit or receipt of invoice. If the user does not communicate any objections within 14 days, the debited/invoiced costs will be considered accepted. This opportunity to raise justified objections is not to be confused with the right of withdrawal concerning entering into a membership contract (see §19). The raising of objections does not affect the contract's extension in accordance with §12. Fees for the provider's paid services will be paid by the user in advance using the payment method selected by the user. The general terms and conditions of the relevant payment system provider shall apply for the transaction, as outlined at the relevant location. Fees must be paid via the relevant payment system provider in accordance with applicable terms of use.
- 4.6 If the user does not fulfill his/her payment obligations and/or payments are not carried out or are returned, the provider is permitted to block the user's access, subject to further claims. If access was blocked due to unpaid fees and the user then pays these fees, access will be unblocked.
- 4.7 The provider reserves the right to transfer debts to third parties.

#### **5. The User's Obligations, Duties and Behavior**

- 5.1 In order to fully use the provider's services, the user must use the most up-to-date browser technology or facilitate their use (e.g. activate Java Script, Cookies, pop-ups). If using older technology, the user may not be able to fully use the provider's services.
- 5.2 The user is to keep access data (password, user name) strictly confidential and protect this from unauthorized third party access. No other person may be aware of this access data, including the provider's employees. If the user has reason to believe that his/her access data (password, user name) has become known by a third party in any way, he/she is obliged to change his/her password immediately and to inform the provider. If the user provides a third party with his/her access data (password, user name), the user is liable for any subsequent damages.
- 5.3 The user is obliged to exclusively use the provider's services for their designated use and to refrain from any actions that may damage or endanger the provider or any other users and/or reduce access to the services for other users. The term 'designated use' also extends to the upholding of all notes, recommendations and similar issued by the provider upon entering into the contract or afterwards, on the provider's website, in the instructions of use and/or any other documents provided to the user.
- 5.4 The provider offers the user the opportunity to create content on the platform, and to

communicate and interact with other users. The user assures that he/she will not misuse the provider's services. The user must adhere to the following regulations:

- 5.4.1. Personal data is entered into the user's profile at the user's own risk. The entry of (or reference to) a personal email address or telephone number into the user's profile is not permitted.
- 5.4.2. The publication of third party data (e.g. the creation of a profile for a third party) is only permitted with the express permission from the relevant third party.
- 5.4.3. The user is solely responsible for the content saved to his/her profile. When creating a profile, the user is obliged to comply with all relevant legal requirements (e.g. the Criminal Code (StGB), Pornography Act, Youth Protection Legislation, any applicable bans, the Telecommunications Act 2003 (TKG 2003), the eCommerce Act (ECG), Media Law, Copyright Law (UrhG), regulations against unfair competition (UWG), the Data Protection Act, and any and all personal rights outlined in other laws such as the Austrian Civil Code (ABGB) etc) and to refrain from publishing any information/images that may be immoral, pornographic, obscene, racist, violent, politically radical (right or left wing), insulting or unlawful in any other way, such as content that trivializes violence.
- 5.4.4. The user is also obliged to refrain from threatening or harassing third parties and/or violating their (personal) rights in any way.
- 5.4.5. The user assures that he/she will not upload any data to the platform that contains viruses or software and content subject to third party copyright (unless the user has the required rights or the permission of the party with the required rights).
- 5.5. Regardless of civil and criminal consequences, the user must indemnify and hold harmless the provider from any and all third party claims arising from violations of user obligations in accordance with §5 of these terms and conditions.

## 6. Rights of Use and Copyright

In the relationship with the user, the provider is the sole owner of all copyright, including the rights to copy, distribute and edit, as well as the right to physically transfer and reproduce, the platform and all its content. It is not permitted to copy or further publish content, especially profiles and email addresses of other users, without the provider's written permission. All published works and information are subject to the provider's copyright. The only exceptions to this are published works and information created by users or a third party that were taken on by the provider unchanged for publication online, or that the provider was only given access to via a hyperlink. The user is solely responsible for the press and competition obligations relating to the content provided by him/her for publication. By registering, the user is confirming that he/she has free access to all required rights of use from the copyright holder and/or owner of performance protection rights and/or other rights relevant to the documents, information and data provided by the user. Use of the platform and its content, material, trademark and trade name is solely permitted within the purposes outlined in these terms and conditions.

## 7. Accessibility/Guarantee

- 7.1 The provider does not guarantee constant access to the services. Downtime due to maintenance, software updates, and other circumstances (such as third party technical problems, force majeure) not under the provider's control, and therefore not at the provider's fault, cannot be ruled out and may result in the provider's services being inaccessible via internet. The user shall not pursue any claims for damages and/or guarantee relating to lack of accessibility.
- 7.2 The provider does not guarantee that the services will meet the user's expectations, especially in relation to the assumption that successes (e.g. finding a partner) will arise from using the platform or other services.
- 7.3 The provider is permitted to delete messages saved to the user's account after 30 days of their receipt without notice.

## 8. Liability

- 8.1 Insofar as is legally permissible, the provider will only be held liable for damages relating to this contract caused by the provider, the provider's employees and/or vicarious agents in the case of gross negligence or intent. These liability limitations do not extend to the compensation of personal damages.
- 8.2 Regardless of the liability limitations outlined in §8.1, the provider's liability for subsequent damages, loss of profit, data loss and pecuniary loss is expressly excluded.
- 8.3 The provider will not be held liable for content published by the user on [www.aracuba.info](http://www.aracuba.info), nor any resulting damages.
- 8.4 The provider expressly states that they do not have any influence on linked internet content. The provider does not appropriate the content of these linked sites, and will not be held liable for its correctness, completeness or currentness. The provider is not responsible for this content containing any viruses or other malware.

## 9. Discontinuation of Services

The provider has the right to wholly or partially discontinue the service, which forms the object of this contract, if the safety of the provider or the users is endangered. This right of discontinuation also extends to the service's continuation being economically unviable. The provider will inform the user of such measures immediately.

## 10. Sanctions

If the user violates these terms and conditions, the provider reserves the right to:

- 10.1 warn the user
- 10.2 delete the user's content
- 10.3 permanently or temporarily suspend the user and/or terminate the contract in accordance with §12 and delete the user's profile, especially but not necessarily if the user has violated §5.2 to §5.4.

## 11. Changes to these Terms and Conditions

The provider has the right to change these terms and conditions at any time. The provider will inform the user of any such changes by sending the new terms and conditions to the email address provided when registering. Any changes to the terms and conditions grant the user the right to terminate the contract in writing within one month of the notification of change. If the user does not exercise this right of termination within one month, the changes shall be considered accepted.

## 12. Duration/End of the Contract

- 12.1 This contract shall apply for 12 months (minimum contract duration). It will then automatically extend by an additional 12 months if the contract is not terminated before the end of the minimum or extended duration.
- 12.2 The provider may terminate the contract without notice in writing for an important reason. This may include:
  - 12.2.1. If the user violates §5.2 to §5.4
  - 12.2.2. If the provider has informed the user of a violation of this contract and set a 14-day deadline to correct the violation, but the user has failed to do so
- 12.3 If the user's access is blocked due to a contractual violation, there is no claim to a refund of membership fees.

### 13. Independent Service Providers

- 13.1 Services offered on the platform by third parties (ICP: internet content providers) may be subject to additional conditions and may require the payment of an additional fee. The user is obliged to inform him/herself of the ICP's fees and terms and conditions before entering into any service agreements. The contract for the ICP's services is exclusively between the user and the ICP – the provider is not involved.
- 13.2 The provider will not be held liable in any way for any ICP services.

### 14. Confidentiality

- 14.1 The user is obliged to treat confidentially any information or data received in relation with use of the platform. The user may not make this information available to third parties in any way, either wholly or partially, either directly or indirectly, without express permission in advance.
- 14.2 The provider and the user are obliged to adhere to the provisions outlined in the Data Protection Act (DSG) 2000, as well as all other legal confidentiality regulations.
- 14.3 The above provisions apply after the contract has ended.

### 15. Place of Fulfillment/Jurisdiction/Applicable Law/Contractual Language

- 15.1 All disputes arising from the use of the Aracuba Experts platform are exclusively subject to Austrian Substantive Law with the exception of international private law reference norms (such as the IPRG, Rom I VO), as well as the UN Sales Convention.
- 15.2 For all direct or indirect disputes arising from the use of the Aracuba Experts platform, the relevant Austrian court responsible for 1220 Vienna is the agreed place of jurisdiction. In the case of legal disputes involving consumers that are resident or employed in Austria, the relevant legal court of jurisdiction shall apply. The place of fulfillment is Vienna.
- 15.3 The contractual language is German. In the case of a translation into another language, the German version will be used as the authenticated version for interpretation.

### 16. Partial Invalidity

If certain parts of this contract become legally ineffective, unenforceable and/or invalid, all other provisions shall remain unaffected. The contractual parties are obliged to replace the ineffective, unenforceable and/or invalid clause with an effective, enforceable and valid clause that resembles the original clause's effect and aim as closely as possible – insofar as this is possible and legally permissible.

### 17. Final Provisions

- 17.1 All legally binding declarations relating to this contract must be made in writing and sent to the latest email address provided by the relevant contractual partner. As long as a declaration is sent to the partner's last known email address, the relevant contractual notification shall be considered received.
- 17.2 The titles of individual sections in this contract are solely intended to provide better orientation and are not to be taken into account when interpreting this contract.

### 18. Use, Transfer and Forwarding of Data/Agreement in Accordance with §107 of the TKG (Telecommunications Act)

- 18.1 The provider's Data Protection Declaration is an integral component of these terms and conditions and can be found [here](#). The user confirms that he/she has read, understood and accepted the Data Protection Declaration.
- 18.2 The user consents to receiving messages in the sense of §107 of the Telecommunications Act from the provider, and other companies contracted by the provider, for promotional purposes. The user can withdraw this consent at any time by writing to [office@aracuba.eu](mailto:office@aracuba.eu).

## 19. Right of Withdrawal

- 19.1 If the user is a consumer in the sense of the Consumer Protection Act (KSchG), he/she may withdraw from a contract not made in the relevant place of business – so no statutory exemptions apply – within 14 days of entering into the contract without needing to provide a reason. If this time period ends on a Saturday, Sunday or public holiday, the last day of the withdrawal period shall be on the following business day. Timely dispatch of the withdrawal notice is sufficient to honor the deadline.
- 19.2 The consumer can exercise his/her right of withdrawal for 14 days. In relation to contracts concerning the provision of services, this period shall begin on the day after the contract was entered into.
- 19.3 To exercise his/her right of withdrawal, the consumer can fill out the withdrawal form provided. In order to comply with the 14-day deadline, timely dispatch of the withdrawal notification is sufficient. If the consumer withdraws, his/her user account on Aracuba Experts will be deleted and the user will no longer be able to fully use the platform's services.
- 19.4 The activation of use of the provider's services counts as a service. By actively registering (§2.1), the user expresses the wish to access this service before the withdrawal period is over.
- 19.5 The user recognizes and expressly agrees that, by registering (clicking the activation link), he/she is using the provider's service before the withdrawal period is over, in accordance with §11 of the FAGG. A loss of the right of withdrawal in accordance with §18 of the FAGG is not connected with this.

## Withdrawal Form

If you would like to withdraw from this contract, please complete this form and send it to:

Aracuba GmbH

Commercial Register Number: FN 403243 f, Commercial Court of Registration: Handelsgerichtes  
Wien (Vienna Commercial Court) Register

Address: Dumreichergasse 122/3, 1220 Vienna, Austria

Tel: +43 664 7372 8205

Fax: +43 (0)1 774 12 38

Email: office@aracuba.eu

I/we(\*) hereby withdraw from the contract I/we(\*) entered into regarding the provision of the following  
service: paid use of the Aracuba Experts platform.

Received on...

Name of consumer(s)

...

Address of consumer(s)

...

..., on.././....

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Signature of consumer(s)