

# eXite® - General Conditions of Business

VALID FROM 25. 5. 2018

The eXite platform is an international communication platform securing transfer of electronic documents, using GS1 (EAN) standards (hereafter the eXite System). Operation of the eXite System is managed by EDITEL Austria GmbH. This company has representatives in the countries of both Central and Southern Europe, thus making the eXite System accessible to users in relevant territories. In the Czech Republic, the eXite System services provider, (the purpose of which is electronic business implementation and is hereafter known as the eXite Services), is the EDITEL CZ s.r.o. Company with its seat at V parku 2294/2, Chodov, 148 00 Prague 4, ID No.: 60194383, entered in the Registry of Companies held at the Municipal Court in Prague, section C, file 128840, (hereafter the Operator).

The "eXite" trademark is a mark used by EDITEL Austria GmbH; it is especially used for both the eXite System and eXite Services. This trademark is protected as a Community trademark, properly registered by the Office for Harmonization in the Internal Market (OHIM).

EDITEL Austria GmbH is an Austrian limited company, registered in Vienna Commercial Register (under the business trademark FN 312252 w). The company seat is in Vienna. GS1 Austria GmbH is the member of GS1 group.

## I. General Conditions

The eXite Services are based on: obtaining data and information via telecommunication; translating data packets from the form used by the sender into the form required by the recipient (clearing); and sending the data to the recipient in a form previously agreed upon.

The eXite Services include the following activities:

- Message reception
- Message routing
- Message delivery
- Message confirmation
- Filling of message files
- Conversion of communication protocols
- Web services

Data connection with the eXite System allows sending data to all users connected to eXite System (hereafter the Users) and/or gaining provided data from the Users. Within the eXite System, each User has a choice of both potential partners for data exchange and data type.

The User Guide (hereafter the User Guide) contains the definitions of individual services and technical conditions under which these are provided. Conditions contained in the User Guide form an integral part of the contractual relationship between the Operator and User. The Operator shall be entitled to update the User Guide continuously and the User shall be informed about each change by the Operator at least 30 days in advance. In case of disagreement with the changes proposed by the Operator, the User is entitled to dismiss these at least 15 days ahead of the planned date of their execution. In such case, the contracting parties will launch negotiations regarding the Operator proposed changes. Unless a disagreement is stated, the changes are understood as agreed upon by the User. The provision of the User Guide is bound to the use of the eXite System. The User is entitled to use the eXite Services for the duration of the regular eXite System operating time and for the duration of the agreement authorizing him/her to the use of the eXite Services.

The User declares that he/she has carefully read these General Conditions of Business before the registration. By completing the registration he/she expressly agrees to them, within the meaning of §1753 of the Civil Code of Czech Republic.

## II. Registration / Log on

Unless agreed upon differently in a written form, the contractual relationship between the Operator and User arises on the day of the transfer of the first data, via a newly created box in the eXite System. Usually, it takes 14 days to register eXite System Users. However, a new User is registered only if complete contact data necessary for creating a User's profile is available.

A User can only access data saved in his/her mail box(es). User's access rights are identified in accordance with relevant regulations given in the User Guide.

User's GLN (global location number) serves for identification of a mailbox within the eXite System. A User may register one or more physical mailboxes (each box provides the User with an individual log on). Each physical mailbox may be given one or more logical mailboxes.

## III. Data Formats

In the eXite System, data is exchanged via standardised data formats. Supported data formats are listed below:

- EANCOM, UN/EDIFACT
- SWIFT XML, GS1 XML

Each eXite System User is responsible for his/her data correctness.

## IV. User's Liabilities

An eXite System User is liable to take steps, at his/her own expenses, that will enable him/her to both exchange data within the eXite System and communicate as described in the User Guide.

A User is liable to become familiar with all programmes he/she uses; especially, to verify their proper functioning. Based on trial and control use, a User is liable to secure that no errors will occur during the application run. This also concerns later changes and extensions.

If a User discovers any discrepancy, inconsistency, or a mistake in received messages, he/she is obliged to inform the Operator without further delay. The User is also obliged to announce this fact to the message sender.

If a User receives data or messages intended for someone else, immediately after finding out that he/she is not the intended recipient, the User is obliged to: stop getting familiar with its contents; inform the Operator immediately; and, on call from the Operator, immediately delete the data or messages in question. The User undertakes to keep the contents of such data or messages secret.

The User is not entitled to use the eXite Services for purposes other than for which they are intended; the User is not entitled to use the eXite Services in a way that indirectly violates either valid legal regulations or the regulations of these General Conditions of Business.

## V. Perspectives of Development

The Operator is entitled to change the structure of the eXite Services for the duration of ongoing maintenances.

The Operator is also entitled to change the structure of the eXite Services on account of improvements and/or implementation of the changes to the technical parameters of the eXite System and the eXite Services. The Operator is obligated to inform the User about any changes at least 30 days in advance. An eXite System User agrees to adapt to the changed conditions. In case of disagreement with the changes proposed by the Operator, excluding these on account of the maintenances, the User is entitled to dismiss such changes at least 15 days ahead of the planned date of their execution. In such case, the contracting parties will launch negotiations regarding the Operator proposed changes. Unless a disagreement is stated, the changes are understood as agreed upon by the User.

The User understands that the eXite Services may be temporarily inaccessible due to maintenance work or technical changes. In such situations, the Operator will try to minimize the limitations of the provided eXite Services. The User understands that in such situations, he/she will have to use substitute methods instead of the eXite Services. In such situations, the User is responsible for proper execution of these substitute methods; namely concerning the securing of message transfer between him/her and his/her partners.

## VI. Abuse Protection

The User is responsible for making sufficient precautions securing the safety, so that the entry authorization data is not abused. Among other things, the User bears this responsibility even if the data is abused by the User's current or former employee.

The User undertakes not to allow a third person to use the eXite Services without a previous written approval from the Operator. Violation of this liability is considered an abuse of the eXite System, creating User's obligation to pay damages to the Operator and the Operator's permission to withdraw.

## VII. Data Transfer / Data Protection

During an electronic data exchange between Users, the Operator has the role of an independent providing organisation. This is true provided that the User meets all technical and other conditions given in these General Conditions of Business, and that the User follows all instructions related to the eXite System use given by the Operator. The Operator bears no responsibility for either the contents of the data transferred or the safety of a User's computer network.

During a data transfer within the connection to the eXite System, only the address information of data transferred and the eXite System log on data will be made accessible and used.

The User understands that in order to let him/her use the eXite Services, the Operator needs to be able to have a sufficient access to the User's identification data, possibly to User's data that may be protected by the law on personal information protection (hereafter the Data). Upon commencing to use the eXite Services, the User agrees with having his/her Data processed by the Operator for the purposes of eXite Services provision. On call from the Operator, the User is obliged to provide such consent in a written form, and to provide, if necessary for the eXite Services provided, consent from either his/her employees involved or other physical persons concerned.

## VIII. The obligation to pay damages and guarantees

The Operator is obligated to compensate any damage to the User caused as result of unlawful conduct of the Operator while implementing the eXite Services. Total sum of potential compensation will not exceed the annual fee in relation to all potential loss occurrences within a calendar year. The liability excludes damage caused by smaller negligence; the User acknowledges this fact by using the eXite Services.

The User is liable to continuously undertake precautions to minimize the probability of damage occurrence (namely data processing, protection and back-up; organisational procedures; and operation methods). In case of damage occurrence, the User is liable to take relevant steps aimed at its minimisation.

The Operator is not obligated to compensate the damage or errors caused by either improper or unauthorised use of the eXite Services by a User.

Especially, the Operator bears no responsibility for damage caused by:

- Violation of User's liabilities resulting from these General Conditions of Business;
- Either an action or a failure of a third party delivering products or services required by the Operator in connection with the use of eXite Services;
- Fault of the User; his/her employees, representatives, or contractual partners;
- Violation of copyright; personal data rights; or rights to the information sent by the User via the Operator;
- Violation of patent, or other industrial property, rights, caused by using the equipment and systems of the User, in connection with the equipment and services provided by the Operator;
- Installation; operation; or maintenance of software; hardware; firmware; or other equipment that was not provided by the Operator;
- Transfer and reception of signals by User's equipment that were not provided by the Operator.

Furthermore, the Operator is not responsible for the following:

- Unauthorised access to the telecommunication and other equipment placed within the Operator's facilities;
- Change or destruction of data files, programmes, or other equipment; methods; or leakage of User's information caused by: an accident, unauthorised access, or illegal or improper means. Cases when these were proven to be directly caused by the Operator represent an exception.
- Correctness of the contents of data created by the data sender.

If the data is passed on to other operators (e.g. VAN and EDI networks or platforms) the Operator's responsibility ends at the moment of passing the data to such operators.

## IX. Act of God

Neither contractual party will be held liable for any damage caused by the breach of obligations or the delay, provided that this breach or delay is in/direct outcome of any of the obstacles relieving the contractual parties of the obligation to compensate the damage, within the meaning of § 2913 (2) of the Civil Code (hereafter the act of God).

The following are especially considered an act of God: natural phenomena; wilful conduct of a third person; uprising; riots; strikes; working layoffs; work boycotting; occupation of property important for the fulfilment of liabilities resulting from these General Conditions of Business; war (both un/declared); change of political situation that either excludes or makes the execution of rights and liabilities resulting from these General Conditions of Business excessively difficult; or any other similar cause.

## X. Licence Conditions

Software, which is a part of the eXite System, or which is used for the purposes of the eXite Services by the Operator, may only be used by the User to the extent necessary for using the eXite Services (and only provided that the User is entitled to use the eXite services), and the User must not use it for any other purposes.

The software licence is non-exclusive. It is provided for as long as the agreement is enforced. Provision of the source-code is not a part of the licence. The User is not entitled to make any changes, interventions or decompilations to the eXite System beyond the scope expressly authorized by copyright law.

## XI. Correcting Mistakes and Collaboration

Within his possibilities, the Operator appropriately corrects mistakes caused by either damaged equipment of the eXite System or irresponsible work of employees in the eXite System. In such cases, the User undertakes to offer the Operator necessary cooperation. Such cooperation namely includes: timely reporting of a mistake; help with its exact identification and reproduction; and collaboration aimed at its removal.

If the User does not provide the Operator with necessary collaboration, the operator then considers this fact in the assessment of liability fulfilment by the User.

For the purposes of mistake reporting and correcting, as well as maintenance, the User is provided with a customer line. A third level of customer line (developers) of the eXite System, may access the contents of data transferred; this fact is acknowledged by the User by commencing the use of eXite Services. The Operator is obliged to both keep this data secret and take precautions to secure their safety.

## XII. Prices

All eXite Services prices are listed in a valid price list of the eXite System, available upon request at the email address [sales@editel.cz](mailto:sales@editel.cz). Prices do not include VAT.

The Operator will invoice the User for the eXite Services once a month, after a given month.

The invoices are due within 14 days after the delivery date. If a payment is delayed, the Operator has the right to invoice late charges of 11% per annum, and bill expenses connected to exaction of payments. If User's payment delay exceeds 30 days, the Operator is entitled to discontinue the provision of the eXite Services; this fact is acknowledged by the User on commencing to use the eXite Services. If an invoice is not paid within 30 days from the disconnection of the eXite Services, the Operator is entitled to end the contractual relationship in question by unilateral withdrawal. The Operator has the right to invoice a one-off eXite Services reactivation fee, if the cause of the eXite Services discontinuation was on the part of the User, such as non-payment of invoices, etc. The fee referred shall be determined by a valid price list, available upon request at the email address [sales@editel.cz](mailto:sales@editel.cz). If the cause of the eXite Services discontinuation was on the part of the User, the eXite Services shall be reactivated after the date of payment of sums due and the eXite Services reactivation fee.

The Operator reserves the right to change the prices and due dates. The User will usually be informed on potential changes at least 30 days ahead of time. Changes become valid on the first day of the following month. In case of a disagreement with the changes increasing the prices by 10% or more, the User is entitled to dismiss such changes at least 15 days ahead of the planned date of their execution. In such case, the contracting parties will launch negotiations regarding the Operator proposed changes. Unless a disagreement is stated, the changes are understood as agreed upon by the User.

### **XIII. The eXite System Administrator**

The User is obliged to appoint the administrator and agent of the eXite System; the User is further obliged to announce any other personnel changes immediately. The User is responsible for filling the e-mail addresses into the User's profile; these addresses are necessary for transferring updated system and error reports.

### **XIV. Data Protection**

The Operator is obliged to take technically and commercially appropriate precautions securing protection of data saved in the eXite System, and securing them against an unauthorised access by a third party. The Operator bears no responsibility for the conduct of a third party that manages to gain access to the data illegally, despite these precautions.

If the Operator does not intentionally or by a gross negligence neglect his obligations concerning taken care, the Operator is not responsible for damage; damage complaints thus cannot be executed. In order to maintain necessary data protection, the eXite System User is obliged to keep his/her passwords secret.

### **XV. Period of Contract Duration**

A contractual relationship for using the eXite System is entered into for an unspecified period of time; it may be terminated by any contracting party, in a written form, with a three month notice. The notice begins to run on the first day of the month following the month in which the notice was delivered to the other contracting party. If the User terminates the relationship in reaction to changes to provided service prices, the Operator is given a 30-day period of notice. The User is obliged to hand in a written notice within 30 days from the announcement of changes; otherwise, the User loses the opportunity to terminate the contractual relationship in such a shortened period of notice (unless agreed upon differently).

### **XVI. Withdrawal from the Contract**

Regardless of the regulation in article XV (Period of Contract Duration) of these General Conditions of Business, one of the contracting parties may withdraw from the contractual relationship by a written notice, provided that one of the following situations occurs during the period of the relationship:

a) The Operator may withdraw under any of the following circumstances:

- Bankruptcy proceedings related to the User's property were commenced;
- The User did not pay an invoice within 30 days from the disconnection of service provision, as given in article XII (Prices) of these General Conditions of Business;
- Other serious circumstances occurred. By such circumstances the following is meant, e.g.: material and other damage caused by abuse of the contractual relationship, major infringement of user rights, or by providing information to a third party.

b) The User may withdraw if: bankruptcy is declared; legal settlement against the Operator allowed, or a situation occurs of the same character; or the Operator is no longer able to fulfil his obligations, which leads to either complete or a long-term significant dysfunction of the eXite Services in contrast to the intentions of these General Conditions of Business.

### **XVII. Transfer of Contract**

Rights and obligations resulting from the contractual relationship cannot be transferred onto a third person without a written consent by the other contracting party. However, without a proper reason, this consent will not be denied if the third party is a legal successor of one of the contracting parties taking over all the rights and obligations of his predecessor.

### **XVIII. Publication Ban**

Unless the character of the information, or its content, suggests otherwise, the parties to this contractual relationship will consider all information gained from the other party secret. The parties to this contractual relationship will not spread such information or make it accessible to third parties without a previous written consent of the other party. The commitment to secrecy is proportionately valid even after the termination of the contractual relationship.

This commitment does not cover information:

- That is or will become generally and publically accessible in a way other than by breaching the regulation of this article by the recipient;
- That is known to the recipient, and was freely accessible to him even before accepting it from the other party;
- That will consequently be given to the recipient without a commitment to secrecy; by a third party that is not tied to it in any way;
- The communication of which is required by the law.

### **XIX. Fees**

All future fees and obligations, the existence of which cannot be influenced by the Operator, and which will occur after entering into a contractual relationship, are incurred by the User.

### **XX. Changes and Amendments**

Changes to the contractual relationship and amendments to these General Conditions of Business must take a written form.

### **XXI. Personal Data Protection according to the EU General Data Protection Regulation (GDPR)**

The Operator, by provision of its services, enables the User to communicate and use the Operator 's data operations with other Users, and subsequently to archive data. Within these services, the prerequisites are created for data transmission and/or archiving. The Operator is, to that extent, the Processor of data according to the GDPR (Article 28).

The decision to carry out data transmission, the choice of the recipient and the content of stored or transmitted data and, in the case of archiving, the content of archived data, shall be made by the User themselves.

In view of the above considerations, the Operator undertakes

- to enable secure data transmission, data being transmitted exclusively to the recipient clearly stated by the User;
- to prevent, by means of the state of the art technologies, an access by any unauthorized third persons (third parties) in order to guarantee discretion and confidentiality;
- to provide, in the case of data archiving, the space for organized data storage and, furthermore, to enable the archived data to be transferred to another (external) location selected by the User.

The Operator shall ensure confidentiality and integrity, or data security and confidentiality (protection against unauthorized or unlawful processing and accidental loss, destruction or damage) with regard to the processing of personal data according to the GDPR (Article 4 (2)) and, accordingly, the Operator shall also adopt the GDPR (Article 32) measures necessary to establish the adequate level of security appropriate to the risk, as well as regular testing, assessment and evaluation of the effectiveness of technical and organizational measures in place to ensure security of data processing.

The Operator does not know the content of transmitted messages and is not responsible for the choice of the data recipient. This implies that the Operator shall not be obliged to provide User with assistance in relation to the processing of data, which by its nature and extent exceeds the use of the communication and archiving services and related storage and transmission of data or the content of data thus stored or transmitted. The content of stored or transmitted data and the purpose of data storage or the purpose and choice of the recipient of transmitted data shall be decided solely by the User on their own responsibility as the Controller according to the GDPR.

The User agrees that data stored within the archiving services and data stored and transmitted within the communication services and relating to the individual persons provided by the Operator,

- were processed legally, fairly and transparently according to the GDPR (Article 6);
- were collected for specified, explicit, legitimate purposes and not further processed in a way incompatible with those purposes;
- were accurate and kept up to date;
- were deleted or corrected without undue delay, if incorrect;
- were used and transmitted only to the extent necessary in relation to the purposes for which they are processed, following the principle of data minimisation;
- were stored for no longer than necessary for the purposes for which the data are processed, following the principle of storage limitation.

The Operator shall provide the User with necessary assistance within the use of data network in accordance with the agreement and with support in compliance with the transparency of data provision policy, so that the User can meet the data subject's claims to access the relevant personal data in addition to the content of data being transferred. If necessary, the Operator shall also provide the User with assistance within the use of communication services in the cases of personal data breach according to the GDPR (Article 33 (1)) and personal data breach according to the GDPR (Article 34 (1)).

In the event that the Operator finds, within the framework of its powers, the evidence of personal data breach in connection with data processed by the User, the Operator shall disclose this to the User in accordance with the GDPR (Article 33 (2)) without undue delay.

Furthermore, the User is solely responsible for the fulfillment of the data subjects' rights under the GDPR (Article 12) including the rights to

- information and access to personal data in case of the collection of these data (Article 13 and 14)
- information and access to personal data in case of the processing of these data (Article 15)
- rectification (Article 16)
- deletion [the „right to be forgotten“] (Article 17)
- limitation of the data processing (Article 18)
- notification to third parties to whom the data have been disclosed of any rectification, erasure or blocking carried out (Article 19)
- data portability (Article 20)
- objection (Article 21),
- and that appropriate measures shall be taken to ensure compliance with the obligations (Article 24).

The User grants their consent to the Operator to ensure the provision of communication services between the Users by using the sub-processor, for which the Operator is liable within the scope of its responsibilities. The Operator shall inform the User of any planned changes regarding the sub-processors (replacements or selection of the new sub-processors).

The Operator shall ensure that all persons, who carry out its activities, respect confidentiality.

The User is liable to the Operator for the persons whom the Operator, by the User's authority, authorizes to digitally sign documents within the communication platform, and also for the persons appointed by the User as potential recipients of these signed documents, to have always consented to processing of personal data according to the GDPR (Article 7).

The User shall always delete personal data, if the person concerned withdraws their consent in terms of the GDPR (Article 21) or if it can be excluded that digital signatures have been processed for that person, or if the person identified by the User as a potential recipient withdraws their consent, or if this person who is the potential recipient of the signed documents terminates their employment, of which the User is obliged to notify the Operator without delay to carry out the deletion.

The User shall guarantee to the Operator that the persons, whose data the User provides within the contractual relationship, in particular within the performance of the contract, the bookkeeping the accounting of services, the maintenance and consulting services the User has provided or is supposed to provide to the Operator as part of the information exchange, for reporting and information, even if this information is provided in a permissible manner for marketing purposes, and in the case of being contacted by the Operator for requests, or by persons contacting the Operator on behalf of the User, have always consented to the processing and storage of their data by the Operator and the use of these data by the Operator for the purposes as required by the GDPR (Article 7). Conversely, the Operator guarantees to the User that the persons, whose contact details are provided by the Operator to the User in connection with their contractual relationship, have agreed to the recording, storage and use of data being processed.

The relevant person's data must always be deleted by the User or by the Operator, if that person expressly withdraws their consent or no longer act as a contact party within the contractual relationship, of which the Party shall notify the other Party within a reasonable period of time.