

Terms and Conditions

Stand: 2018-04-06

1 Scope, Subject of the Contract, Language

These are the Terms and Conditions (*T&C*) of binsec academy GmbH, A-4982 Obernberg am Inn, Vormarkt Ufer 50b, (*binsec academy*), pertaining to the participation of its customers (*users*) in online training.

These T&C apply to all contracts with users pertaining to participation in online training, e.g. Pentest Training or other online courses offered by binsec academy.com (the *portal*).

Relevant language for the conclusion of this contract is exclusively German. Translations of these T&C into other languages are for informational purposes only. In case of discrepancies between the different versions, the German text shall prevail.

Registration is available for both private users (private clients, resp. consumers) and business clients, who may participate within the framework of their self-employed activity or as an employee of a company. Users are therefore consumers as well as businesses (§ 1 KSchG).

Users must be at least 18 years of age and have full legal capacity. Users must meet prerequisites and technical criteria required by binsec-academy.com in order to attend courses.

For business clients: Changes of these T&C will be communicated to users in writing or via Email. If the user does not reject these changes within four weeks after receipt of the notice, these changes are deemed accepted. The right to cancel and the effect of silence are communicated to users separately.

2 Definitions

Pentest Training = Abbreviation for penetration tests, i.e. penetrating foreign digital networks, systems, or applications

User account = a user's individualised online access; accessible only via internet by entering the user's secret personal access data once they have registered free of charge, or, the account of users who were added under a business account and were verified in the process the same way as when registering.

Business client account = companies and self-employed persons can register as business clients and order collective licenses for their company employees allowing them to participate in trainings. The business account admin can create several user accounts for their employees. To do so, they need to enter the access data (email, first name, surname) on a screen. Then an email is sent to the *new users* similar to when they register, i.e. the new user has to create their own password and use it to verify their account. If they fail to do so, the created user account will be deleted after 48 hours.

Participants = Users participating in the Pentest training or other online training provided by binsec academy

Training lab resp. lab environment = virtual space that gives participants the chance to practice penetrating an IT system, IT network or IT applications made available individually to them; they are tasked with overcoming technical and organisational obstacles and protective measures on the IT operator's end

Platform = services accessible through binsec-academy.com, including training such as Pentest Training materials and training labs

3 Subject of the Contract

Subject of the contract is the participation in the respective online training on the platform binsec-academy.com (*Portal*); it's content is shown in the respective service description on the portal.

4 Conclusion of contract and beginning of the online training

Ordering of and participating in online training are subject to prior registration. Reference is made to the Terms of Service to which participants agree to during the registration process; these form an integral part of these T&C.

The contract pertaining to participation in online training takes effect once

- a registered user logs in,
- selects and submits the desired online training via the *Purchase Now* button, and
- access is confirmed for or provided to the user by binsec academy.

Confirmations will be sent by email and will contain the content of the order, these T&C, and for users not participating under a business account, the cancellation policy for consumers and the respective cancellation form. Binsec academy will not store the contract text permanently.

Provision takes place by binsec academy unlocking online training for users. Users resp. participants can view the training content on the portal and also download laboratory access (as agreed in the description).

Participants must keep their access data secret and protect it against third-party access and, in the event that a third party gains access or is suspected to have gained access to such data, to change their password immediately.

The participant must not pass on exam information to third parties. A breach of this duty to conceal may be brought to court in a claim for injunction and damages.

5 Granting of rights of use (license), obligations of users

The database as such, as well as the individual written materials including software, program codes and applications, are protected by copyright laws. Upon complete prepayment of the agreed fee, binsec academy will grant participants a non-exclusive and non-transferable right of use to the training content. Any copyrights remain unaffected by this right of use.

Participants will be granted the license to read the materials and content for training purposes and to save them on their own device. It is prohibited to copy, edit (with the exception of the exercises at designated points), reproduce, duplicate or use the content for purposes other than self-study.

The use of query results on a network with third-party access and transmission of such results by uploading them to a third-party computer, server or other medium, as well as making any amendments to a substantial part of the database content or linking this to other database content are excluded, unless the amendment of a database provided as a training lab forms part of the online training.

Attacks on the portal itself or on the infrastructure of binsec academy required to operate their labs are forbidden. binsec academy will bring criminal action against any such acts, report them in the appropriate manner and, in the event of a violation, reserve the right to assert claims for compensation against the participant responsible.

Leasing of the database to third parties by participants or by business clients is not permitted.

Software and database usage rights are granted "as is". The right of participants to rectify any software errors is excluded, unless this forms part of the online training exercise. In the event of errors or operational malfunctions

on the portal attributable to errors or malfunctions in the binsec academy software or hardware, binsec academy agrees to do its utmost to rectify the error or malfunction within a reasonable period and to offer participants an extension to the term of their online training in line with the duration of the malfunction. Participants are not entitled to assert any further claims in relation to the occurrence of errors beyond the contractual warranty.

Database references to intellectual property rights (such as copyright names or brand names) may not be changed neither in their electronic format nor in print.

In addition, as far as third-party rights exist to works for which copies have been saved to the database, participants are entitled to download, save and duplicate such works on their own system but may not pass these on or make these available online to third parties. Also not permitted is any editing or other redesigning of these duplicate copies.

Transfers of the right of use of the database in whole or in part by participants to third parties is not permitted, unless business customer acquire all rights of the business by way of conversion or merger as legal successor. Transfers of the right of use must be carried out in such a way that business customers of binsec academy can prove the legal succession with suitable documents and binsec academy approves the change of the participants data. The previous business customer, as long as the company of the business customer has not expired, transfers the access data to the third party and is obliged to physically delete all copies from the database or parts of the database, including backup copies, made on the subscribers computer. Upon further submission to the third party, the latter must be obligated in writing to comply with these conditions.

6 Terms of payment

Payment is made prior to activation of the service and must be made in accordance with the respective means of payment listed on the portal (credit card, PayPal, prepayment).

Payment is handled by Euro Payment Group GmbH or mPAY24 GmbH with whom binsec academy partners with for payment and billing purposes.

During the order process users select one of the accepted payment methods (credit card, PayPal, advance payment) and receive the necessary payment information.

There is no right for the use of certain means of payment.

Amounts / prices to be paid by consumers include statutory VAT, duties and other surcharges (gross prices). In the case of business customers, VAT is added to the remuneration at the rate applicable at the time the contract is concluded unless the respective applicable tax laws preclude binsec academy from having to charge sales tax (so-called reverse charge procedure).

Binsec academy pays sales tax in line with their legal obligations.

Participants bear all costs and expenses associated with their payment (eg transfer), such as bank charges, handling fees.

Credit cards will be charged immediately after placing the order.

When paying by credit card or direct debit participants must ensure that the credit card or the account is not blocked resp. expired; Failure to do so will result in delays in payment at the expense of the participant.

Once payment has been received, participants will automatically receive a confirmation email of enrollment and a link to the portal where participants may download the invoice as pdf.

With business customers binsec academy is entitled to issue a single invoice for all services of binsec academy, regardless of whether these benefits are due from different contracts.

Business customers must notify of any defects of invoices within 14 days of receipt; failing to do so will deem participants to have accepted the invoice.

If binsec academy does not receive the amount prior to the desired start date for the delivery of online training binsec academy is entitled to provisionally block access and to unblock access only after full payment has been received. The latter does not apply to business clients if they have been granted another payment due date by binsec academy under a framework agreement or on the sent invoice, and the amount is received by binsec academy by the specified payment date.

If payment on the portal is handled by a payment provider binsec academy is not liable for security of data or incorrect bookings caused by errors of the payment provider.

Binsec academy accepts no liability for any misuse, theft, loss, etc. of the access data, the credit balance or other data and / or information related to the credit account for which binsec academy is not responsible.

7 Rights of defect, Set-off

Warranty claims of participants as a consumer are governed by the relevant statutory provisions.

The following provisions in point 7 apply only to business customers:

Binsec academy guarantees that participants will be able to access the portal subject to an average Internet connection speed and the use of a current common device and a currently updated common web browser; this shall not apply in the event of malfunctions caused by force majeure.

If urgent maintenance is required binsec academy services may be unavailable for up to 4 hours. Binsec academy will inform participants beforehand and within a reasonable period of time.

As and when updates are required in accordance with the current state of technology and binsec academy deems such updates necessary, binsec academy gives no guarantee that such updates will not cause temporary portal glitches or make the whole portal unavailable temporarily.

If defects arise that are discoverable by participants they must report these defects to binsec academy within four weeks. Should they fail to do so, participant's rights in connection with such defects will be deemed waived.

Dependent on what is necessary to remedy the defect, the duration of the contract term will be extended without further charges, until the defect or error or portal malfunction is repaired.

Participant are only entitled to offset if their counterclaims are final or are undisputed by binsec academy.

Participants are only authorized to exercise a right of retention to the extent that their counterclaim is based on the same contractual relationship.

8 Liability

Liability is governed by the relevant statutory provisions.

In case of negligence binsec academy is only liable for breach of essential contractual obligations and limited to foreseeable damages. This limitation does not apply to damages to life, bodily injuries and health. Binsec academy is not liable for other damages caused negligently by defects of service.

Binsec academy does not guarantee that the information provided on the portal will lead to the desired success of participants. In that regard, any liability of binsec academy is excluded.

In case of negligence binsec academy is only liable for breach of essential contractual obligations and limited to foreseeable damages. This limitation does not apply to damages to life, bodily injuries and health. Binsec academy is not liable for other damages caused negligently by defects of service.

Liability of binsec academy does not extend to internet disruptions outside its sphere of influence but in particular only to errors and disruptions of connections up to input ports of systems on which binsec academy manages their database available for usage. Liability does not extend to customer systems, communication lines or connections to these input ports.

All rights and obligations under these T&C also apply to employees of users and other third parties (vicarious agents) to whom this service was legitimately assigned for use. Users are liable for actions and omissions of third parties.

Participants are responsible for checking that contents comply with the jurisdiction of their registered office or place of residence. Failure to carry out such checks may constitute contributory negligence on the part of participants.

In the event of infringement with respect to rights of binsec academy or third parties, in particular other users of online courses, users are obliged to release binsec academy from claims of third parties upon first notice, and in particular to cover defence costs at the statutory rate, in particular lawyer's fees, expert's fees, and court fees in addition to the damages.

9 Right to cancel

As a consumer, participants are entitled to a right of cancel in accordance with the instructions listed in the Cancellation Policy (<https://binsec-academy.com/en/academy/terms/cancellation/>). Consumer is defined according to § 1 KSchG.

10 Applicable law, Jurisdiction

Jurisdiction is - as far as legally permissible - Ried im Innkreis.

Austrian law applies if users have their habitual residence in Austria or if their habitual residence is in a state that is not a member of the European Union. In the event that users have their habitual residence in a member state of the European Union, Austrian law also applies, whereby mandatory provisions of the state in which users have their habitual residence remain unaffected.

11 Dispute settlement under EU Consumer Directive

Binsec academy would like to point out that, besides legal recourse, there is a possibility of an extrajudicial resolution pursuant to regulation (EU) 524/2013. For details, please see regulation (EU) 524/2013 and <http://ec.europa.eu/consumers/odr>. Binsec academy is under no obligation to participate in such an extrajudicial resolution proceeding.

12 Final provisions

If individual provisions of these T&C should be or become invalid, partly or in their entirety, this shall not affect the validity of these T&C.

For business customers: The parties agree to replace ineffective or void provisions with effective provisions that align closest with the intended economic purpose. The same applies in cases of omissions.

Changes or additions to these T&C require text form.