

General Terms and Conditions for ETKAmobile

General Terms and Conditions of Business (hereinafter referred to as “T&C”) of LexCom Informationssysteme GmbH (hereinafter referred to as “LexCom”; refer to the [Legal Notice](#) for more contact and company information), Rüdeshheimer Strasse 23, 80686 Munich, Germany, governing the use of the ETKAmobile software product (hereinafter referred to as the application, or app for short).

Version: July 2017

§ 1 Scope of Application

1. The user accepts these T&C by clicking a specially designated checkbox during the ordering process or by selecting a subscription. Users may access these T&C at any time, even after conclusion of the contract, by following the “T&C” link which is available on all pages of the www.etkamobile.com website.
2. The terms and conditions set out below shall apply to all contracts between users of ETKAmobile and LexCom relating to the use of the app. Users of ETKAmobile are exclusively entrepreneurs (§ 14 BGB).
3. Any deviating, contrary or supplementary T&C shall not become an integral part of the contract unless their validity has been expressly agreed to in writing.

§ 2 Scope of Services

1. For using ETKAmobile on Android, the User receives access to the app via a download link with which he can install the app on his device. For using ETKAmobile on iOS, the User can download and install the app via the Apple Store.
2. The app can be used to search for original spare parts of Volkswagen (inc. Commercial Vehicles), Audi, SEAT and Skoda. The user also has the option of transferring shopping baskets, which have been created using the ETKAmobile Service interface, to the existing ETKA installation to place an order for the found parts. This interface must be installed separately by hand and is provided by LexCom.
3. LexCom shall not be responsible in the course of rendering its services for (a) the completeness of the spare parts entered into its database, nor for (b) the completeness and accuracy of the data and information provided by the manufacturers, importers or distributors since the compilation of these data is beyond the control of LexCom. Whenever any deficiency regarding the data should become apparent, LexCom will immediately inform the manufacturer concerned and make corrected data available. All spare part prices displayed are recommended retail prices specified by the manufacturers. Only the individual seller can provide binding pricing information.
4. All ETKAmobile components that are accessed online when using the app are hosted by LexCom and are usually available around the clock, except for scheduled maintenance windows and outages that are outside the control of LexCom.

§ 3 Ordering and Registration

1. ETKAmobile licences are ordered from the www.etkamobile.com website.
2. Licences may only be ordered by customers of the ETKA DVD or server version (hereinafter referred to as ETKA customers). These customers are exclusively individuals and legal entities with full legal capacity to contract. If the order is placed by a representative of the ETKA customer, LexCom shall be entitled to demand proof of power of representation. The details concerning this power of representation shall be defined by LexCom and the representative must be named (e.g. “Managing director” entry in the field “Position”).

3. To order ETKAmobile, the ETKA customer's first step is to log into the website with their ETKA login details. They will then have to re-enter their customer details, select the required number of ETKAmobile licences and vehicle brands and accept these General Terms and Conditions. By clicking the "Buy now" button on the website, the ETKA customer provides LexCom with a binding offer to buy the ETKAmobile licences. LexCom accepts this offer by sending an order confirmation and unencrypted e-mail link to download and install the app.
4. The ETKA login details serve to uniquely identify the user. The user may change the password at any time while using ETKAmobile. The user must keep the password confidential and shall not disclose it to any third party. LexCom will never ask a user for the password by e-mail or on the telephone.
5. LexCom reserves the right to cancel a user's registration at any time without prior notice and disable access for the user in case of any false statements when registering or any violation of the duties arising from the user contract (particularly § 5).
6. Each ETKA customer shall only be allowed to have one registration at a time on ETKAmobile.

§ 4 Data Protection and Security

Any and all personal data collected from the user are handled in compliance with German data security legislation. LexCom's [privacy statement](#) shall apply.

§ 5 User's Rights and Obligations

1. LexCom grants the user the non-exclusive right to use the app for a time period limited by the duration of the contract, provided all fees due are paid in full. The user may not lease, loan, sell, sub-license, cede, transfer or allow third-party use of the app or the associated usage rights; nor may the user copy or allow others to copy the app, neither in full nor in part, except in the cases expressly permitted here. In addition, the user must not reverse engineer, edit or modify the app object code in any manner whatsoever unless legally permitted to do so. The user may only use the functions provided by LexCom.
2. It is not permitted for users to reproduce, to save in other media, to distribute or to change the information, data, drawings, specifications and documents ("ETKA material") integrated in or accessible via the app, unless these actions are consistent with the intended use. Access to the ETKA material via automated processes (e.g. robots, spider tools etc.) is prohibited. Individual pages may be printed or saved only in accordance with intended use of the products. In particular, intended use does not encompass the forwarding of ETKA material to other persons within or outside of the user's own company.

§ 6 Prices and Durations

1. For the prices and durations of the ETKAmobile licences, please refer to the information on the www.etkamobile.com website.
2. All prices listed are gross prices and include the applicable VAT, depending on the residence or the registered office of the recipient of service (EU/third countries).
3. The subscription starts with the month in which the first payment, direct debit or credit card charge occurred. The subscription runs for an indefinite period and can be cancelled at any moment with a written notice of 4 weeks. To cancel the subscription, the user must send a written cancellation to LexCom via email to contracts@lexcom.de.

4. An active ETKA subscription is required in order to use ETKAmobile; use is not permitted without one. If the customer cancels the ETKA subscription, this will automatically cancel their ETKAmobile access at the same time. If the customer's ETKA access is disabled because they have breached the General Terms and Conditions, their ETKAmobile access will also be disabled.
5. All fees shall be settled by either credit card or direct debiting, depending on the user's location. It is the responsibility of the user to ensure that the account or the credit card maintains an adequate balance and that all credit card or bank details are up to date and correct.

§ 7 Notices and Declarations

1. The users recognize the unrestricted validity of declarations of intent made in this manner subject to the following clauses:
 - a. In the e-mail message, common information must neither be suppressed nor circumvented by anonymisation, i.e. the message must include the name and the e-mail address of the sender, the time the message was sent (date and time) as well as a repetition of the sender's name at the end of the message. Unless proven otherwise, an e-mail message received according to the criteria of this clause shall be deemed to originate from the other party.
 - b. All messages shall be phrased in the German or English language and be sent via email to contracts@lexcom.de.
2. Please direct any messages or declarations regarding these T&C to service@lexcom.de.

§ 8 Disruption of Service

If any substantial disruption of service of ETKAmobile should occur that is within the scope of responsibility of LexCom, a downtime of more than 24 hours shall extend the period of use by the same period.

§ 9 Limitation of Liability

1. LexCom shall be liable to the user without limitation in case of intent or gross negligence for any damage caused by LexCom, its legal representatives or persons employed in performing its obligations.
2. As to ordinary negligence, LexCom shall be liable without limitation in case of injury to life, limb or health. In all other respects, LexCom shall only be liable insofar as the company has violated an essential contractual duty (material contractual obligation). Material contractual obligations are obligations that must be fulfilled for proper performance of the contract, whose breaching would jeopardise achievement of the purpose of the contract and on whose observance the contracting party may duly rely. Liability in such cases shall be limited to the foreseeable, typically occurring damage.
3. Liability pursuant to the provisions of the German product liability act (Produkthaftungsgesetz) shall remain unaffected.

§ 11 General Provisions / Legal Venue / Applicable Law

1. German law shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

2. The place of performance for all mutual services and payments under the contract shall be Munich, Germany.
3. At the election of LexCom, the legal venue shall be either Munich, Germany, or the user's registered office.
4. The present T&C are published in the German language and in various other languages. In case of doubt, the German version shall be authoritative for the interpretation of the T&C.
5. LexCom reserves the right to amend these T&C at any time and without having to state any reasons for such amendments. The user will be made aware of any amendment by means of an electronic message sent to the e-mail address specified. Should the user not object to the amendment within a period of four weeks after receipt of the message, the amended clauses shall be deemed accepted.