interev® GmbH

Certificate of performance of a software audit

MailStore Software GmbH
Clörather Straße 1-3
41748 Viersen

commissioned us on 08/10/2018 to carry out an audit of the software product

MailStore Server, a software solution for e-mail archiving
Version 11.2

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The legal representatives of the company are responsible for the software product and the planning, execution, and monitoring of the software development. This responsibility is not affected by our audit. Our task is to make an assessment of the software product based on our audit.

We conducted our audit in accordance with data protection regulations. Thereafter, the software review must be planned and carried out in such a way that it can be assessed with reasonable certainty whether the software product, when used properly, enables the personal data to be processed in accordance with data protection regulations and complies with the criteria laid down in the order. This includes our assessment of whether the criteria have been adequately implemented by the processing functions and by the program's internal control system. The effectiveness of the program functions is assessed on the basis of test cases.

We have based our audit on the following criteria in the order:

- the EU General Data Protection Regulation (GDPR)
- the Federal Data Protection Act (BDSG)
- the Federal Data Protection Act 2018 (BDSG 2018)

Since software products are adapted to the requirements of the field of application, our judgment can only refer to the fact that the software product, when used properly, enables it to meet the criteria.

We believe that our audit provides a reasonable basis for our opinion.

In our opinion, based on the knowledge gained during the audit, the software product we have tested (version 11.2), when used properly, enables the personal data to be processed in accordance with the data protection requirements and meets the criteria listed above.

We issue this certificate on the basis of the contract concluded with MailStore Software GmbH, which, even with effect to third parties, is based on the enclosed general terms and conditions of interev GmbH, with the proviso that the maximum limits of liability contained therein jointly exist for all persons who receive this certificate with our obtained prior consent.

Langenhagen, 15/11/2018

i n t e r e v GmbH

General Terms and Conditions

of interev® GmbH, Germany

§ 1 Scope and binding period

(1) These General Terms and Conditions (GTC) apply to business relations of interev GmbH (hereafter interev) with its customers, insofar as these are not consumers within the meaning of § 13 German Civil Code (BGB).

(2) If requested, these terms and conditions are available in text form from interev.

(3) Regarding deviating individual contractual regulations between interev and the customer are subsidiary to the corresponding following provisions of these GTC.

(4) General terms and conditions of the customer, even if these are attached invitations to submit an offer, orders, order confirmations, acceptance declarations, etc. and they are not contradicted by interev, are not part of the contract.

(5) interev shall be bound by an offer for one month from the date of submission of the offer, unless otherwise stated in the offer documents.

§ 2 Performance of interev

(1) interev will perform in accordance with the terms of the contract and in accordance with recognized rules and the state of the art. Delivery and service dates or deadlines are only binding for interev if they have been expressly designated as binding by interev in writing. Performance periods are extended by the period in which the customer is in default of payment, by the period in which interev is prevented from performing due to circumstances for which it is not responsible, and by an adequate start-up period after the end of hindrance.

(2) The procurement and maintenance of standard software as well as required hardware is the sole responsibility of the customer. This also applies to standard software, program tools or utilities required for the use of work results. Deviations from this are to be expressly regulated in individual cases and justify an additional claim for compensation of interev against the customer.

(3) interev uses carefully selected employees with the required qualifications to provide their services. interev reserves the right to exchange employees appointed by name for service provision in the offer or contract documents with replacements who have comparable qualifications and experience, after notification of the customer.

(4)   Insofar as the service description contains unintentional gaps or ambiguities, interev shall be entitled to adjust the content of the service description at its reasonable discretion, while safeguarding the presumed customer interests.

(5)   interev is entitled to consult third parties as vicarious agents. The customer has to give their consent before this consulting.

§ 3 Payment Conditions

(1)   Unless otherwise stated in the order confirmation or these conditions, invoices are due within 30 days without deduction. If a payment date has not been agreed, then the default shall be in accordance with the statutory provisions.

(2)   For transfers, the timeliness of the payments shall be determined according to availability for interev.

(3)   The customer can only charge for claims that are undisputed by interev or have been legally established. A right of retention or defence of breach of contract are only available to the customer within the respective contractual relationship.

§ 4 Liabilities

(1)   interev shall indemnify or reimburse useless expenses, irrespective of the legal basis (e.g. from legal transactions and obligations similar to legal transactions, material defects and defects in title, breach of duty, and tort) and also for their vicarious agents, only to the following extent:

a)   The liability for intent and guarantee is unlimited.

b)   In case of gross negligence, interev shall be liable for the amount of the typical damage foreseeable upon conclusion of the contract.

c)   In the case of non-grossly negligent breach of essential duties, the fulfilment of which enables the proper performance of the contract, the compliance with which the contractual partner regularly trusts, and whose breach jeopardizes the achievement of the purpose of the contract (cardinal obligation, in particular default), interev shall be liable in the amount of the typical damage foreseeable upon conclusion of the contract. The right to compensation for wasted expenditure is limited to the amount of the interest in performance.

(2)   interev retains the potential defence of contributory negligence. The customer shall have the particular obligation to carry out data backups and to protect him/herself against malware according to the current state of technology.

(3)   In the case of injury to life, body, and health and in the case of claims under the German Product Liability Act, the statutory provisions apply without restrictions.

(4)   Insofar as the liability is excluded or limited after this limitation of liability, this also applies to the personal liability of the employees, representatives and vicarious agents of interev.

§ 5 Claims of the customer in case of defects

(1)   Rights of the customer due to material defects are subject to the proper examination and notification of defects (§ 377 German Commercial Code [HGB]). Insofar as interev provides services, the said duty of notification of defects applies accordingly.

(2)   interev is entitled to remedy the defect at its discretion by repair or delivery of a defect-free item or new provision of the service (supplementary performance). In the event of a defect, at least three attempts at improvement must be accepted. If the subsequent performance fails, the customer can reduce the purchase price or the remuneration or, at his option, withdraw from the contract. The customer's right to compensation for damage remains unaffected.

§ 6 Statute of Limitation

(1)   The limitation period is

    a)   in the case of claims for payment of a purchase price/compensation payment from withdrawal or reduction, one year from the delivery of the goods/provision of the service, but for duly reported deficiencies not less than three months from the submission of the effective declaration of withdrawal or reduction;

    b)   in the case of other claims from material defects, one year;

    c)   in the case of claims arising from defects in title, two years if the defect of title is not in a real right of a third party on the basis of which they can demand delivery of software and any manuals or the use thereof; claims arising from aforementioned defects shall be subject to a limitation period of 5 years;

    d)   in the case of claims for compensation for damages or reimbursement of futile expenses not based on material or legal defects, two years starting from the time at which the customer became aware of the circumstances giving rise to the claim or should have become aware of it without gross negligence.

The limitation shall expire no later than the expiry of the maximum periods specified in § 199 BGB (German Civil Code).

(2)   In the case of damage and reimbursement of expenses due to intent, gross negligence, warranty, malice, and in the cases listed in § 4 para. 3, however, the statutory limitation periods always apply.

§ 7 Confidentiality

The contracting parties are obliged to keep confidential all business and trade secrets (information) received or made known by the respective other party during the contract period and beyond the end of the contract, unless it is publicly known without infringing the confidentiality obligation. The contracting parties shall store and secure the information obtained in such a way that access by third parties is excluded.

§ 8 Place of Performance, Choice of Law, Contract Language, Jurisdiction

(1)   Place of delivery and performance for both parties is the location of interev.

(2)   These GTC and the entire legal relationships of the contracting parties are exclusively subject to German law.

(3)   The contract language is German.

(4)   The exclusive place of jurisdiction for all disputes arising from business with merchants is the location of interev, whereby interev is also entitled to sue the customer at another legal place of jurisdiction.

(5)   The invalidity of individual provisions of these GTC or any other provision agreed between the parties shall not affect the validity of the remaining provisions of these GTC or other agreements. For other provisions agreed between the parties, the parties are obligated to replace the ineffective provisions with effective provisions that come as close as possible to the meaning of the invalid provisions.