

## **Privacy Policy for contact processing via eClear**

### **1. Introduction**

eClear AG (hereinafter: "eClear", "we" or "us") makes it easier for online merchants (hereinafter: "merchants") to sell their goods within the member states of the European Union, taking into account the applicable sales tax.

If you wish to take advantage of a cross-border delivery of a product, eClear intervenes as a commission agent in the sales process between you and the merchant. In this case, eClear becomes a contracting party to the order you have placed and the order process is handled only between you and eClear.

For the execution and processing of the order it is necessary that eClear collects and processes certain personal data from you. Personal data is data with which you can be personally identified, e.g. your name, your address, your e-mail address and your payment data (hereinafter: "data").

Against this background, we would like to inform you in more detail below about the processing of your data by us. We process your data in compliance with the applicable data protection regulations, in particular the German Data Protection Regulation (GDPR) and the German Federal Data Protection Act (BDSG).

### **2. Responsible body and data protection officer**

Responsible for the processing of your data is:

**eClear AG**  
**Französische Straße 56-60**  
**D-10117 Berlin**  
**Germany**  
**Tel.: +49 (0)30 23630282**  
**E-Mail: [info@eclear.com](mailto:info@eclear.com)**

We have appointed a data protection officer for our company. You can reach him under:

**CISO Datenschutz GmbH**  
**Mr. Niklas Koenig**  
**Am Marienheim 3**  
**47918 Tönisvorst**  
**E-Mail: [privacy@eclear.com](mailto:privacy@eclear.com)**

### **3. Purposes and legal basis of data processing and duration of data storage**

#### a) Data processing for the handling of the order with you

eClear processes your data first and foremost to process the order with you. For the execution of the contract, the processing of the following data from you is necessary:

- title
- your gender
- your name
- your birthday
- the delivery address and, if applicable, different invoice address
- your phone/fax number
- your email address
- order number and transaction number of the order
- Tracking URL and Tracking code of the order
- order information about the ordered goods

If you have already entered this data as part of the check-out process on the merchant's website, we will receive this data from the merchant via our eClear plug-in. We and the merchant are jointly responsible for this data during the further processing of the contract (see details on joint responsibility under section 4.). If necessary, we request further data that we need for the processing of the order directly from you.

We process the aforementioned data from you in order to be able to process your order and fulfill the contract with you. The legal basis for the data processing is Art. 6 para. 1 lit. b) GDPR.

#### b) Data processing for commission invoicing

As the commission agent of the merchant, we receive a commission from the merchant for processing the order with you. In order to be able to track our commission claims against the merchant and to assert them against

him, it is necessary to process the data categories mentioned under a) also for this purpose.

The legal basis for the data processing is Art. 6 para. 1 lit. f) GDPR. We have a legitimate interest in processing the commission agreement with the merchant.

c) Duration of the processing

We store and process the data collected from you for as long as this is necessary for the processing of the order and as long as we need it for the commission settlement with the dealer. Irrespective of this, we store your processed data until the expiry of the statutory or possible contractual warranty rights. In all other respects, we retain the data for the duration of the statutory retention periods, in particular in accordance with commercial and tax law. Processing for other purposes does not take place during this period. The data will then be irrevocably deleted.

4. Joint Controllorship of eClear and the merchant

According to Art. 26 GDPR, several data processors may be *jointly responsible* for the same data processing if they jointly determine the means and purposes of the data processing. In this case, the joint controllers must specify in an agreement in a transparent manner which of them fulfills which data protection obligation ("*joint controllership agreement*").

If you make use of a cross-border delivery and eClear intervenes in the contract between you and the merchant in this case, eClear and the merchant will jointly process your data for the purpose of processing the contract from that point on.

Against this background, we would like to inform you about the essential points from the Joint-Controllorship-Agreement between eClear and the merchant. If you would like to view the complete Joint-Controllorship-Agreement, please feel free to contact us using the contact details above.

a) Purpose, means and scope of the joint controllorship

If you place an order in the merchant's online store, you enter your data relevant for the order during the checkout process on the online store's systems (so-called "*initiation data*"). The merchant is solely responsible for your data at this moment.

If it is a cross-border delivery and eClear intervenes in the order, eClear and the merchant **become jointly responsible for the initiation data**. In

this case, the Clear-VAT plug-in integrated on the merchant's system transmits the initiation data you entered during the check-out process to eClear. From this point on, the initiation data is processed for the joint purpose of eClear and the merchant to provide you, the customer, with the product you requested while simultaneously processing this transaction via eClear. The initiation data is also used for the joint purpose of processing commission payments between eClear and the merchant.

If necessary, eClear collects additional data from you during the processing of the contract, which eClear stores together with the initiation data on eClear's own systems. Again, eClear is solely responsible for this additional data.

b) Joint and mutual obligations

eClear and the Merchant mutually undertake to use the data provided by you exclusively in a lawful manner and solely for the joint purposes of contract processing with you and commission settlement between eClear and the Merchant.

Both eClear and the Merchant will inform you about the processing of your data in accordance with the provisions of Art. 13 and 14 GDPR.

eClear and the Merchant will also ensure the fulfillment of your rights under Chapter III of the GDPR (e.g. right to information, right to deletion, see also in detail under 7.). Insofar as you assert your rights with regard to those initiation data that are stored on the merchant's systems, the merchant is responsible for responding to your request. At the same time, eClear is responsible for fulfilling your rights in those cases where the request relates to your data stored at eClear. This can be both the transmitted initiation data and the additional data collected from you by eClear.

However, you can always address your request to eClear as well as to the merchant. In this case, eClear and the merchant will distribute the request internally according to the agreed responsibility.

5. Recipients of data

To carry out our service, we sometimes use external service providers. These service providers process your data on our behalf, in accordance with our instructions and under our supervision exclusively for the purposes described in this privacy policy. For this purpose, we conclude a contract processing agreement with our service providers in accordance with Art. 28 GDPR.

We currently use the following IT service providers::

- Business Objects Software Limited T/A SAP Solutions, Irland
- Uniorg Consulting GmbH, Dortmund
- TakeASP AG, Würzburg.

The processing of your data takes place exclusively within Germany or the European Union. Neither we nor our service providers transmit your data to third countries outside the European Union.

## 6. Data security

We use technical and organizational security measures to protect your personal data against misuse, loss, destruction or against access by unauthorized persons. Our security measures correspond to the current state of the art.

## 7. Data subject rights

As a person affected by data processing (Art. 4 No. 1 GDPR), you have numerous rights vis-à-vis us, about which we would like to inform you in the following. You can also find details of your rights in Articles 15 to 21 of the GDPR and Sections 32 to 37 of the BDSG.

To exercise your rights, please contact our data protection officer. He can be reached **at the contact details above**.

### a) Right to information

You have the right to receive information from us about whether and what data we process about you. This includes, among other things, information about how long and for what purpose we process the data, where it comes from and to which recipients or categories of recipients we pass it on. In addition, we can provide you with a copy of these data.

### b) Right of correction

You have the right to request that we correct information about you that is not or no longer accurate without delay. In addition, you can request that we complete your incomplete personal data. If required by law, we will also inform third parties about this correction if we have disclosed your data to them.

### c) Right to deletion („right to be forgotten“)

You have the right to request that we delete your personal data without delay if one of the following reasons applies:

- Your data is no longer necessary for the purposes for which it was collected or otherwise processed or the purpose has been achieved;
- You have given consent and revoke your consent and there is no other legal basis for the processing;
- You object to the processing and there are no overriding legitimate grounds for the processing; in the case of the use of personal data for direct marketing, a mere objection by you to the processing is sufficient;
- Your personal data have been processed unlawfully;
- the deletion of your personal data is necessary for compliance with a legal obligation under Union or Member State law to which we are subject.

Please note that your right to deletion may be restricted by legal provisions. These include in particular the restrictions listed in Art. 17 GDPR and § 35 Federal Data Protection Act ("BDSG").

d) Right to restriction of processing (blocking)

You have the right to request that we restrict the processing of your personal data if one of the following conditions is met:

- You dispute the accuracy of your personal data for a period of time that allows us to verify the accuracy of the personal data;
- the processing is unlawful and you object to the delete of the personal data and request the restriction of the use of your personal data instead;
- we no longer need your personal data for the purposes of processing, but you need them for the assertion, exercise or defense of legal claims, or
- You have objected to the processing as long as it has not yet been determined whether our legitimate reasons outweigh yours.

If you have obtained a restriction of processing according to the above list, we will inform you before the restriction is lifted.

e) Right to revocation for consents

You can revoke your consent given to us at any time with effect for the future. This revocation can take the form of an informal communication to the above contact addresses. This also applies to consents that you gave us before the GDPR came into force (i.e. before May 25, 2018). If you revoke your consent, the lawfulness of the data processing carried out up to that point will not be affected.

f) Right of data portability

You have the right to receive personal data concerning you, which you have provided to us, in a structured, common and machine-readable format and to transmit this data to others. Details and restrictions can be found in Art. 20 GDPR. The exercise of this right does not affect your right to erasure.

g) Right to complain to the supervisory authority

If you believe that the processing of your data by us violates applicable data protection law, you have the right to lodge a complaint with one of the competent supervisory authorities, i.e. in particular the Berlin Commissioner for Data Protection and Freedom of Information or the respective supervisory authority in the member state of your place of residence, your place of work or the place of the alleged data protection violation.

h) **Right to objection according to Art. 21 GDPR**

**According to Art. 21 GDPR, you have in particular the right to object to the processing of your data at any time on grounds relating to your particular situation, if we base this processing on legitimate interests pursuant to Art. 6(1)(f) GDPR. If you object, we will no longer process your personal data, except in two cases:**

- **we can demonstrate compelling legitimate grounds for the processing which override your interests, rights and freedoms, or**
- **the processing serves the assertion, exercise or defense of legal claims.**

**In particular, if we process your personal data for direct marketing, you have the right to object at any time to the processing of your data for the purpose of such marketing. If you object to the processing of**

**your data for direct marketing purposes, we will no longer use your personal data for this purpose.**