Disclaimer:

The General Business Terms assume that the laws of the Federal Republic of Germany apply. It is possible that the regulations of the national legal system to which you are subject forbid or restrict the use of CyberGhost. Before acquiring this product, please inform yourself whether the national laws to which you are subject permit its use and/or invalidate specific terms of this contract. In no case shall S.A.D. GmbH be responsible for unrestricted usability of the program or feasibility of the contract under national laws other than those of the Federal Republic of Germany.

General Business Terms

General Business Terms for CyberGhostVPN Service
§ 1   Contents of Contract

This contract governs:
(1) CyberGhost software;
(2) providing of access;
(3) concealing IP addresses from third parties:
(4) the virtual storage area as indicated in product description (for premium subscribers);
(5) the terms of the Basic und Beta User versions.
The following General Business Terms for the CyberGhost VPN service contain the general conditions governing the contractual relationship between the Customer and S.A.D. Additional conditions for premium services can be found in the order form. The Customer may select certain parameters of the contractual relationship there.

§ 2   Protective Clauses

(1) Protective Clauses

To the extent the Customer also uses General Business Terms, the contract shall also be concluded without an express agreement about the inclusion of General Business Terms. Insofar as the contents of the various General Business Terms correspond, these are deemed as agreed. Contradictory regulations shall be replaced by the regulations of optional law. The same shall apply in the event that the business terms of the Customer contain regulations that are not included within the framework of these business terms. These business terms shall apply if these business terms contain regulations that are not included in the business terms of the Customer.
(2) Definitions

(a) Virtual Private Network   (VPN)
VPN refers to a private network entered via public access points (like the Internet). A VPN consists of at least two systems connected by a tunnel.
(b) Anonymization
Anonymization refers to the concealment of IP addresses that users receive from their Internet Service Provider. This usually occurs through proxy servers. The Web servers (i.e., Websites) visited by proxy server users only see the IP address of the proxy server.

(c) TCP/IP

TCP/IP stands for Transmission Control Protocol/Internet Protocol. It is also referred to as TC/IP. It is a network protocol governing data transmission between different computer systems, especially in the Internet.

(d) Client

Client refers to a computer program that connects to a server with which it exchanges data according to the client server system.

(e) UCP

A UCP, or User Control Panel, is a feature of a piece of software or account administration that allows users to change settings or view usage statistics.

(f) NAT

Network Address Translation (NAT) is any technique that automatically rewrites packet address information in routers. A source NAT, for instance, rewrites source IP addresses.

(g) Basic Version / Premium Version

CyberGhost VPN is offered in two versions, basic and premium. See the General Business Terms as well as order forms/offers/packaging for information about their differing prices and features.

(h) Online storage

Encrypted storage on a CyberGhost VPN server (Web storage)

(i) Hosting

The making available, or "hosting," of Web storage space.

§ 3   Subject Matter of Contract

(1) S.A.D. shall act in the capacity of an Internet service provider. In addition, it shall conceal Customer data so that third parties only see the Internet address of the S.A.D. server. These services are offered to Customers for free in the Basic and Beta User versions. The premium versions, as well as those sold in retail stores, charge a fee for these services.

(2) The parties shall agree that the access providing services are "services" according to the German Civil Code. S.A.D. shall therefore be liable for inadequate fulfillment of its services or for an inadequate selection of persons used to perform its obligations, insofar as S.A.D. can influence said selection. Strict liability applies only in those cases in which it is expressly assumed by S.A.D.

(3) The average availability of server connections is based on information in the order form or visible on the package. Availability is fulfilled when the availability times in the order form or product description are fulfilled. Availability data covers a 30-day period.

(4) The technical services are based on the terms stipulated in the order form or the product description.

(5) The maximum transferable volume (i.e., the amount of data that can be transferred by CyberGhost) is given in the order form or, for retail-store purchases, on the product package.

(6) The Customer may use CyberGhost software at no charge. The right of use shall be transferred to the Customer once and for all. The Customer may keep the software even if he or she no longer use the provider services of S.A.D.

(7) The services stipulated by these Terms can only be warranted when used with the system environment described in the order form or on the package.

§ 4   Payment

The basic and beta packages carry no charges. The terms in paragraphs 2 through 14 therefore do not apply to these offerings.

For Customers who acquire their package in some other way than at the S.A.D. Internet shop via download, product payment is included in the package price for the duration stipulated within.

For Customers who acquire the premium package at the S.A.D. Internet shop, product reimbursement amount is stated in the order form. The duration of use is based on the Customer's selection in the order form.

All prices are gross prices. For the premium package, payments must be completed in advanced.

The costs for third-party services (e.g., DeutschenTelekom AG or other carriers) are not a part of this contract. Costs for Internet access are not included.

Access provision begins with the activation of the Customer account.

The Customer may only demand compensation for claims arising from this contract that are legally binding or recognized by S.A.D.

Objections to bill totals must be made in writing within three months of service activation. The address for bill disputes can be found under the "Impressum" section of the S.A.D. Website at www.s-a-d.de. If the Customer acquired the product in a retail store, objections must be made within two months of the date that begins the appointed billing period.

Instead of a bill as proof of service, the Customer shall receive access to the UCP. The Customer can save the data stored in the UCP as a download. The data stored in the UCP will be deleted two months after the end of the billing period it represents. Regardless of the length of contract, a billing period lasts 30 days.

S.A.D. makes express reference to the consequences of missing a term. The right of the Customer to demand the explanation of payment charges remains unaffected.

The Customer is also obligated to pay the use charge arising from authorized or unauthorized access usage by third parties, unless the Customer is not responsible for this usage. The Customer is obligated to demonstrate that he or she is not responsible for this usage.

S.A.D. will record the connection data required for the bill after each connection. Other connection data will be immediately deleted. The data will be stored as evidence for two months after the billing period expires, unless the user exercises one of the options described in the following paragraph. Should the Customer raise objections to the charges billed to him or her, the connection data will be stored until the matter has been completely clarified.

The Customer can demand that connection data be completely stored or that they be completely erased at the end of a billing period. The Customer can also choose another interval of deletion. The Customer must confirm this choice expressly on the order form. Should the Customer decide for the complete deletion of connection data, S.A.D. shall make express reference in the UCP that doing so relieves it from supplying evidence for the correctness of the bill.

In the event of payment arrears despite setting a time limit with threat of rejection, S.A.D. is authorized to terminate the contract without notice. In this case, the Premium Service may no longer be used from this point onward.

§ 5   Cancellation Policy

(1) The Customer has a two-week period in which he or she can cancel the contract without providing reasons. Termination must be in text form (letter, fax, email). The two-week period begins when the contract is concluded and the Customer has received the software and this information. Cancellation must be postmarked within the two-week period.
Cancellations may be sent to:
S.A.D. Software Vertriebs- und Produktions- GmbH
Rötelbachstraße 91
89079 Ulm
Written cancellations should be sent to the above address.
Faxes should be sent to +49 (0) 7305 9629 -33
Email should be sent to *kontakt@s-a-d.de*.
Other addresses can be found at www.s-a-d.de under "Kontakt."
(2) In the event of an effective cancellation, each party must return any payments or services it has received and, if applicable, surrender usages laid claim to.

The Customer's right to cancellation ends prematurely if S.A.D. has begun service performance before the end of the cancellation period or if the Customer has brought this about. Usually this means that if you install software, create anonymized access to the Internet via an S.A.D. server, or register with our server before the end of the 14-day cancellation period, you nullify your right to cancellation.
The Customer has no right to cancellation if product is purchased in a retail store.

§ 6   Liability / Data Protection

The following applies to all Customers:
(1) The access provision is carried out in accordance with service fulfillment law. S.A.D. shall therefore be liable for inadequate fulfillment of its services or for an inadequate selection of persons used to perform its obligations, insofar as S.A.D. can influence said selection. Strict liability applies only in those cases in which strict liability is expressly assumed by S.A.D.

(2) Should S.A.D. not be responsible for its failure to fulfill, or adequately fulfill, the service obligated in the contract, each party may cancel the contract after a period of six weeks. S.A.D. shall not be held responsible in the event of a *force majeure* for which S.A.D. is not the cause, in particular: thunder storms, electrical damage, water damage, theft, vandalism, or other environmental catastrophe, lockout, or strike.

For every service, the Customer must ensure the protection of his or her own data. This means backing up all computer data at regular intervals. Damage claims against S.A.D. are limited to damage that would have arisen through the proper fulfillment of this duty on the part of the Customer.
The following applies to Premium Service Customers:

S.A.D. is liable for pay-for services according to the reason and amount pursuant to legal regulations, with the exceptions stipulated in paragraph 5 and the following lines (a) and (b):
(a) Though the Customer is able to save content on the Web server, he or she is obligated to save data on the local computer after using the service.
(b) S.A.D. is liable for the amount of damage that would have arisen if the Customer had fulfilled the duty to protect his or her data, as stipulated in line (a) above.
The following applies to Customers who use the Beta User and Basic no-charge services:
S.A.D. is liable during the test phase only in cases of malice or gross negligence. This does not apply to cases involving claims resulting from damages to body, life, or health or the violation of warranties. Claims arising from the product liability law shall remain unaffected.
The exclusion or limitation of liability on the part of S.A.D. also extends to the personal liability of the manufacturer's entities, employees, representations, and persons who perform its obligations.
The following applies exclusively to the transfer of software:
Liability and warranty for the transfer of software shall follow the legal regulations regarding free software pursuant to the exceptions given in § 5 para.1-3.

§ 7 Duties to Cooperate

(1) The duties named in the order form and its appendices are major terms. Insofar as the Customer does not fulfill these duties in accordance with this contract, S.A.D. is not obligated to provide service and can terminate the contract after issuing a warning.
(2) Reports of problems from the Customer must contain the following information:
- customer name
- account name
- description of the problem (sporadic or regular)
- performance impairment (bandwidth, lapses, etc.)

§ 8 Period of Validity

(1) The contract for the Premium Service will be valid for at least the period given in the order form. For packages acquired in retail stores, the normal period of validity is stated on the product package. The period of validity of Basic Service is unlimited in time. S.A.D. may cancel the Basic and Beta User contracts at any time without giving reasons. In this event, the Customer shall be informed accordingly.
(2) The beginning of mutual performance obligation begins with service activation and ends with the lapse of time.
(3) This does not affect the right of extraordinary termination for an important reason. Important reasons include in particular those cases when the user fails to fulfill his or her contractual duties and the S.A.D. cannot be expected to wait for the cancellation period to end.

§ 9 Miscellaneous Provisions

(1) If individual clauses of these General Business Terms should be or become void, these terms and other supplementary agreements shall remain unaffected.

(2) All agreements that involve a change, addition, or specification of these contract terms, as well as special warranty promises or agreements, must be in writing. Agreements declared by representatives or auxiliary persons of S.A.D. are only binding to the extent that S.A.D. management agrees to them in writing.

(3) The parties agree to the application of the law of the Federal Republic of Germany– excluding UN sales law—as regards all legal relations arising from this contract.

(4) All disputes arising under or in connection with this contract shall be submitted exclusively to the jurisdiction of the courts in Ulm, Germany, to the extent that the Customer is a commercial entity in accordance with the commercial code or a public law corporation, or a public law fund or trust.

(5) Jurisdiction is the Customer's domicile to the extent that the Customer is a private individual. If the Customer moves his or her domicile outside Germany, S.A.D. is entitled to take legal action against the Customer in the jurisdiction governing the Customer's last known domicile in Germany.

§ 10   Transfer of Software

(1) S.A.D gives away its CyberGhost software for free. CyberGhost software is necessary to fulfill the service governed in this contract. The transfer of rights of use follows in accordance with the S.A.D.'s EULA (End User License Agreement). The modifications of S.A.D.'s Eula appearing under paragraph 15 apply to Customers who use the Beta User Service.

(2) The Customer is responsible for taking the necessary steps to employ the software.

§ 11   S.A.D. Obligations

(1) S.A.D. is obligated to provide the Customer continual access to the Internet via a functioning gateway for the transmission of data to and from the Internet. Information about interruption-free availability is stated in the order form or on the package description.

(2) The maximum volume available per month depends on the offer used.

S.A.D. is obligated to ensure the proper transmission of data to the Internet (sending) and to the Customer (receiving). S.A.D. is not liable for the availability of other networks targeted by the Customer.

S.A.D. shall provide the Customer the data (serial numbers) necessary for Internet access. Access data such as password and user name shall be determined by the Customer during access setup.

S.A.D. is not responsible for the function and performance of transfer systems on the part of the user. Nor is S.A.D. responsible for the performance of third-party transfer systems that, due to the nature of the Internet, participate in the transfer of data but are not selected by S.A.D. and whose content S.A.D. has no influence on.

§ 12   Customer Obligations

(1) The Customer is obligated to transfer data in conformance with the TCP/IP Internet protocol. The Customer may only use the standard accepted gateways or those stipulated by S.A.D. Deviations require written permission.

(2) The Customer is obligated is keep access data given to him or her from unauthorized third parties. Data must be stored in a place that cannot be accessed by unauthorized third parties, thus preventing access misuse by third parties. The user password shall be changed at regular intervals. Third parties that use the Internet connection of the Customer with his or her knowledge and consent are not permitted to alter user passwords.

(3) The Customer shall not misuse the service to perform criminal acts, which include but are not limited to offences against sexual self-determination, planning or calling for violent acts, violations of intellectual property laws, fraud, defamation, insult, computer crimes, or other criminal activities.

(4) The Customer promises to release S.A.D. from all liability claims from third parties or caused by criminal prosecutions or investigations or the enforcement of injunction claims. In the event of all such claims, the Customer promises to pay S.A.D. an amount of 1,500.00 Euro for damages. The Customer is free to demonstrate that S.A.D. has incurred less damage, and the S.A.D is free to claim all damage that exceeds that amount.

(5) In the event that third parties enforce an injunction on service against S.A.D. because the Customer performed activities with the service that triggered injunction claims, S.A.D. shall immediately forbid the Customer from using the service and block his or her access.

(6) In case Customer access has been blocked, the Customer has no right to demand a refund of previously paid charges. The Customer can compensate the third party that enforced the injunction claims. The Customer reserves the right to submit an extraordinary notice of cancellation for the subscription months that follow the subscription month already paid for.

(8) The Customer is obligated to inform S.A.D. if the dispute with the third party is resolved or if the third party does not enforce injunction claims or if state proceedings found that the Customer's use of the service did not violate the law. Should the Customer demand to continue service before such a clarification has taken place, S.A.D. can make service usage incumbent upon a money deposit with a government-recognized office. The amount of this deposit shall be in accordance with the appropriate consequences of legal prosecution.

§ 13   Privacy

(1) The Customer accepts that S.A.D. records, processes, and uses data as required of it by law.

(2) S.A.D. may record, process, and use personal data (inventory data) to fulfill the terms of this contract. This data includes name, address, and telephone of the Customer or his or her end Customers as well as bank account information required for direct debiting. The Customer reserves the right to inform him- or herself about the extent and content of the personal data stored.

(3) Also, S.A.D. may process and use personal data collected in the setup and delivery of service (connection data). This includes Customer identification and data regarding time and volume of use.

(4) S.A.D. records the Customer traffic data at five-minute intervals. The generated data volume is registered and given a time stamp, so that it is possible to discern when the Customer used S.A.D. services and the data volumes that were processed at that time.

§ 14 Anonymization

(1) S.A.D. "anonymizes" the Customer's identity so that third-party Internet users, e.g., Website operators, only see the IP address of the S.A.D. proxy server. Visible to S.A.D. are Customer ID, date and time of use, and transfer volumes.

Special Terms for Beta Users
§ 15 Evaluation License / Right of Use

The following terms apply only to test phase users. These terms differ from S.A.D.'s Eula in the following points:

(1) The Customer shall receive a simple right of use for the software, unlimited in terms of place but restricted to the duration of the test period. This right only includes the license to load and use the program. No other right of use is thereby conferred.

(2) Without previous written consent from S.A.D., the Customer shall not be authorized to transfer right of use to third parties or to grant equivalent rights of use.

(3) The Customer promises not to disclose software and documentation to third parties, either in their original form or as copies, without the express written consent of the manufacturer.

(4) The duration of the right of use is apparent from the offering.

(5) The transfer of right of use shall allow the Customer to test the program for a limited period of time.

(6) After this limited period of time expires, the Customer is obligated to delete the test version and all copies immediately, unless the Customer has already acquired at this time an extended right of use for this software.

(7) S.A.D. may extend right of use at any time, and it may terminate right of use before the end of the period stipulated in the offering.