

Terms of use

for the online functions of the Internet Service Gateway (ISG)

STIEBEL ELTRON GmbH & Co. KG,
Dr.-Stiebel-Straße 33, 37603 Holzminden, Germany
– hereinafter referred to as STIEBEL ELTRON –

STIEBEL ELTRON

Technik zum Wohlfühlen

Version: May 2018 (1)

Table of contents

- 1. Introduction 3
- 2. Registration for using the online functions..... 3
- 3. Technical integration and system requirements 4
- 4. Availability of the functions 4
- 5. Support from STIEBEL ELTRON and any other manufacturers 4
- 6. User obligations 4
- 7. Granting rights of use and changing the scope of service 5
- 8. Warranty 5
- 9. Remedy of faults and warranty claims..... 6
- 10. Infringement of third party IP rights 6
- 11. Liability..... 6
- 12. Duration and notice of termination..... 7
- 13. Data protection 7
- 14. Subcontractors..... 8
- 15. Choice of law and jurisdiction and venue; dispute resolution before a consumer arbitration board 8
- 16. Final provisions..... 9

1. Introduction

- 1.1 The Internet Service Gateway (ISG) offers options for controlling, adjusting and checking data for various products from STIEBEL ELTRON and from companies affiliated with STIEBEL ELTRON (the "STIEBEL ELTRON Group") as defined in section 15 et seq. German Stock Corporation Act (*Aktiengesetz*, AktG), insofar as these products are intended for corresponding services.
- 1.2 The possibilities for controlling, adjusting and checking data can be applied within the user's own network ("local functions" of the ISG), or from outside the user's own network, i.e. remote control and remote diagnosis ("online functions" of the ISG).

Each use of the ISG requires acceptance of local terms of use when first accessing the local SERVICEWELT site of the ISG, which are different from these terms of use for the online functions and can be accessed at www.stiebel-eltron.com/terms-of-use/isg-local.
- 1.3 Using the online functions requires the user to enter into a user relationship, covered in these terms of use, with STIEBEL ELTRON as the provider of the online functions. This user relationship is independent of the purchase of the ISG, which is normally made through a qualified contractor. Further agreements may be necessary for the use of remote control and/or remote diagnosis by parties other than STIEBEL ELTRON customer service, in particular for data protection reasons; see 2.2.

2. Registration for using the online functions

- 2.1 The user relationship is entered into as part of the registration of the respective ISG via the local ISG site with the URL "SERVICEWELT". For this registration it is necessary that the ISG is connected to the internet, usually by connecting the ISG to a network that is connected to the internet. Access to the interface of the ISG is browser-based, so only terminal devices with browser functionality are suitable.
- 2.2 During registration, the user is asked to confirm that they consent to these terms of use and to certain data being passed on to STIEBEL ELTRON and certain companies affiliated with STIEBEL ELTRON as defined in section 15 et seq. German Stock Corporation Act (*Aktiengesetz*, AktG), which are listed on www.stiebel-eltron.de/recipients/isg, for customer service purposes. Registration is not possible without consent to these points; consent in all other matters is optional, i.e. consent to receiving advertising for ISG-related service contracts. The user can authorise further forwarding of certain data to him/herself or third parties at a later date, in order to enable remote diagnosis and/or remote control for him/herself or the respective third parties. These agreements may be subject to a fee as a service of a separate service contract; they are made in particular for data protection reasons in a separate, written procedure, which the user can obtain information about by visiting www.stiebel-eltron.com/ISG-services, for example.
- 2.3 During registration, the user's email address, first and last name, device location (street, postcode, town, country), user's telephone number, product designation and product ID (serial number) must be provided. The user him/herself is responsible for ensuring that the data provided is correct, especially the email address. STIEBEL ELTRON does not carry out any special verification as to the correctness of the data, especially the email address. STIEBEL ELTRON is not responsible for any consequences that may arise if incorrect data, especially an incorrect email address, are provided; in particular, any emails sent to that email address are considered to have been effectively delivered unless they are actually undeliverable due to an invalid email address.
- 2.4 During registration, the user can check and correct his/her details using the "Back" function.
- 2.5 An email will be sent to the user at the email address provided containing a numerical code that he/she must enter in the browser interface of the terminal device used, in order to complete the registration process.

- 2.6 The completion of registration marks the start of the user relationship for the online functions, which the user can then access in accordance with these terms of use.
- 2.7 If third parties are allowed to access the device, the user is responsible for informing them about the terms of use and imposing the resulting obligations on them. This applies irrespective of the reasons for giving a third party access, which might for example be joint use, or rental of the premises where the ISG is installed.

3. Technical integration and system requirements

- 3.1 The ISG is linked via a cable to an existing network (LAN) operated by the user at his/her own expense. For the use of all functions including the online functions, a connection with other products, as defined in 1.1, is also required.
- 3.2 An internet connection is generally not required for using the ISG. The local functions of the ISG can be used without an internet connection. Without an internet connection, the online functions requiring data exchange with the STIEBEL ELTRON portal server cannot be used. The ISG connects to the STIEBEL ELTRON portal server via the user's internet connection.
- 3.3 STIEBEL ELTRON points out that the availability and bandwidth of the user's network and internet connection have a substantial impact on the ability to use the ISG and its functions. If the network or internet connection is unstable, or the bandwidth is inadequate, usage of the functions may be limited or not possible.

4. Availability of the functions

- 4.1 STIEBEL ELTRON endeavours to ensure that the online functions will be subject to a minimum of interruptions. In doing so, STIEBEL ELTRON aims for continuous availability (24/7, 365 days a year).
- 4.2 Temporary usage restrictions may occur due to maintenance work on the portal server or as a result of *force majeure*. STIEBEL ELTRON endeavours to carry out scheduled maintenance work during periods of low use.

5. Support from STIEBEL ELTRON and any other manufacturers

- 5.1 STIEBEL ELTRON products are generally sold through qualified contractors. Thus, these contractors are always the first point of contact for users – this does not affect any separate guarantees provided by STIEBEL ELTRON. STIEBEL ELTRON will provide the qualified contractors with the appropriate information, enabling them to offer the user comprehensive support in the event of problems relating to the functions and ISG operated in conjunction with devices from STIEBEL ELTRON.
- 5.2 STIEBEL ELTRON provides the user with information for activating the online functions of the ISG, including integration into the existing network, for STIEBEL ELTRON products together with the ISG, in particular in the quick guide. This and other information can also be found on STIEBEL ELTRON's website.
- 5.3 For devices which have not been manufactured by STIEBEL ELTRON (see 1.1) the respective manufacturer may be responsible instead of STIEBEL ELTRON with regard to the topics covered in 5.1 and 5.2. If required, the user can find the respective manufacturer by checking the label on the enclosure of the ISG, or alternatively the operating instructions supplied with the ISG.

6. User obligations

- 6.1 Throughout the duration of the user relationship, the user must comply with all of the provisions set forth in these terms of use and with the operating instructions.

- 6.2 The user is prohibited from taking any action that could result in a fault or other adverse impact on the online functions. In particular, the user is not permitted to modify the software of the ISG or related products if the modification might affect the functions and their use and has not been authorised by STIEBEL ELTRON. Furthermore, the additional installation on the ISG of other software not purchased from STIEBEL ELTRON is not permitted.
- 6.3 There must be no interference with systems provided by STIEBEL ELTRON or third parties which facilitate provision of the online functions. The user may only establish a connection to the STIEBEL ELTRON portal server with the ISG, via the associated STIEBEL ELTRON portal and any STIEBEL ELTRON apps.
- 6.4 The user is not entitled to carry out reverse engineering with regard to the ISG website, unless this is expressly permitted by law. The user is also forbidden to otherwise attempt to influence the software or ISG website in ways that were not intended, in particular with regard to bypassing existing security mechanisms.
- 6.5 The user is prohibited from independently using any trademarks, brand elements or logos that may appear in the online functions.
- 6.6 Legal information in connection with the online functions may not be made unrecognisable, modified or removed.

7. Granting rights of use and changing the scope of service

- 7.1 In accordance with these terms of use, STIEBEL ELTRON grants the user the non-exclusive right to use the online ISG functions, though this right of use is limited in its temporal, geographical and substantive scope to the duration and scope of the user relationship.
- 7.2 STIEBEL ELTRON endeavours to keep the range of online functions that are available to users as constant as possible.
- 7.3 The aim is to continuously develop the ISG and the functions. Both the scope of service and operation regarding the online functions may change as a result of further developments. STIEBEL ELTRON reserves the right to make appropriate modifications, provided that the underlying functionalities are not negatively affected. STIEBEL ELTRON will provide notification of any changes in a suitable form, in particular in release notes.
- 7.4 From time to time STIEBEL ELTRON may provide software updates for the ISG, the portal and the online functions, which may also affect the scope of the online functions. If an update is necessary in order to eliminate faults or security risks, STIEBEL ELTRON reserves the right to perform the update automatically. All other updates, which are optional, can be installed by the user by selecting the corresponding function on the ISG. STIEBEL ELTRON is entitled to make its provision of the services conditional on compliance with these terms of use and may make troubleshooting of faults conditional on the user having installed all updates provided for the ISG. Unless all updates provided are actually installed, STIEBEL ELTRON cannot warrant the availability of the online functions in the form described in these terms of use.

8. Warranty

- 8.1 STIEBEL ELTRON warrants that the online functions shall essentially meet the promised requirements, conform to accepted engineering standards and not contain errors that would negate or reduce the value/suitability for normal use or use stipulated in the contract (fault). This warranty does not extend to damage and/or faults resulting from breaches of these terms of use by the user.
- 8.2 STIEBEL ELTRON does not warrant that the functions will meet the user's needs. The user bears responsibility for verifying this beforehand. The user is aware that STIEBEL ELTRON cannot guarantee uninterrupted provision of the online functions. Consequently, STIEBEL ELTRON does not bear any contractual obligation in this regard.

- 8.3 STIEBEL ELTRON warrants that the online functions are free of third party rights that would restrict or prevent their use in accordance with the scope set out in these terms of use. If use of the online functions in accordance with the contract is compromised by third party IP rights, STIEBEL ELTRON is entitled, so far as reasonable to the user, either to modify the services in such a way that they fall outside the protected domain or to obtain the necessary licence to ensure that the online functions can be used without restriction and without additional cost to the user in accordance with the provisions of these terms of use.

9. Remedy of faults and warranty claims

- 9.1 STIEBEL ELTRON will in all cases remedy faults relating to the online functions within a reasonable time after being properly notified of the fault. At STIEBEL ELTRON's discretion, it will remedy software faults by eliminating the error, for example by means of a software patch, or by providing a new version of the software. The user bears an obligation to install updates provided by STIEBEL ELTRON for the software of the ISG where such updates are safety-related or are provided in order to remedy faults.
- 9.2 These terms of use do not cover measures to remedy faults relating to the hardware of the ISG. In this respect, only the purchase agreement for the ISG concluded with the dealer or other vendor shall apply. This does not affect any guarantees provided separately by STIEBEL ELTRON or any other guarantees given.
- 9.3 The user is aware that the online functions covered in these terms of use are offered by STIEBEL ELTRON without additional remuneration (further functions may be purchased from STIEBEL ELTRON for a fee irrespective of this; see in particular 2.2). In light of this, STIEBEL ELTRON broadly disclaims warranty claims by the user against STIEBEL ELTRON under the provisions of these terms of use. If any fault remedy is unsuccessful or refused by STIEBEL ELTRON, the user shall have no further claims. The sole option for the user is to terminate the user relationship, which may be done at any time. If the user has incurred loss or damage due to a fault, the limitations of liability under these terms of use shall apply with respect to any claims for damages. Irrespective of the foregoing, any warranty claims against the respective seller of the ISG remain unaffected.

10. Infringement of third party IP rights

- 10.1 The user must inform STIEBEL ELTRON immediately in the event of any claims made against him/her based on infringement of IP rights relating to use of the online functions. In such event, STIEBEL ELTRON shall defend the user in respect of the alleged infringement at its own expense. If the user has nevertheless incurred costs for his/her own legal defence, these will be reimbursed to the extent that they were necessarily incurred, in accordance with the limitations of liability set out in these terms of use. The user must provide STIEBEL ELTRON with the necessary substantive support to enable it to effectively defend against an infringement action.
- 10.2 If it transpires that the accusation of the infringement of third party IP rights was wholly or partly due to the user's culpable conduct, particularly if he/she did not adhere to the stipulations and limitations set forth in these terms of use, then the user shall be liable to indemnify STIEBEL ELTRON for all resulting damages and legal defence costs.

11. Liability

- 11.1 STIEBEL ELTRON's liability to the user is governed by the general legal rules on liability, unless otherwise stated in the sub-sections below.
- 11.2 STIEBEL ELTRON shall be liable without limitation for intentional acts, in the event of injury to life, limb or health, and in the event of claims arising on the basis of product liability law. Liability under guarantees provided by STIEBEL ELTRON remains unaffected hereby. STIEBEL ELTRON disclaims all other liability, or shall only accept liability to a limited degree in accordance with the sub-section below.

- 11.3 STIEBEL ELTRON disclaims liability for any form of negligence, including gross negligence. The user is aware that STIEBEL ELTRON enables use of the online functions covered in these terms of use free of charge and that a reduced level of liability applies as a result.

12. Duration and notice of termination

- 12.1 The user relationship commences with immediate effect upon completion of registration and shall remain valid for an indefinite time.
- 12.2 The user may terminate the user relationship at any time. Such notice of termination may be sent via email to info-center@stiebel-eltron.com, by letter to STIEBEL ELTRON GmbH & Co. KG, -Info-Center-, Dr. Stiebel-Str. 33, 37603 Holzminden, Germany or by selecting the menu item for termination. The user's notice of termination must contain the email address provided during registration along with the product ID (serial number), provided the termination is not effected by selecting the menu item for termination. STIEBEL ELTRON may terminate the user relationship in its entirety or with respect to individual online functions upon three months' notice to the end of any calendar month. The data stored on the portal server will be irrevocably deleted upon termination. The data stored locally in the ISG, on the other hand, is retained upon termination; however, this can be deleted by selecting the menu item for the deletion of local data (see 13.7).
- 12.3 If the ISG is registered again after its initial registration, the original user relationship ends automatically when the new registration is completed. There can only be one user relationship at a time for the ISG. Re-registration is only possible where a new user acquires the ISG from the previous user.
- 12.4 In the event of changes to the network which the ISG is connected to, STIEBEL ELTRON reserves the right to demand confirmation of registration or to demand re-registration.
- 12.5 The parties' right of extraordinary termination remains unaffected by the foregoing.

13. Data protection

- 13.1 STIEBEL ELTRON takes the protection of personal data as required by data protection regulations very seriously. Personal data is information that can be used to identify a person. Such data includes the user's name, address and email address, for example. STIEBEL ELTRON observes data protection regulations with regard to the user's personal data and protects this data against unauthorised access by third parties in accordance with legal requirements.
- 13.2 STIEBEL ELTRON can process personal data insofar as this is necessary for the provision of the contractually owed services and for the purposes of technical administration and customer administration to the extent necessary in each case. If personal data is to be processed for other purposes, STIEBEL ELTRON will obtain the user's consent for this, insofar as this is provided for by law.
- 13.3 STIEBEL ELTRON and third parties commissioned by STIEBEL ELTRON are expressly entitled to collect, process and use anonymised data for statistical evaluation.
- 13.4 The user has the right to information about personal data stored that relates to him/her, its origin and recipients, as well as the purpose of data processing. In addition, in accordance with the provisions of data protection regulations, there is a right to correction, to restriction of processing and to deletion of personal data if the conditions for further storage of the data are not/no longer met.
- 13.5 The user can revoke his/her declaration of consent at any time with effect for the future. If users revoke their declaration of consent, STIEBEL ELTRON has the right to exercise extraordinary termination of the user relationship with immediate effect.

- 13.6 For questions regarding data protection regulations and to assert the aforementioned rights of data subjects, the user can contact privacy@stiebel-eltron.com by email or use the general contact data for customer service, for example. Without prejudice to any other administrative or judicial remedy, the user has the right of appeal to a supervisory authority, in particular in the Member State of his/her place of residence or the place of the alleged infringement, if the user considers that the processing of personal data concerning him/her violates data protection regulations.
- 13.7 The user is advised that if the SERVICEWELT site is accessed from the local network by third parties, these third parties may also be able to access personal data. Such third parties may, for example, include a subsequent tenant or a tradesperson performing maintenance or repair work. In addition to the consumption values specified by the user him/herself during the registration process, this applies also to those automatically collected by the device. The personal data stored locally can be deleted at any time by the user him/herself by selecting the menu item for the deletion of local data; the data stored on the portal server and the data entered during the registration process can only be deleted by terminating the user relationship (see 12.2). Prior to the device being used by a third party it is the user's responsibility to delete personal data by selecting the menu item for the deletion of local data. If the menu item for the deletion of local data is not selected, STIEBEL ELTRON will not be responsible for the possibility of third parties accessing personal data or the resulting consequences.
- 13.8 STIEBEL ELTRON points out that the user is obliged to take responsibility for checking whether he/she is entitled under data protection regulations and other aspects to access and use the data available via the online functions, in particular insofar as this concerns data from third parties (such as tenants' consumption values).

14. Subcontractors

- 14.1 STIEBEL ELTRON is entitled to engage third parties to render services to be provided by STIEBEL ELTRON pursuant to these terms of use. In particular, STIEBEL ELTRON is entitled to entirely delegate the performance of the services to a third party.
- 14.2 Irrespective of which services are rendered by third parties, STIEBEL ELTRON has a general obligation to the user to comply with these terms of use.

15. Choice of law and jurisdiction and venue; dispute resolution before a consumer arbitration board

- 15.1 The contractual relationship and further agreements relating to the use of the online functions of the ISG are governed by the laws of the Federal Republic of Germany, to the exclusion of the United Nations Convention on the International Sale of Goods (CISG) and to the exclusion of international private law. If the user enters into a user relationship as a consumer and is, upon commencement of the user relationship, ordinarily domiciled in a country other than Germany, the application of that country's mandatory legislation shall remain unaffected by the aforementioned choice of law.
- 15.2 STIEBEL ELTRON is not willing and has no obligation to take part in arbitration proceedings before a consumer arbitration board.
- 15.3 Exclusive place of jurisdiction is in the courts of Holzminden, Germany; the place of performance is Holzminden, Germany. The foregoing rule shall not apply if the user is a consumer using the online functions solely for private purposes. In that case, the statutory rules shall continue to apply.
- 15.4 STIEBEL ELTRON will provide the user with these terms of use in various languages. Only the German version shall be authoritative in the event of disputes and problems of interpretation. All other language versions are purely reference versions for the benefit of the user.

16. Final provisions

- 16.1 In the event that individual provisions within these terms of use should be or become invalid or unenforceable, the remaining terms shall not be affected thereby. The parties shall endeavour to find a provision that best meets the legal and economic objectives of the contract to replace the invalid or unenforceable provisions. The same shall apply in the event that the parties should later discover that the provisions of these terms of use contain contractual gaps.
- 16.2 Unless otherwise specified, the user relationship is established electronically. The offer itself is available in Croatian, Czech, Danish, Dutch, English, Finnish, French, German, Hungarian, Italian, Latvian, Lithuanian, Norwegian, Polish, Slovak, Slovenian, Spanish and Swedish. The text of these terms of use is available in Croatian, Czech, Danish, Dutch, English, Finnish, French, German, Hungarian, Italian, Latvian, Lithuanian, Norwegian, Polish, Slovak, Slovenian, Spanish, and Swedish. The text of the terms of use (contract text) is saved as a PDF file. This is included as an attachment in the email sent to the user immediately after completion of the registration process. The terms of use can also be downloaded from www.stiebel-eltron.com/terms-of-use/isg-online. In terms of geographical location, use of the online functions of the ISG is only permitted if the ISG used for this purpose is located in the Member States of the European Union, Liechtenstein, Norway, Switzerland or the United Kingdom. The aforementioned restriction on geographical use only applies to the online functions (see 1.2), i.e. it does not apply to any further use of the ISG.
- 16.3 STIEBEL ELTRON reserves the right to unilaterally amend and/or supplement these terms of use with future effect wherever necessary to protect the legitimate interests of STIEBEL ELTRON, particularly when new functions or any legislative changes are introduced. In such an event, the user shall be informed of the amendments and/or addenda at least three months in advance. If the user does not object to the applicability of the new terms of use within two months of being notified (objection period), e.g. by sending an email to info-center@stiebel-eltron.com, the amended terms of use shall be deemed to have been accepted by the user. In its notification, STIEBEL ELTRON shall make users aware of their right of objection and of the significance of the objection period. In the event that a user lodges an objection, he/she may continue to use the functions in accordance with the existing version of the terms of use, although STIEBEL ELTRON shall be entitled to terminate the user relationship for good cause. In the event that no objection is received, the amended version of the terms of use shall enter into force at 00:00:01 CEST on the day stated in the notification.