

Hoval TopTronic® E online

Terms of use

1 Scope

TopTronic® E online is an online portal developed by the Hoval corporation, Austrasse 70, LI-9490 Vaduz (hereafter *Hoval*) which can be optionally connected to all the heat generators currently found in the Hoval group sales programme which are equipped with the TopTronic® E control System.

These terms of use apply in conjunction with the acquisition of a Hoval TopTronic® E online Gateway or other available variants which also enable connectivity (hereafter *Gateway*) through a Customer (hereafter *Customer*) from a Hoval group company, a Hoval sales partner or from a third party and are valid between the Customer and Hoval. These terms of use regulate the use of the copyright protected Hoval TopTronic® E Online Software (hereafter *Hoval software*) using the Gateway through the online access HovalDesk (hereafter *HovalDesk*) which can be found here www.hovaldesk.com.

The terms of use come into effect when the Customer registers at the HovalDesk. The Customer declares himself or herself to be in agreement with these terms of use at the time of registration. These terms of use can be amended by Hoval at any time and each time will enter into force on the date of amending them, unless decided otherwise.

2 Subject of use

The Hoval TopTronic® E online System (hereafter *System*) is largely composed of the Hoval software (mobile and web-based applications), the usage key, the Gateway and the Hoval server infrastructure (hereafter *Server infrastructure*).

Heat generators can be accessed on the Internet through the online portal using the Hoval software (mobile or web-based applications) via a PC, smartphone etc.

The Hoval software includes all functions and information in the form of a mobile or web-based application which are made available to the customer in connection with the System via the online portal or in another form as well as generally available updates, debugging and otherwise modified versions.

3 Property rights

The owner of the System and therefore in particular the owner of all rights to the System as well as to all changes and copies thereof is Hoval. With the exception of the restricted usage rights issued in these terms of use, the Customer is not assigned any further rights, including copyrights, patents or other commercial property rights including company secrets in the System. The System contains Hoval group company secrets, its suppliers or Hoval, such as specific design, structure and algorithms, their interaction with other parts of the Hoval software internally and externally as well as related programming technology.

4 Usage right

Hoval grants the Customer a personal, non-exclusive, non-transferable usage right to the Hoval software. The acquisition of the Gateway includes the usage right to the basic function of the Hoval software available at that time. Updates to the existing Hoval software (mobile or web-based applications) may incur additional costs. The contents of this usage right are restricted to use for internal business purposes by the Customer in the scope of the given capacity and performance characteristics.

5 Transfer right

The heat generator is assigned to the respective Customer via the server infrastructure using the technical and registration data submitted, for example, password, series number, address of the Gateway, contact addresses and operating conditions. In the event that the heat generator changes ownership and/or the Gateway is transferred to a third party, the Customer is obligated to inform Hoval of this in writing within ten (10) days, providing the time and type of transfer, the contact details of the new owner and any further reasonable information requested by Hoval.

The Customer agrees that in the event that services are required from Hoval or one of its third parties in the scope of the transfer of ownership, all these services will be separately remunerated according to the work required and that the Customer will keep Hoval free from damage or complaint compensation claims which the person receiving the transfer or third party has incurred due to missing or delayed notification of the transfer by the Customer.

6 Usage restrictions

Insofar as it is permitted by the applicable law, the Customer is, among other things, not authorised to decompile, disassemble, retranslate or otherwise decode nor embed in another website Hoval software without written approval from Hoval. Furthermore, the Customer may not alter, edit or create extensions or translations based on works derived from Hoval software; the customer may also not sell, publish or enable a third party to use such software on a network or another platform, in particular not a service provider; to publish or transfer company secrets to third parties or make them otherwise accessible. Alternative conditions according to this usage agreement remain reserved.

7 Ending the usage right

Insofar as the Customer violates these usage conditions and does not end and rectify this within (10) working days after receiving a corresponding demand Hoval is authorised, with any other and further reaching laws and claims due to contractual breach and/or copyright violation reserved, to rescind the issued usage rights to Hoval software with immediate effect and to block access to the online portal. The regulations regarding confidentiality, copyrights, usage restrictions, liability and guarantee restrictions continue for an unrestricted time period. Hoval reserves the right to discontinue the online portal at any time for business or other reasons. Already paid usage fees as well as costs for the Gateway will not be recompensed.

8 Third party components

There may be software programs or parts of software programs (including Open Source software) from third parties contained within the Hoval software ("third party components") which may be subject to additional usage conditions that may extend or restrict the usage rights for this software program (third party conditions).

9 Technical prerequisites / installation

The prerequisites for using the System are a computer or mobile end device (smartphone etc.) with an Internet connection, a Hoval TopTronic® E online Gateway which is connected to the Internet via LAN, WLAN, UMTS or other technology as well as a heat generator with a TopTronic® E heating controller. The computer or the mobile end device, the Internet connection and the heat generator with the TopTronic® E heating controller are to be provided by the Customer at their own expense. Alternative services which may be offered to the Customer by Hoval remain reserved.

Hoval recommends the installation or retrofitting of the Gateway with the heat generator by a service technician from the Hoval regional subsidiary, a Hoval sales company or a specialist third party for a separate fee. The Gateway connects following activation with the infrastructure by Hoval and sends a clear identifier which is connected to the Customer following user registration.

From this moment, the Customer logged on via the online portal can effect remote access to the heat generator. There is no direct connection between the end device accessing the portal (for example, computer, mobile end device) and the Customer's heat generator. The data transferred is redirected to the TopTronic® E online server infrastructure and saved in a database there.

10 Registration / user data

The mobile app TopTronic® E online for smartphones (iOS or Android) is made available by Hoval in the iTunes store and via Google Play Store for iOS and Android devices. The web application for PC applications can be called up via the HovalDesk with a standard Internet browser. With each Hoval TopTronic® E online packet acquired the Customer receives use key required for the online registration of the System in the form of the serial number for the Gateway and a password (hereafter *User data*). During registration and the generation of an individual password the Customer can set up an e-mail address for alarm management and define the required parameters. The Customer is responsible for entering the correct addresses and parameters. Hoval accepts no liability for any type of damages resulting from this. The user data as well as the individually generated password are to be treated as confidential by the Customer. In the event of the loss of user data or an individually generated password, Hoval customer services must be informed immediately in order to be able to create new user data. After receiving a loss report the lost user data is blocked. Hoval accepts no liability for any type of damages which result from the loss or improper storage of user data or the misuse of user data by third parties of the Customer or third parties.

Depending on the authorisation Hoval grants it is possible for a Customer to invite more people to his or her HovalDesk via his or her HovalDesk. Assignment is carried out via e-mail invitations and a randomly generated password sent to these people who can then log in via the HovalDesk and must accept these usage conditions in the registration process. The Customer remains responsible for the correct use of the HovalDesk, in particular for adhering to data protection requirements. S/he is the contact person in this matter for any people s/he has invited. Hoval accepts no liability for any resulting damages.

11 Availability

Hoval strives to always keep the system ready for use and available; however, occasional interruptions and failures cannot be avoided with online services. In the event of a failure or interruption it may not be possible to access the heat generator with TopTronic® E control via a mobile or web-based application. Hoval will endeavour to rectify such defects as quickly as possible.

Hoval reserves the right to interrupt access to the System, insofar as there are compelling reasons. Compelling reasons include, for example, necessary maintenance work to servers, programs or other required infrastructure, rectification of faults or security breaches, unauthorised access to data or other circumstances. These short-term restrictions or faults do not form the basis for liability or guarantee claims from the Customer to Hoval.

Hoval reserves the right to transfer the System to a more developed one in the wake of advancing technological developments and, if necessary, to stop the operation of the System or individual components which were applicable up to that point. Hoval will inform the Customer of this in good time. Transfer to a new System may be associated with costs which are to be born by the customer.

12 Usage fee

The fees for using the basic package are included in the purchase price of the Hoval TopTronic® E online package. Additional functions and updates to the TopTronic® E online mobile app or the web application incur a charge. These functions are released to the Customer after the payment of these additional usage charges. In the event of a delay in the Customer's payment to Hoval, a Hoval regional subsidiary or a Hoval sales company concerning the Hoval TopTronic® E online package, Hoval is authorised to block the Customer's access to the System without further warning. Access will be reinstated upon receipt of payment. Hoval reserves the right to further rights in the event of delays.

Costs incurred by Hoval in the resolution of access problems the Customer has to the System are born by the Customer. Access problems which can be traced back to the hardware provided by Hoval (for example, TopTronic® E online Gateway, within the guarantee period) or the server infrastructure remain reserved.

13 Guarantee / liability

Hoval guarantees the Customer that the System is free of material and legal defects. The Customer must inform Hoval immediately in the event of defects. The guarantee rights do not extend to defects which are caused by deviations from the usage conditions intended for the System. The guarantee period is restricted to six months from the delivery of the Hoval TopTronic® E online package by a Hoval regional subsidiary, a Hoval sales party or a third party of the Customer, compelling legal conditions of the applicable law reserved.

Short-term restrictions to the System do not form a basis for a guarantee or liability claim by the Customer to Hoval.

Hoval is exclusively liable for damage insofar as intent or gross negligence can be proven. Liability for negligence, indirect damages and resulting damages, property damages, lost profit and for damages from claims from third parties is excluded in all events insofar as this is permitted by the applicable law. Hoval will, in particular, accept no liability for damages resulting to the Customer due to faults or operational interruptions in its own infrastructure or for damages for which the Customer or third party is liable. Hoval also particularly excludes liability for damages which are caused by Internet attacks or viruses or by the use of third party software.

The Customer agrees that the services from Hoval or its commissioned third party in the scope of resolution and recommissioning of the System, including services on location, are to be compensated by the Customer separately depending on the amount of work performed.

14 Privacy statement

Customer data regarding the use and installation of Hoval products is processed (for example, the System settings for heating or ventilation). These are saved and displayed in the app or via the HovalDesk and can be individually adapted by the Customer using the controller or the app in order to monitor Hoval TopTronic® E compatible products. Furthermore, it is possible for the Customer itself to analyse and graphically display historical data in order to monitor any trends or to generally observe device usage. Thus, the functions essentially include the services of a smart meter in the Customer's location in which System settings and flow data can be recorded. The recipient of the data in the sense of the following designs are Hoval, Hoval regional subsidiaries, Hoval sales partners and the Customer's service partners.

Location independent and user-friendly control of the Systems via the Hoval TopTronic® E online can be achieved by processing this data. This usage contract forms the basis for the provision of data by the Customer and its processing by Hoval. Data received via the Gateway is processed centrally by Hoval.

Hoval makes the data available within the Hoval group, the Hoval regional subsidiary responsible for the Customer or the affected Hoval sales partners for administrative purposes and the provision of services by guaranteeing them access to this data. This includes access to user data as well as technical System information in order to be able to identify and resolve errors.

Hoval can guarantee an installer access to Customer data restricted to maintenance and fault resolution with the written consent of the Customer. A prerequisite is the proof of a valid maintenance or service contract between the Customer and installer containing the consent, its extent and the revocability of the consent of the Customer. Hoval provides the installer with the data to the extent to which the Customer has provided consent until its written revocation. Hoval does not accept any responsibility for the use of data by the installer, in particular whether the installer may pass on the data and for what purposes s/he processes it. Access can be blocked by Hoval at any time if there is no longer compliance with the conditions of this usage contract or the usage conditions.

The data will be used within the Hoval group for direct advertising in order to draw the Customer's attention to further optimisation options which result from the evaluation of the data when using Hoval products. The evaluation of data regarding the use of Hoval products can lead to profiling, especially the details regarding controls could lead to conclusions about the daily habits of the Customer. However, automatic decisions which could have an effect on the Customer are not made at any time. Hoval will take appropriate technical and organisational measures for the implementation of this data processing.

Finally, Hoval processes and analyses the data received for the evaluation of its own product series (for example, likelihood of faults) for the further development of its Systems and for various further analyses of its own market position. The data regarding its own development, products etc. is not based on personal data, rather it is only created on the basis of the System data generated and transferred by the System. There is no assignment to a natural person.

The data is saved for the duration of the contractual relationship with the Customer and for as long as anticipated in the scope of the Hoval data security concept. After this usage agreement is ended with the Customer, the data may still be processed for statistical purposes. Hoval endeavours here to make anonymous any personal reference which would enable historical assignment.

All questions or information requests in connection with the processing of personal data within or in connection with Hoval TopTronic® E online, in particular for the correction of data, deletion requests or further details can be asked either by telephone: +423 399 24 00 or via e-mail: dpo@hoval.com. The Customer is also free to make such requests via a Hoval regional subsidiary or a Hoval sales partner which will ensure the request is forwarded to Hoval.

Should Hoval fail to comply with a data security obligation in the Customer's estimation, the Customer is free to make a complaint with the relevant supervisory authority. The main headquarters for Hoval in the sense of data protection regulations is in Liechtenstein.

15 Severability clause

Should one or several of the conditions in these usage conditions be found fully or partially ineffective or not possible to implement, the effectiveness of all other conditions remains unaffected by this. The fully or partially ineffective condition will be replaced by a legally permitted one which comes as close as possible to the economic purpose of the ineffective or impossible to implement condition.

16 Applicable law / jurisdiction

These usage conditions are subject to the substantive law of Liechtenstein. The application of UN sales law (CISG) is excluded.

The jurisdiction for disputes resulting from these usage conditions is the district court in Vaduz, Liechtenstein. Hoval is also authorised to take action against the Customer in the jurisdiction of its place of business.

Hoval Aktiengesellschaft, 21.05.2018