



General Terms and Conditions for Services of consulting4drive GmbH

(January 2023 version)

I. Applicability of these Conditions

1. Subject to deviating agreements in individual cases, contracts with us (consulting4drive GmbH, Hallerstr. 6, 10587 Berlin, Germany) shall be concluded exclusively in accordance with these General Terms and Conditions for Services (hereinafter 'Terms and Conditions'); by placing the order, the customer declares its agreement with the Terms and Conditions. Contradictory or deviating terms and conditions of the customer are only binding for us if we have expressly accepted them; our confirmation must be in writing. Our Terms and Conditions shall also apply if we provide our service without reservation in the knowledge of conflicting or deviating terms and conditions of the customer.
2. These Terms and Conditions apply to all our services and to all obligations resulting from a contractual relationship with the customer. With respect to entrepreneurs and legal entities under public law, our Terms and Conditions shall also apply to all future business relations.

II. Conclusion of the Contract / Changes to the Contract

1. A contract with us shall only be deemed to have been concluded when the customer accepts our quotation without reservation or when he receives our written order confirmation or when we commence with the execution of the service. If we issue a written order confirmation, this will define the subject and the scope of the contract, unless expressly agreed otherwise.
2. Amendments, collateral agreements and supplements as well as any agreements on quality or the assumption of guarantees require an express agreement in order to be effective; this must be in writing in order to be effective.

III. Contract Execution

1. Unless expressly agreed otherwise, the subject of the contract is the agreed consulting service, not the achievement of a certain economic success or the production of a work (e.g. an expert opinion).
2. Our consulting services are rendered when the necessary investigations, analyses and the resulting conclusions have been worked out with the customer. It is irrelevant whether or when our conclusions or recommendations are implemented by the customer. If a written report is to be prepared, this must be agreed separately. The report is not an expert opinion, but reflects the essential content of the process and result of the consultation.
3. We use, among other things, Microsoft 365 Cloud Services including Teams on a cloud infrastructure operated by Microsoft as part of the performance of the contract.
4. Notwithstanding our continuing responsibility for the performance of services owed under the contract, we shall be entitled without restriction to involve third parties in the performance of the contract. Insofar as employees whose deployment was contractually agreed are prevented by reasons for which we are not responsible, we may replace them with other suitable employees.
5. We are entitled to store copies of consulting service documents and other information, which were developed or received in the context of the execution of the contract, on our own systems, taking into account confidentiality obligations.

IV. Cooperation Obligation of the Customer

1. The provision of our services regularly requires close cooperation between the customer and us. The contracting parties therefore undertake to show mutual consideration, to provide comprehensive and immediate information as well as precautionary warning of risks and protection against disruptive influences, including from third parties. The customer shall provide us with all facts relevant to the performance of our services in full. We shall not be obliged to check data, information or other services provided by the customer for completeness and correctness, unless there is reason to do so, taking into account the respective circumstances of the individual case, or the obligation to check has been expressly assumed as a contractual obligation.
2. Insofar as work is carried out at the customer's premises, the customer shall provide our employees with the workstations and work

equipment required in each case free of charge. If it has been agreed that we provide contractual services in the customer's IT systems, the customer shall make these IT systems available to us free of charge and free of errors.

3. The customer assumes as an essential contractual obligation to ensure that all agreed cooperation and provision services are provided in the required quality and on the agreed dates or dates required for the execution of the order without additional costs for us.
4. The customer shall appoint a contact person ("project manager") and a deputy as permanent reference persons for all matters relating to the contract. They are to be put in a position to either make all decisions concerning the contract execution themselves or to bring them about in a timely manner. In addition, the customer shall make available those employees whose special knowledge is necessary in each case for the realization of the contract.

V. Deadlines and Dates

1. Any schedule or milestones for a project indicate an outline for the planned performance of the project. Dates and deadlines shall only be binding if they are expressly agreed as binding deadlines; this agreement must be in writing to be effective. Insofar as no binding dates and deadlines have been agreed with us, we shall only be in default if the customer has previously set us a reasonable grace period for the performance of the delivery owed without result. In any case, deadlines shall only commence once the customer has fully complied with the requirements under its obligation to cooperate and - in case it was so agreed - after receipt of a prepayment. Subsequent requests for changes or delayed cooperation on the part of the customer shall extend the delivery times appropriately.
2. If the consulting service owed by us is delayed due to unforeseeable circumstances for which we are not responsible (e.g. industrial disputes, natural disasters, epidemic / pandemic, operational disruptions, transport obstacles, shortage of raw materials, official measures, in each case also at our downstream suppliers, and including late delivery from our suppliers), we shall be entitled to withdraw from the contract in whole or in part or, at our discretion, to postpone the delivery for the duration of the hindrance. The customer will be informed immediately about the non-availability of the services. In the event of our withdrawal, we will also refund the customer's consideration. In cases of force majeure, claims for damages by the customer are excluded.
3. If we are in default for reasons for which we are responsible, or if our obligation to perform is excluded for reasons for which we are responsible due to impossibility in accordance with § 275 (1) of the German Civil Code (BGB), or if we can refuse performance in accordance with § 275 (2) and (3) of the German Civil Code (BGB), we shall be liable exclusively in accordance with the statutory provisions, subject to the limitations of liability in Clause XI. of these Terms and Conditions, which shall remain unaffected.

VI. Prices and Payments

1. The prices quoted by us shall be decisive, to which the respective statutory value added tax - insofar as this is incurred - shall be added. Unless otherwise agreed, we are entitled to reimbursement of expenses in addition to the agreed remuneration.
2. If remuneration is agreed on the basis of hourly or daily rates, our price lists current at the time of performance shall apply unless otherwise agreed in individual cases. There shall be no price increase for services rendered within four months after conclusion of the contract.
3. Our invoices are payable without discount and free of charges according to the agreed payment schedule, otherwise within 30 days of the invoice date. If checks are accepted on the basis of express agreements in individual cases, this shall only take place on account of payment and also without discount deduction. Any discount charges shall be borne by the customer. We shall only acknowledge payments by check as payment of the agreed remuneration if the respective amount has been credited unconditionally and unrestrictedly to our account. We do reserve the right to demand adequate progress payments and advance payments.
4. In case of several debts being owed by the customer, we shall determine to which debt a payment made is applied. The customer is only entitled to set off payments if its counterclaims have either been established by a final and non-appealable court decision (res

judicata) or are uncontested and acknowledged by us in writing. The same shall apply in respect to the assertion of rights of retention. The customer shall also be entitled to set off payments if its counterclaims directly arise from the same contract as our claims.

5. If, after conclusion of the contract, we become aware of circumstances according to which our claims against the customer appear to be endangered by the customer's lack of ability to pay, we shall be entitled to make outstanding services only against advance payment or provision of security; Clause VI. paragraph 3 of these Terms and Conditions shall apply accordingly.
6. In the event of default in payment, the customer shall owe default interest at the statutory rate, unless we can prove higher damages to the customer.

VII. Claims for Defects for separate Work Performances

1. If - in deviation from Clause III paragraph 1 of these Terms and Conditions - separately agreed work services are the subject of the contract in addition to the consulting services, the following provisions shall apply in the event of claims for defects by the customer.
2. In the event of a defective delivery or service, the customer shall give us the opportunity to remedy the defect within a reasonable period of time, unless such remedy cannot be reasonably accepted by the Customer in an individual case, or special circumstances are given which, taking into consideration the interests of both parties, justify an immediate revocation of the contract. In any case, we shall be entitled to choose between remedying the defect or delivering goods / rendering services free of faults. In the event of rectification of the defect, we shall be obliged to bear all expenses necessary for the purpose of rectifying the defect, in particular transport, travel, labor and material costs, insofar as these are not increased by the fact that the purchased item was brought to a place other than the place of performance.
3. The customer's rights in respect of defects shall be subject to the condition that the customer has duly complied with its obligations to inspect the goods and give notice of defects in accordance with § 377 of the German Commercial Code (HGB).
4. Claims for defects must be asserted by the customer in writing, naming all detected defects and stating the circumstances under which they became apparent. A defect shall not be deemed to exist if a defect claimed by the customer cannot be reproduced. If the customer has interfered with delivered components, hardware or software, claims for defects by the customer shall only exist if the customer proves that its intervention was not the cause of the defect.
5. Should it become apparent that the fault the customer has alleged does not actually exist, particularly if an alleged fault cannot be reproduced, we shall be entitled to demand reasonable compensation for our effort and cost unless the customer has acted without fault or in simple negligence.
6. If subsequent performance fails, is refused by us or is unreasonable for the customer, the customer shall be entitled exclusively to the other statutory claims for defects (rescission, reduction, self-performance, damages or reimbursement of futile expenses). Claims for damages shall exist exclusively in accordance with Section IX of these Terms and Conditions.
7. If the defect is only an insignificant deviation from an agreed quality, the customer shall, at our discretion, only be entitled to rectification or to a reasonable reduction in price. Should no quality have been specified, the same shall apply to any immaterial deviation from the suitability for the use intended under the agreement or in the absence of a specific agreement the suitability for the customary use, i.e. the common use of such goods which may reasonably be expected by the customer.

VIII. Rights of Use

1. If - in deviation from Clause III paragraph 1 of these Terms and Conditions - separately agreed work services are the subject of the contract in addition to the consulting services, we shall grant the customer a simple, i.e. non-exclusive, right of use to the results produced (for example, concepts, drawings, software or similar) - insofar as not otherwise expressly regulated in the project contract. The right of use will be specified in the agreement to be concluded in each individual case.
2. Irrespective of the scope of the transfer of rights to the customer,

we are in any case permitted to use ideas, concepts, acquired know-how, etc. for further services, also for other customers.

IX. Liability and Withdrawal

1. We shall be liable for damages exclusively in accordance with the following stipulations:

We are liable on the merits

- for intentional or grossly negligent actions,
- for any culpable breach of essential contractual obligations.

Essential contractual obligations are those contractual obligations the fulfillment of which makes the proper performance of the respective contract possible in the first place, and on the observance of which the contractual partner regularly relies and may rely. In the event of a breach of an essential contractual obligation due to simple negligence, our liability shall be limited to the damage that is foreseeable and typical according to the nature of the contract in question.

2. In the case of simple negligent violation of an essential contractual obligation, our liability is - as contract-typical foreseeable - limited to the amount of 50 % of the respective contractual remuneration per case of damage, while our liability for all damages caused in connection with the contract by simple negligence is limited to the maximum amount of 100,000.00 EUR. In this context, a case of damage is understood to be one consulting error or defect and all damages arising therefrom.
3. The liability for damages resulting from injury to life, body or health as well as the liability according to §§ 1, 4 German Product Liability Act (ProdHaftG) remain unaffected.
4. We shall only be liable for the recovery of data if the customer has ensured that lost data can be recovered with reasonable effort. The customer is therefore obliged to regularly back up data and programs at intervals appropriate to the application.
5. Insofar as our liability for damages is excluded or limited in accordance with the above provisions, this shall also apply to the personal liability of our executive bodies, employees and other staff, representatives and vicarious agents and shall also apply to the statutory liability in tort (in particular §§ 823 ff. German Civil Code (BGB) including any recourse claims pursuant to § 840 German Civil Code (BGB), § 5 German Product Liability Act in conjunction with § 426 German Civil Code (BGB)).
6. The customer has no right to withdraw from the contract due to a breach of our contractual obligations caused by reasons for which we are not at fault and which do not consist of a defective goods delivered.

X. Legal Compliance, Sanctions and Export Controls

1. Conduct in compliance with the law is a matter of course for us and a prerequisite for cooperation with our customers. A breach of the customer's duty to act in accordance with the law shall be deemed to have occurred if it becomes known that the customer, its legal representatives or employees have been convicted of white-collar crime in a business context. In particular, fraud, embezzlement, misappropriation, money laundering, corruption, insider trading as well as tax and insolvency offences shall be deemed to be white-collar criminal acts. The customer shall in particular also comply with national and international export laws as well as with any sanctions imposed.
2. We expect that the customer will inform us as part of its contractual fiduciary duties and within the scope of its legal possibilities about convictions, in particular to the extent the white-collar criminal acts were directed against us.
3. In case of a breach of the obligation pursuant to paragraph 1 of this Clause X, we are entitled under the conditions of § 314 German Civil Code (BGB) to terminate the contract for cause in addition to our other statutory rights.

XI. Period of Limitation

1. Contractual claims of the customer for breach of duty shall become statute-barred one year after the statutory commencement of the limitation period.
2. The above provision shall not affect the statutory limitation periods in the following cases:
 - for damages resulting from injury to life, body or health;

- for other damages which are based on an intentional or grossly negligent breach of duty by us, our legal representatives or vicarious agents;
- for the right of the customer to withdraw from the contract in the event of a breach of duty for which we are responsible, and which does not consist of a defect in the purchased item or the work;
- for claims due to fraudulent concealment of a defect and from a quality guarantee within the meaning of § 444 or § 639 German Civil Code (BGB);
- for claims according to §§ 438 para. 1 no. 1, 2; 634a para. 1 no. 2 German Civil Code (BGB);
- for claims for reimbursement of expenses pursuant to § 445a para. 1 German Civil Code (BGB);
- for claims for damages according to §§ 1, 4 German Product Liability Act (ProdHaftG).

XII. Prohibition of Assignment

The assignment of claims to which the customer is entitled against us from the business relationship is excluded.

XIII. Data Protection

We process personal data in accordance with the relevant data protection provisions, in particular the provisions of the EU General Data Protection Regulation (GDPR). To the extent we process personal data on behalf of the customer, we create the necessary legal basis for this and, if necessary, conclude order processing agreements in accordance with Article 28 GDPR.

XIV. Place of Performance, Jurisdiction and Applicable Law

1. Unless otherwise agreed, the place of performance for all services shall be Berlin, Germany.
2. The exclusive place of jurisdiction for all claims against merchants and legal entities under public law arising from the business relationship is Berlin, Germany. This also applies to claims arising from cheques as well as claims under tort law and notices of dispute. However, we reserve the right to also sue customers before any other court which has jurisdiction under applicable law.
3. In the case of cross-border deliveries and services, Berlin shall be the exclusive place of jurisdiction for all disputes arising from the contractual relationship (Art. 25 VO (EU) 1215/2012). However, we reserve the right to sue the customer at its general place of jurisdiction or to invoke any other court that is competent according to VO (EU) 1215/2012.
4. The law of the Federal Republic of Germany shall apply exclusively to all business and legal relations between the customer and us; the application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.

XV. Final Provisions

1. Should individual provisions of the above Terms and Conditions be or become invalid, this shall not affect the validity of the remaining provisions.
2. All our previous General Terms and Conditions for Sales and Services are hereby replaced by these Terms and Conditions.
3. In case of inconsistencies between the German and English version of these Terms and Conditions only the German version shall apply and be legally binding. The German version of these Terms and Conditions can be found on <https://www.consulting4drive.com/agb/>.