



General Terms and Conditions for Services of consulting4drive GmbH

November 2024 version

I. Applicability of these Conditions

1. Subject to deviating agreements in individual cases, contracts with us (consulting4drive GmbH, Helmholtzstr. 2-9, 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 to the contract may be suggested by either party at any time. However, an obligation to implement them shall only arise if both parties agree in writing on the implementation of the corresponding changes and on the associated adjustments to the description of the scope of services, the remuneration, the schedules and execution deadlines as well as all other points that a party considers to be in need of regulation.
3. If and insofar the customer makes modifications to our delivery items and results or uses them differently than planned and commissioned, it shall remove any reference to us and assume full responsibility for the result of its development.

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. 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.
4. 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. We will retain and delete the files and documents stored in connection with the performance of the contract in accordance with our own procedure „Klassifizierungssystematik für Unterlagen hinsichtlich der Aufbewahrungs- und Löschfristen“.
5. 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.

6. We will generally provide our contractual services at our business premises or in mobile work. Insofar as work is carried out at the customer's premises, our employees shall be provided free of charge with the workstations and work equipment required in each case. If we must perform work outside our business premises, the customer shall be obliged to take all necessary measures to comply with all legal duties to maintain safety unless otherwise determined either by the nature of the business or by agreement with the customer. We shall be entitled to refuse execution of the delivery of our goods and/or rendering of our services if the necessary measures have not been taken.
7. 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. In addition, the customer shall provide us with information from its systems for documentation or evidence purposes, for example in the event of inquiries from authorities or legal action against us in connection with the performance of the contract. The customer is responsible for the integrity of the data as well as its confidentiality and availability. Upon request, the customer shall make the documentation available to us in readable form. The customer shall not be entitled to any rights of retention in this respect.
8. 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. Furthermore, we may use artificial intelligence technologies to provide our services where necessary. By artificial intelligence (hereinafter "AI") we mean both AI systems that process data autonomously to a certain extent and generate results independently (e.g. by means of machine learning and/or knowledge- and logic-based concepts) and whose results are or are intended to be used to influence the environment, as well as AI models that are usually integrated into AI systems. If the customer requires us to use AI to provide our services, the customer shall assume sole responsibility for the accuracy and reliability of the results generated using AI.
9. We have the sole authority to issue instructions to the employees deployed by us to fulfill the contract and provide the services independently and on our own responsibility. The decision as to which of our employees will be used to provide a service is ours alone.

IV. Cooperation Obligation of the Customer

1. The contracting parties 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.
2. The customer undertakes as an essential contractual obligation to ensure that it provides agreed cooperation and supply services in the required quality and in the time agreed upon or which is necessary to realize the project in time without further costs for us. Insofar as this is necessary for the success of the project, the customer shall in particular provide its own personnel in sufficient numbers as well as competent contact persons for the entire duration of the project.
3. If information or documents provided by the customer prove to be incorrect, incomplete, ambiguous or objectively not feasible, the customer shall make the necessary corrections and/or additions immediately after being notified by us. The customer shall immediately rectify or have rectified any defects or malfunctions of components provided by us.

V. Rights of Use

1. Upon full payment of the agreed remuneration, we grant the customer a non-exclusive right to use our results which can be protected by industrial property rights and which have been created in the course of the execution of the contract, unless contractually agreed upon otherwise. The right of use shall be further 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.

VI. 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 customer fails to meet its obligations to cooperate, assist or supply in whole or in part, the performance dates and deadlines affected by this shall lose their binding force, and in particular we shall not be in default. After unsuccessful reminder, we shall be entitled to demand compensation for the damage incurred by us, including any additional expenses.
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 IX of these Terms and Conditions, which shall remain unaffected.

VII. Remuneration

1. The net 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 travel expenses and other outlays in addition to the agreed remuneration. Invoicing is always based on our valid travel expense regulation.
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. The prices apply exclusively under the condition that the delivery and services are free of taxes, customs duties, levies or other charges that arise if we provide our deliveries and services outside Germany. In the event that taxes, customs duties or charges are levied, the prices shall be increased accordingly by these sums.
4. 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.
5. 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.
6. 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.
7. 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.

VIII. 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.
3. The customer is obliged to inspect the delivery item for obvious faults which an ordinary customer should discover without particular effort. Obvious defects, such as the absence of components or documentation material, as well as damage that is readily apparent, must be notified to us in writing within one week of receipt of the delivery. Defects which only become apparent later before the expiry of the limitation periods for claims for defects must be notified to us in writing within one week of their discovery by the customer. If the customer breaches its obligation to inspect and give notice of defects, the delivery item shall be deemed to have been approved with respect to the defect in question.
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 Clause 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.

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 fulfilment 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.
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. Compliance

1. Legally compliant conduct is a matter of course for us and is a basic prerequisite for cooperation with our customers. Our customers are familiar with the applicable laws, standards and regulations in the countries in which they operate. They comply with these, especially if they are relevant to their business activities with us. They have or establish and maintain a monitoring system for compliance with these laws, standards and regulations.
2. We expect the customer to inform us immediately, on the basis of its contractual fiduciary duties and within the scope of its legal possibilities, of corresponding legal violations and remedial measures taken and to support us on request in clarifying the facts of the case, in particular insofar as white-collar crime such as fraud, embezzlement, misappropriation, money laundering, corruption, insider trading and tax and insolvency offenses are directed against us.

XI. Period of Limitation

1. The customer's claims for defects shall become time-barred after one year from the statutory commencement of the limitation period. To the extent the customer is an entrepreneur, other contractual claims of the customer for breaches of duty shall become time-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. Place of Performance and Prohibition of Assignment

1. The place of performance for all services is Berlin, Germany.
2. The assignment of claims against us to which the customer is entitled from the business relationship is excluded.

XIII. Confidentiality and Data Protection

1. Regarding the information received from us, which is to be treated

as recognizably confidential, in particular of a technical and economic nature such as quotations, reports, and presentations, the customer is obliged - even beyond the end of the contract -

- to use it only for the purpose of executing the contract and to make it available only to those employees who require access to it for the purpose of executing the contract,
 - not to make them accessible to third parties without our prior consent and
 - to protect it against unauthorized access, disclosure or publication with the security measures possible in accordance with the current state of the art.
2. The above confidentiality obligations shall not apply to such information that was already known to the customer prior to its disclosure by us, was independently developed or otherwise lawfully obtained by the customer or was or becomes generally known without breach of the above confidentiality obligations.
 3. The customer shall ensure in an appropriate manner that the employees, freelancers and subcontractors involved in the performance of the contract comply with the above confidentiality obligations.
 4. 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. Force Majeure

Events of force majeure, in particular epidemics and pandemics, labor disputes, unrest and armed or terrorist conflicts - in each case also at suppliers and subcontractors -, which have unforeseeable consequences for the performance of services, shall release the parties from their performance obligations for the duration of the disruption and to the extent of its effect, even if they are in default. However, the contract shall not be automatically terminated. The parties are obliged to notify each other of such an impediment and to adjust their obligations to the changed circumstances in good faith.

XV. Jurisdiction and Applicable Law

1. 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.
2. 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.
3. 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.

XVI. 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 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/>.