

# General Terms and Conditions of scalum GmbH

(Last updated April 2025)

## I. General – Scope

1. Our General Terms and Conditions of Supply (GTC) shall apply for all our business relationships with our customers (hereinafter "Customer") regarding the provision of services, however only if the Customer enters into a business relationship with us as an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB) or is a legal person under public law or a separate estate under public law.
2. Our GTC shall also apply in their respective version as a framework agreement for future contracts for the provision of services with the same Customer, without us having to refer to them again in each individual case.
3. Our GTC shall apply exclusively. Any differing, contradictory or supplementary general terms and conditions of the Customer shall only form part of the contract if we have expressly approved their validity. This requirement for approval applies in all cases, for example, even if we fulfill the contract without reservation in full knowledge of the general terms and conditions of the Customer.

## II. Offers, Conclusion of Contract

1. Our offers are subject to confirmation and are not binding. If a Customer makes an order, this shall be deemed to be a binding contract offer. Provided that nothing else results from the order, we shall have the right to accept the order within 4 weeks from the end of the calendar week in which it is dispatched by the Customer. A contract shall only come about on our order confirmation or on our provision of the service.
2. The contractual relationship between us and the Customer shall be governed by the service contract concluded in text form (e.g. by order and order confirmation exchanged by e-mail), including these GTC. Individual agreements made with the Customer in individual cases (including collateral agreements, supplements and amendments) shall in any case take precedence over these GTC. A contract concluded in text form or our confirmation in text form (e.g. by e-mail) shall be decisive for the content of such agreements.
3. We reserve the right of ownership and our copyrights to calculations and other documents. Such documents may not be passed on to third parties unless we have given our express written consent before passing them on. This shall also apply to such documents which are designated as "confidential", irrespective of whether they are in written or electronic form.

At our request, the Customer must return to us in full the documents referred to in the above paragraph and destroy any copies made if they are no longer required by the Customer in the ordinary course of business and in the context of the business relationship with us or if negotiations do not lead to the conclusion of a contract.

### **III. Prices and Payment Conditions, Invoicing, Place of Performance**

1. If the validity of our price list is agreed with the Customer upon conclusion of the contract, the relevant prices shall apply, plus statutory VAT in each case. Otherwise, the differently agreed prices shall apply, also plus statutory VAT.
2. Unless otherwise agreed, our services are invoiced on a monthly basis.
3. Unless otherwise agreed, our monetary claims are due 14 days after invoicing. Upon expiry of the payment period specified in the order confirmation, or otherwise the aforementioned payment period, the Customer shall be in default without the need for a reminder, Section 286 para. 2 No. 2 BGB.
4. During the period of default, the Customer shall pay interest on the debt in the amount of 9 (nine) percentage points above the base interest rate in accordance with Section 247 BGB. Our right to claim further damages shall remain unaffected. Our claim against merchants to demand commercial maturity interest shall also remain unaffected, Section 353 HGB (German Commercial Code).
5. The Customer shall only be entitled to set-off or retention rights if its counterclaims have been finally adjudicated or are undisputed.
6. If it becomes apparent after conclusion of the contract that our claim to remuneration is jeopardized by the Customer's inability to pay (e.g. by an application for the opening of insolvency proceedings), we shall be entitled to refuse performance in accordance with the statutory provisions and – if necessary after setting a deadline – to withdraw from the contract (Section 321 BGB). The statutory provisions on the dispensability of setting a deadline shall remain unaffected.
7. The place of performance for all obligations of both parties is 61440 Oberursel, Germany, unless another place of performance has been expressly agreed for a specific obligation.

### **IV. Liability**

1. Insofar as nothing different is provided for in this GTC including the following provisions, we shall be liable in the case of a breach of contractual and non-contractual duties in accordance with the relevant statutory provisions.
2. We shall be liable for damage – regardless of its legal basis – in the event of intent and gross negligence. In the event of slight negligence, we shall only be liable for
  - a) damage from injury to life, body or health,
  - b) damage from the culpable breach of an essential contractual obligation (an obligation, the fulfilment of which is prerequisite to enable the proper implementation of the contract and upon compliance with which the contract partner regularly relies on and should be able to rely on); in this instance, our liability is limited to compensation for the foreseeable damage typically occurring.
3. The limitations of liability arising from Paragraph 2 above shall not apply if we fraudulently hide a defect or have given a guarantee. The same applies for the Customer's claims in accordance with product liability law.

4. The Customer may only withdraw from or terminate the contract due to a breach of duty if we are responsible for the breach of duty. A free right of termination of the Customer (in particular according to Sections 650, 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply to withdrawal and termination.

## **V. Force Majeure**

1. “Force Majeure” means the occurrence of an event or circumstance that prevents or impedes a party from performing one or more of its contractual obligations under the contract, if and to the extent that that party proves: (a) that such impediment is beyond its reasonable control; and (b) that it could not reasonably have been foreseen at the time of the conclusion of the contract; and (c) that the effects of the impediment could not reasonably have been avoided or overcome by the affected party.
2. In the absence of proof to the contrary, the following events affecting a party shall be presumed to fulfil conditions (a) and (b) under paragraph 1 of this Clause: (i) war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilisation; (ii) civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage or piracy; (iii) currency and trade restriction, embargo, sanction; (iv) act of authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalisation; (v) plague, epidemic, natural disaster or extreme natural event; (vi) explosion, fire, destruction of equipment, prolonged break-down of transport, telecommunication, information system or energy; (vii) general labour disturbance such as boycott, strike and lock-out, go-slow, occupation of factories and premises.
3. A party successfully invoking this Clause is relieved from its duty to perform its obligations under the contract and from any liability in damages or from any other contractual remedy for breach of contract, from the time at which the impediment causes inability to perform, provided that the notice thereof is given without delay. If notice thereof is not given without delay, the relief is effective from the time at which notice thereof reaches the other party. Where the effect of the impediment or event invoked is temporary, the above consequences shall apply only as long as the impediment invoked impedes performance by the affected party. Where the duration of the impediment invoked has the effect of substantially depriving the contracting parties of what they were reasonably entitled to expect under the contract, either party has the right to terminate the contract by notification within a reasonable period to the other party. Unless otherwise agreed, the parties expressly agree that the contract may be terminated by either party if the duration of the impediment exceeds 120 days.

## **VI. Statute of Limitations**

Claims of the customer based on a breach of duty within the scope of a service contract shall lapse uniformly one year after completion of the order. The order shall be deemed to have been completed at the latest when the last invoice is sent. For damages due to injury to life, body or health, damages that fall under the Product Liability Act and damages that are based on intent or gross negligence, the statutory limitation period shall apply.

## **VII. Applicable Law, Place of Jurisdiction**

1. These GTC and all legal relationships between us and the Customer shall be governed by the law of the Federal Republic of Germany to the exclusion of all international and supranational (contractual) legal systems, in particular the UN Convention on Contracts for the International Sale of Goods.
2. If the Customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive – also international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be our registered office in 61440 Oberursel, Germany. The same applies if the Customer is an entrepreneur within the meaning of Section 14 BGB. In all cases, however, we are also entitled to sue the Customer at the place of performance in accordance with these GTC or an overriding individual agreement or at the general place of jurisdiction.

◆ ◆ ◆