

*This English version is a courtesy translation of the German original, which we believe to be accurate. In the event of any discrepancy between the two versions, the German version shall prevail. Only the German version is legally binding.*

## § 1 Scope of Application

1. These General Terms and Conditions (GTC) apply to all contracts for IT services between us, nimbicon GmbH, Münchner Straße 20, 85774 Unterföhring, and our clients.
2. Our GTC apply exclusively to entrepreneurs within the meaning of § 14 of the German Civil Code (BGB), legal entities under public law, and special funds under public law.
3. Deviating or supplementary terms and conditions of our clients shall only become part of the contract if we have expressly agreed to their validity in writing.
4. Where the parties have entered into a Master Services Agreement and/or Statement of Work (or a framework agreement [*Rahmenvertrag*] and/or individual contract [*Einzelvertrag*]), the provisions of such documents shall take precedence over these GTC in the event of any conflict; in all other respects, these GTC shall apply on a supplementary basis.

## § 2 Subject Matter of the Contract

1. We provide consulting and development services in the IT sector for our clients.
2. All services are rendered as service contracts (*Dienstvertrag*) within the meaning of § 611 et seq. of the German Civil Code (BGB). Accordingly, we owe the diligent performance of the agreed activities, but do not guarantee any particular result unless expressly agreed otherwise.

## § 3 Provision of Services

1. We provide our services independently and with our own resources. We are entitled to subcontract work to qualified third parties.
2. We independently manage the deployment of our employees, subcontractors and other agents. The client shall have no supervisory or directive authority over our personnel with respect to the manner, timing, or location of service delivery.
3. Professional coordination regarding work content and deliverables shall take place between the designated contacts of both parties.
4. We determine the time and place of service provision at our reasonable discretion, unless otherwise agreed. Where necessary, both parties shall mutually agree on meeting and presentation dates.

## § 4 Remuneration and Payment Terms

1. Remuneration is based on the agreed rates. All prices are exclusive of statutory value-added tax, where applicable.
2. Travel costs and expenses are only reimbursed if this has been agreed in advance on a case-by-case basis.
3. We invoice our services upon completion. For projects exceeding one month in duration, we are entitled to invoice monthly. Invoices are due for payment within 14 days of receipt without deduction.
4. In the event of late payment, we shall be entitled to suspend the further provision of services after the unsuccessful expiry of a reasonable grace period until all due claims have been settled.
5. We are entitled to assign claims to third parties for the purpose of factoring or debt collection. No restriction on assignment (*Abtretungsverbot*) shall apply.

## § 5 Cooperation Obligations

1. The client shall provide all cooperation necessary for the provision of our services in a timely manner and free of charge. In particular, the client shall:
  - a) ensure through appropriate technical and organizational measures that necessary decisions are made without undue delay;
  - b) provide all necessary information, documents, and data in a timely manner;
  - c) grant access to its premises and systems as needed, in compliance with its security policies;
  - d) provide necessary test data and test environments; and
  - e) obtain necessary approvals, consents, and authorizations from third parties.
2. If the client breaches its cooperation obligations, we shall not be responsible for any resulting service defects. Agreed deadlines shall be postponed accordingly. We may invoice additional effort at our standard rates, provided we have notified the client of the breach of cooperation obligations and the possible consequences.

## § 6 Rights of Use

1. Upon full payment of the agreed remuneration, we transfer to the client all rights of use and exploitation in the work results for all known types of use.
2. The transfer of rights includes, in particular, the right to exploit, reproduce, publish, adapt, and modify, as well as the authority to transfer these rights in whole or in part to third parties.
3. We retain the right to use the following for other purposes:
  - a) general know-how, methods, and experience acquired or deepened in the course of providing services; and
  - b) standard components used or further developed in creating the work results.

- Standard components are generic, non-client-specific software elements that can be used independently of the particular engagement, including software libraries, frameworks, development tools, and contributions to open-source projects. This does not include work results developed specifically for the client that contain the client's confidential information or specific business logic.

## § 7 Confidentiality

- The parties undertake to keep confidential all confidential information of the respective other party and to use it only for the performance of the contract.
- Information shall be deemed confidential if it is marked as such or if its confidentiality is apparent from the circumstances.
- Each party may disclose confidential information to its employees, subcontractors and other agents to the extent necessary for the performance of the contract, provided such persons have been bound by confidentiality obligations consistent with this clause 7 prior to any such disclosure. Disclosure to professional advisers bound by a statutory duty of professional secrecy in the context of advising the parties is permitted. The disclosing party shall be liable for any breach by such recipients as for its own.
- The confidentiality obligation does not apply to information that:
  - is or becomes publicly known without this being attributable to the receiving party;
  - was demonstrably already known to the receiving party prior to disclosure;
  - is disclosed by third parties without any apparent breach of a confidentiality obligation;
  - to the extent the information must be disclosed due to legal obligations or official or court orders, or is required as evidence in court proceedings;
  - to the extent a party must use the information to enforce its rights arising from the business relationship.

In cases clause 7.4 d) and e), the affected party shall, where possible, inform the other party in advance of an impending disclosure and give it the opportunity to comment.
- The confidentiality obligation shall continue for five years beyond the end of the contract. For trade secrets within the meaning of the German Trade Secrets Act (*Geschäftsgeheimnisgesetz*, *GeschGehG*), the confidentiality obligation shall continue for as long as they qualify as trade secrets.

## § 8 Liability

- The parties shall have unlimited liability for intent and gross negligence, for fraudulent misrepresentation, for the assumption of a guarantee, under the German Product Liability Act (*Produkthaftungsgesetz*), as well as for damages resulting from injury to life, body, or health.
- For damages resulting from the breach of material contractual obligations (cardinal obligations), the parties shall also be liable for ordinary negligence, but limited to the foreseeable damage typical for this type of contract.
- Material contractual obligations are those obligations whose fulfillment is essential for the proper performance of the contract and on whose compliance the contractual partner regularly relies and may rely.

- Liability for ordinary negligence is otherwise excluded.

## § 9 Data Protection

- The parties undertake to comply with data protection regulations, in particular the GDPR.
- To the extent we process personal data on behalf of the client, a separate data processing agreement pursuant to Art. 28 GDPR shall be concluded.

## § 10 Term and Termination

- Unless otherwise agreed, the commissioned services may be terminated by either party with 30 days' notice to the end of the month.
- The right to extraordinary termination for good cause remains unaffected. Good cause exists in particular if the client is in default of payment for two consecutive due dates.

## § 11 Force Majeure

- Neither party shall be liable for failure or delay in performing its contractual obligations to the extent that such failure or delay is caused by circumstances beyond its reasonable control (force majeure).
- Force majeure includes, but is not limited to: natural disasters; epidemics and pandemics; acts of war and armed conflict (including hybrid warfare); acts of terrorism; insurrection and civil unrest; government sanctions and embargoes; official orders; and failures of critical infrastructure (e.g., power, internet) not attributable to the affected party.
- The affected party shall notify the other party without undue delay of the occurrence and expected duration of the impediment. Both parties shall use reasonable efforts to mitigate the effects of the impediment.
- If the impediment persists for more than three months, either party may terminate the contract with 14 days' notice.
- The liability provisions in clause 8 remain unaffected.

## § 12 Final Provisions

- The contractual relations between the parties are governed by the law of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods.
- The place of performance for all services shall be the registered office of the contractor, unless expressly agreed otherwise.
- The exclusive place of jurisdiction for all disputes is Munich (Germany), provided the client is a merchant, a legal entity under public law, or a special fund under public law.
- We do not participate in dispute resolution proceedings before a consumer arbitration board (*Verbraucherschlichtungsstelle*).
- Should individual provisions be invalid, the validity of the remaining provisions shall remain unaffected.