

General Terms and Conditions

of CPU 24/7 GmbH,
with office at August-Bebel-Straße 26-53, 14482 Potsdam (Germany) [the “Company”]

§ 1 Scope of Application

The provisions of these General Terms and Conditions shall be the exclusive basis on which all Customer orders are carried out by the Company. Any conflicting provision requires the Company’s explicit approval in writing. To the extent there are no provisions contained herein, the statutory regulations of the Bürgerliches Gesetzbuch (German Civil Code) shall apply.

§ 2 Price Quotes

Price quotes in general publications, advertisements, etc., are subject to change and non-binding. Customised offers shall be binding upon the Company for a period of 14 days from receipt by the Customer.

§ 3 Prices

Prices shall be in Euro, unless otherwise agreed. Unless otherwise specified, the prices are quoted net.

§ 4 Terms of Payment

I.

The amounts payable on the Company’s invoices are due for prompt payment.

II.

Payments may be made by cash or by bank or postal transfer. Cheques and bills of exchange will only be accepted on account of performance.

III.

If the Customer is in default of payment, in whole or in part, or if a cheque or a bill of exchange accepted on account of performance is protested (which is possible under German law, the Company shall be entitled to require full payment in advance of shipment of any future Services and, at the same time, require immediate payment of any outstanding amount. If the Customer does not make the payment as required, the Company shall have the right to stop all the Services in course.

§ 5 Time limits and Services

I.

Time limits and due dates are only binding on the Company when agreed in writing. Furthermore, the Company may only be in default of performance when the respective Customer has duly met any related duty to co-operate.

II.

If the Company is in default of performance, the Company shall have the right to being granted a reasonable grace period. Upon expiration of this grace period, the Customer shall have the right to withdraw from the contract. Damages to be paid due to default shall, however, be limited to the contract value.

§ 6 Warranties

I.

It is the Customer's duty to immediately inspect the Services rendered following their receipt and promptly give notice to the Company of any alleged defect. The Customer's failure to promptly give notice of any claim shall constitute an absolute and unconditional waiver of any claim in connection therewith.

II.

The Company shall have the right to supplementary performance with respect to Services which are shown to the satisfaction of the Company to be defective. If the supplementary performance is unsuccessful, the Customer may reserve the right to opt for either withdrawal from the contract or abatement in price.

§ 7 Liability

I.

The Company shall only be liable for damage to the Services due to deliberate or grossly negligent conduct on the part of the Company. The Company shall, however, also be liable for ordinary negligence in the event of breach of material contractual obligations and to the extent the purpose of the contract is at risk, including, but not limited to, the lack of assured properties.

II.

The same principles of liability shall apply with respect to the Company's employees to the extent that they are the Company's performing agents or vicarious agents (Erfüllungsgehilfe under Section 278 BGB, Verrichtungsgehilfe under Section 831 BGB).

§ 8 Offsets and Rights of Retention

The Customer shall only have the right of set-off with claims for compensation of the Company's claims provided his counterclaim is undisputed or established in law. The assertion of a right of retention shall be limited in the same manner.

§ 9 The Customer's duty to co-operate

I.

To the extent that storage space is provided under this contract, the Customer shall not store any contents that is unlawful, in violation of statutory or regulatory provisions, or in violation of third party rights. The Customer shall also ensure to install the programmes and contents in a manner that will not put at risk the operation of the processors and/or communication network provided nor other data filed. The Customer shall indemnify and hold harmless the Company from any liability in this respect.

CPU 24/7 protects the communication networks according to the status of technology. Should there nevertheless be any acts of breach by third parties CPU 24/7 is indemnified towards claims of the customer.

CPU 24/7 does not carry out any data backups of customer data as a standard. Insofar as other procedures are requested by the customer these are to be agreed separately.

II.

In the event of imminent threat or occurrence of a breach of the duties according to paragraph 1 and in the case of assertion of not manifestly unfounded claims of third parties against us for neglect of the stored content on the internet, we are entitled in consideration of the legitimate interests of the customer to temporarily cease to link this content to the internet either entirely or partially and with immediate effect. We will however notify the customer immediately of this measure.

III.

Should the contractual partner be in breach of the duties of co-operation according to paragraph 1 then we are entitled even without prior warning to terminate the contractual relationship without notice.

§ 10 Third-party Use

The processor performance shall only be used by the Customer or Customer's own employees. The Customer shall not be entitled to transfer the granted rights of use to third parties.

§ 11 Final Provisions

I.

The place of fulfillment and court of jurisdiction shall be Potsdam, Germany (the Company's registered office), provided the Customer is a merchant or there is no general court of jurisdiction at Customer's domicile. This also applies to summary proceedings on cheques or bills of exchange and to conditional summary judgment entered on prima facie evidence. These Terms and Conditions shall be governed and interpreted solely in accordance with the laws of the Federal Republic of Germany. The application of the UN Sales Convention is excluded.

II.

If any provision of these General Terms and Conditions is, or will be, held invalid or unenforceable, this shall not affect the validity and enforceability of the remaining provisions of these General Terms and Conditions.