

General Terms and Conditions – B2B Software Development and IT Services

1. Scope, Contracting Parties and Purpose

1. These General Terms and Conditions (“**GTC**”) govern all contracts between **omvoro e.U.**, represented by Florian Heinrich, Maria-Tusch-Straße 29, 1220 Vienna, Austria (hereinafter “**Provider**” or “omvoro”) and its business partners (hereinafter “**Client**”). The GTC apply exclusively to **business customers**; consumers are expressly excluded. Conflicting or supplementary terms of the Client shall not become part of the contract unless the Provider expressly agrees to them in writing.
2. The Provider delivers customised software solutions, web applications, APIs, integrations, backend systems and Software-as-a-Service (SaaS) products. Unless otherwise agreed, software developed for the Client is operated in the Client’s infrastructure; omvoro does not host individual custom projects. The operation of omvoro’s own SaaS products is governed by separate agreements.
3. These GTC also apply to future contractual relationships without further notice. Individual agreements and statements of work take precedence over these GTC if agreed in writing.

2. Formation of Contract and Offers

1. Offers made by omvoro are non-binding. A contract is formed only when the Provider confirms the order in writing or begins executing the commissioned services. Written form for the purposes of these GTC includes e-mail and electronic signatures. The Client must be made aware of the GTC prior to conclusion of the contract; sending the GTC on invoices or delivery notes is insufficient[1].
2. The Client shall check the offer documents, descriptions of services and plans for accuracy and completeness and approve them in writing. Requests for changes after conclusion of the contract may affect deadlines and remuneration. If the Client changes the specification such that performance becomes impossible, the Provider may withdraw from the contract; services rendered up to that point are to be remunerated[2].

3. Scope of Services and Client’s Duties to Cooperate

1. The scope of services is set out in the relevant offer, project agreement or statement of work. It may include the preparation of organisational and technical concepts, development and adaptation of bespoke software, delivery of standard libraries, acquisition of usage rights, integration of interfaces, assistance with commissioning, consulting and other services[3].

2. Bespoke development requires a written specification, to be provided by the Client or prepared by omvoro against reimbursement. The Client shall review this specification and approve it in writing; no work will commence without such approval[4].
3. The Client shall provide omvoro with all information, documents, test data, test environments and access necessary for performance free of charge, and shall appoint a competent contact person. The Client is responsible for appropriate backups and for securing production data when test environments are used in live operations[5]. The Provider shall not be liable for delays or failures resulting from third-party infrastructure, hosting providers, cloud services or other circumstances beyond its control.

4. Deadlines, Acceptance and Changes

1. Delivery or service dates are non-binding unless a fixed date has been expressly agreed. Delays caused by force majeure (e.g. war, terrorism, natural disasters, governmental action, power outages, failure of communications networks) do not constitute default[6].
2. Bespoke software and adaptations require acceptance by the Client no later than four weeks after delivery. Acceptance is deemed to have taken place when the Client declares acceptance, allows the period to expire without comment or uses the software in live operation[7]. Insignificant defects shall not entitle the Client to refuse acceptance[8].
3. Change requests after conclusion of the contract shall be treated as change requests. The Provider will prepare an offer detailing adjustments to scope, timeframe and remuneration; implementation occurs only after written approval by the Client.

5. Remuneration and Payment

1. Prices are net in euros plus statutory VAT. Travel and incidental expenses are charged separately.
2. Unless otherwise agreed, invoices are payable within 14 days from the invoice date without deduction. In the event of payment default, the Provider may charge statutory default interest and suspend performance until all outstanding amounts are paid.
3. Services not expressly covered by the agreed fixed price or hourly quota (e.g. additional training, changes beyond the agreed scope) will be charged at the Provider's current hourly rates.

6. Rights of Use and Source Code

1. The Provider grants the Client **exclusive, perpetual and worldwide rights of use** to the software created specifically for the Client. These rights include use, reproduction, modification and internal transfer within the Client's organisation. If the service is based on a contract for work, a **work-use authorisation (Werknutzungsbewilligung)** is granted[9].
2. Frameworks, libraries, templates, tools, methodologies, reusable components, generic modules and know-how of omvoro remain the sole property of the Provider. They are not part of the exclusive licence and may be reused by omvoro without restriction in other projects.
3. The Client receives only the executable deliverable. Release of the source code requires an express written agreement in the offer or statement of work. Open-source components are provided solely under the terms of the respective licences. The Client accepts these terms and indemnifies omvoro against claims arising from non-compliant use. The Provider does not provide warranties beyond those required by law for open-source components.

7. Support and Maintenance

Support and maintenance services are **not** part of this development contract. They are provided only on the basis of a separate maintenance agreement. Without such agreement, there is no entitlement to updates, bug fixes, hotline support or other support services.

8. Reference Use

omvoro may use the Client's company name and logo as a reference on its website and in marketing materials. Any further use, particularly descriptions of the project, technical details, case studies or client testimonials, requires prior written consent of the Client.

9. Liability

1. omvoro is liable to the Client for damages caused **intentionally or by gross negligence** only[10]. This limitation also applies to damage caused by third parties engaged by omvoro. The Provider's liability for personal injury remains unlimited.
2. Liability for **indirect or consequential damages** such as **lost profits, business interruption costs, data loss, third-party claims, loss of revenue or profits** and **damages resulting from open-source software or third-party services** is excluded to the extent legally permissible[11]. The Client is responsible for adequate data backups. Where data backup is expressly agreed, liability for data loss is limited to the cost of restoring the data[12].

3. The maximum liability per damage event is limited to the higher of **(a) the contract value of the project in question** or **(b) the fees actually paid by the Client in the twelve months preceding the damage event**. Personal liability of the owner, Florian Heinrich, is excluded to the extent legally permitted.
4. Claims for damages expire no later than one year after the Client becomes aware of the damage and the party responsible^[13]. These limitations do not apply to mandatory claims under product liability law or to personal injuries.

10. Data Protection

1. The parties undertake to comply with the General Data Protection Regulation (GDPR) and the Austrian Data Protection Act. omvoro processes personal data of the Client exclusively for contract fulfilment and on the Client's documented instructions. The Client remains the controller.
2. Where omvoro processes personal data on behalf of the Client, the parties will conclude a separate **Data Processing Agreement (DPA)**. This agreement sets out the processing activities, data categories, technical and organisational measures, assistance obligations, the use of sub-processors and the return or deletion of data^[14].
3. omvoro binds its employees and any sub-processors to confidentiality and compliance with the Austrian data secrecy law **[9424364368590282†L516-L524]** . Personal data will be disclosed to sub-processors only with the Client's consent and on the basis of appropriate agreements.

11. Confidentiality

1. The parties shall treat as confidential all business and trade secrets obtained during the cooperation. Confidential information includes all information marked as confidential or recognisable as such by its nature. Exceptions apply to information that is public, lawfully obtained without confidentiality obligations, previously known or independently developed^[15].
2. The confidentiality obligation continues for **five years** after termination of the contract^[16]. Disclosure to third parties requires prior written consent. omvoro may involve affiliated companies and authorised sub-processors who are subject to equivalent confidentiality obligations^[17].

12. Final Provisions

1. These GTC are governed by **Austrian law**, excluding the UN Convention on Contracts for the International Sale of Goods (CISG) and conflict-of-law rules. Exclusive place of jurisdiction for all disputes arising from or in connection with this contract is Vienna^[18]. The contract language is English, but the German version shall prevail in case of doubt.

2. Should any provision of these GTC be or become invalid or unenforceable, the remaining provisions shall remain unaffected. The invalid provision shall be replaced by a valid one that comes closest to the economic purpose[19].
3. Amendments and additions to these GTC must be made in writing. This also applies to any waiver of the written form requirement. No oral side agreements exist.
4. The Client may not transfer rights or obligations from the contract without written consent. omvoro may assign the contract to an affiliated company[20].

[1] Allgemeine Geschäftsbedingungen für IT-Dienstleister - WKO

<https://www.wko.at/information-consulting/unternehmensberatung-buchhaltung-informationstechnologie/it-dienstleistung/allgemeine-geschaeftsbedingungen>

[2] [3] [4] [5] [7] [8] [10] [11] [12] [13] [17] [18] [19] AGB Verkauf und Lieferung Programmierleistungen von Softwareprodukten

<https://www.wko.at/oe/agb/agb-it-programmierdienstleistungen-b2b.pdf>

[6] [9] [20] AGB IT-Dienstleistungen Verkauf und Lieferung von Softwaresupport

<https://www.wko.at/oe/agb/agb-software-support-b2b.pdf>

[14] eu-dsgvo-mustervertrag-vereinbarung-auftragsverarbeitung.pdf

<https://www.wko.at/oe/datenschutz/eu-dsgvo-mustervertrag-vereinbarung-auftragsverarbeitung.pdf>

[15] [16] Muster-Geheimhaltungsvereinbarung (NDA)

<https://www.wko.at/oe/agb/feei-muster-geheimhaltungsvereinbarung.pdf>