

# General Terms and Conditions

## for the Zive software

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# A. General Terms and Conditions

## 1. Preamble

- 1.1. These General Terms and Conditions ("GTC") become part of all contracts between GermanAI GmbH (registered at the commercial register of Hamburg, Germany under number HRB 180814, EU VAT-ID DE361550619) and companies ("Customers") in connection with the "Zive" product. The General Terms and Conditions contain the general part of the applicable terms and conditions. They are supplemented by the additional conditions specified in the offer or order form, which regulate details of the relevant contractual obligations.

## 2. General

- 2.1. The contract between GermanAI and the customer ("contract") consists of (i) the order individually agreed between the customer and GermanAI, usually documented in the form of an offer approved by the customer and (ii) the service description, (iii) the present General Terms and Conditions "Zive" as well as (iv) the supplementary conditions declared applicable in the offer. In the event of contradictions, the regulations of the individual assignment, including its appendices, take precedence over the General Terms and Conditions.
- 2.2. The provisions of these General Terms and Conditions apply to all services provided by GermanAI in connection with the "Zive" product.
- 2.3. Regulations that deviate from, conflict with or supplement these General Terms and Conditions and/or other contents of the respective contract and which have not been signed by GermanAI are not part of the contract. This applies in particular to the customer's general terms and conditions of business or purchasing. Changes to the terms and conditions and/or other contents of the contract must be made in writing. The priority of the individual agreement remains unaffected.
- 2.4. Legally relevant declarations and notifications that must be made by the customer to GermanAI after conclusion of the contract (e.g. setting deadlines, notices of defects, or reductions) must be in writing to be effective; the text form of Section 126b of the German Civil Code (e.g. e-mail) is not sufficient for this.
- 2.5. References to legal regulations only have clarifying meaning. Even without such clarification, the statutory provisions apply unless they are contractually changed or expressly excluded.
- 2.6. If individual provisions of the contract are invalid, the validity of the remaining provisions remains unaffected. The parties will replace ineffective provisions with provisions that come closest to what is intended in economic terms, unless a supplementary contractual interpretation takes precedence or is possible.

- 2.7. GermanAI can (for the first time 12 months after conclusion of the contract) change individual provisions of the (including supplementary) contractual conditions, in particular those regarding remuneration (but only up to 10% per calendar year). The changes will only become effective for the customer if they have been communicated to him in writing or by email and the customer has not objected to them in writing or by email within two weeks of receipt of the notification. To meet the deadline, it is sufficient to send the objection in a timely manner. If the customer exercises his right to object, the contract will continue under the previous conditions. If individual provisions of the contract are changed and the customer exercises his or her right to object, the following applies: If GermanAI informs the customer in response to his objection that a continuation of the contract under the previous conditions is not possible, the customer can terminate the contractual relationship at that time before the change takes effect. The changed regulations are deemed to have been approved if the customer does not exercise his right of termination within one month of receiving the information. In the notification, GermanAI informs the customer of the importance of not exercising the right of termination.

### **3. Services**

- 3.1. The services owed by GermanAI result from the service description contractually agreed with the customer. GermanAI will employ professionally and technically qualified personnel to provide its services.
- 3.2. Technical or other standards only apply if they are expressly listed in the service description.
- 3.3. GermanAI is entitled to use third parties as subcontractors and vicarious agents in the provision of services. It undertakes that no temporary workers will be used in violation of the Temporary Employment Act (German AÜG) and corresponding successor regulations.
- 3.4. Performance deadlines are only binding if they have been agreed upon as binding between GermanAI and the customer in writing.

### **4. Compensation and payment conditions**

- 4.1. The remuneration is based on the remuneration stated in the offer and approved by the customer. If no remuneration has been agreed, this will be based on GermanAI's price list for the "Zive" product that is valid when the service is provided.
- 4.2. All agreed amounts are euro amounts and are exclusive of VAT.
- 4.3. All invoices are due for payment to the GermanAI account specified in the invoice within 14 days of receipt of the invoice, unless otherwise agreed.
- 4.4. The customer is only entitled to offset or withhold payment if his claim is undisputed or legally established.

- 4.5. If the customer is in default with payment for an earlier service, GermanAI is entitled to withhold payment. Overall, GermanAI can charge default interest in the event of late payment in accordance with legal regulations. This does not exclude the assertion of further damages caused by default.
- 4.6. Until full payment has been made, GermanAI reserves all rights with regard to the work and services delivered, in particular to transfer any usage rights to work results.

## 5. Liability

- 5.1. GermanAI is fully liable in the following cases:
- in the event of intent or gross negligence; as well as
  - in the event of damage to life, body and health.
- 5.2. GermanAI is only liable for damages resulting from simple negligence on the part of GermanAI if an essential contractual obligation (so-called cardinal obligation) has been violated. "Cardinal obligations" are those obligations whose fulfillment makes the proper execution of the contract possible in the first place, whose violation endangers the achievement of the purpose of the contract or whose compliance the customer regularly relies on.
- 5.3. However, GermanAI is not liable in accordance with Section 5.2 for unforeseeable damage that is not typical for the contract.
- 5.4. The above limitations of liability also do not apply in the event of an express assumption of warranty by GermanAI and in the event of GermanAI's liability for the lack of guaranteed properties. In addition, GermanAI's liability under the provisions of the Product Liability Act and data protection regulations remains unaffected.
- 5.5. Any liability of GermanAI beyond what is defined above in this Section 5 is excluded. In particular, GermanAI is not liable for damage that the customer's employees cause to their own equipment after GermanAI has provided support with maintenance work or similar measures via remote communication.
- 5.6. The provisions of this Section 5 also apply to the benefit of GermanAI's legal representatives and vicarious agents if claims are asserted directly against them.
- 5.7. The customer's claims for reimbursement of expenses in accordance with Section 284 of the German Civil Code (BGB) are waived insofar as a claim for compensation instead of services is excluded in accordance with the above regulations.

## 6. Force majeure

- 6.1. If a party fails to fulfill an obligation or delays performance due to force majeure, this shall not constitute a breach of its obligations nor shall it be liable to the other party. "Force Majeure" means circumstances beyond their control, including, but not limited to, strikes, pandemics, industrial disputes, fires, floods, acts of God, war, insurrection, vandalism,

sabotage, invasion, riots, national emergencies, piracy, raids, terrorist attacks, embargoes or restrictions, extreme weather or traffic conditions, temporary road closures, laws, regulations, orders or other legal acts of any government or governmental authority.

- 6.2. The party asserting the influence of force majeure will immediately notify the other party in writing of the occurrence and termination of this circumstance. Each party is entitled to terminate the respective contract by giving written notice to the other party if the performance of the contract is suspended for more than three (3) months due to force majeure.

## 7. Confidentiality, reference, data protection

- 7.1. Both parties are obliged to maintain confidentiality regarding all information in connection with the contract and to store all data and documents in such a way that unauthorized third parties cannot gain access to them. In particular, inventions and patent applications must be kept strictly confidential until the day of disclosure. The parties will oblige their employees, subcontractors and freelancers to maintain confidentiality.
- 7.2. The above obligations pursuant to Section 7.1 do not apply to information which
- are or become apparent when announced;
  - was already known to the party receiving the information upon receipt;
  - a party receives from a third party without that third party having received that information directly or indirectly from the other party;
  - to be disclosed by law or upon request of any tax authority or upon order of any competent authority, governmental body or court of competent jurisdiction or under the rules of any stock exchange on which the shares of a party to this Agreement or of a holding company of a party are listed.
- 7.3. The party invoking the exceptions under this Section 7.2 bears the burden of proof that the requirements are met.
- 7.4. The confidentiality obligation according to this Section 7 applies for 5 years beyond the term of the contract. The parties will do everything reasonable in good faith to ensure compliance with the above obligation, even in the event of employees leaving.
- 7.5. GermanAI is entitled to name the customer as a reference customer in its external representation in order to point out the common economic relationship. For this purpose alone, GermanAI is entitled to publish the customer's brand name, company name and company logo on its own website and in company presentations as a customer reference. The customer can object to the above use at any time by sending an email to the address [mail@german.ai](mailto:mail@german.ai).
- 7.6. The parties will observe the applicable data protection regulations, in particular those applicable in Germany, and will require their employees employed in connection with the contract and its implementation to maintain confidentiality, unless they are already generally obliged to do so. If the customer collects, processes or uses personal data, he

guarantees that he is entitled to do so in accordance with the applicable, in particular data protection regulations, and in the event of a violation, releases GermanAI from third-party claims. To the extent that the data to be processed is personal data, this constitutes order processing and GermanAI will observe the legal requirements for order processing and the customer's instructions, in particular providing its own signed contract for order processing at the customer's request. Instructions outside of this contract must be communicated in writing.

## **8. Rights of use**

- 8.1. Unless the supplementary terms and conditions provide otherwise, GermanAI grants the customer the right to use the contractual services to the extent specified in the contract upon full payment of the remuneration owed. If the scope is not agreed in the contract, this is a simple, non-exclusive, non-transferable right of use for the term of the contract, which extends to the respective purpose of the contract and the agreed scope of the contract. The right of use only includes use for the customer's internal purposes. Renting, marketing or further development is not permitted.
- 8.2. Any use that goes beyond the specifications in Section 8.1 must always be contractually agreed before it begins. The remuneration depends on the scope of the right to use.
- 8.3. If software is provided, the customer may only copy it to the extent that this is necessary for the contractual use. Copyright notices may not be changed or deleted.
- 8.4. GermanAI is entitled to take appropriate technical measures to protect against non-contractual use.
- 8.5. Ownership of copies provided remains reserved until the remuneration owed has been paid in full. If individual rights of use are previously granted, these are always only provisional and freely revocable by GermanAI.
- 8.6. GermanAI can revoke the customer's right to use the contractual services and work results if the customer significantly violates contractual requirements for protection against unauthorized use. GermanAI must give the customer a grace period in advance to remedy the situation. In the event of a recurrence and in special circumstances which justify immediate revocation after weighing up the interests of both parties, GermanAI can issue the revocation without setting a deadline. The customer must confirm to GermanAI in writing that use will be discontinued after revocation.

## **9. Subcontractors**

- 9.1. GermanAI is entitled to use subcontractors for the purpose of fulfilling the contract. Further details can be found in the attached contract for order processing.
- 9.2. By concluding this contract, the customer also agrees to the use of companies affiliated with GermanAI within the meaning of Sections 15 et seq. German Stock Corporation Code (German AktG.) (hereinafter referred to as "affiliated companies") as subcontractors.

- 9.3. GermanAI will structure the agreements with its subcontractors in such a way that they are in accordance with the provisions of this contract.

## 10. Final provisions

- 10.1. The place of performance and exclusive place of jurisdiction for all disputes arising from and/or in connection with the contract is the registered office of GermanAI. German law applies exclusively, excluding the UN Convention on Contracts for the International Sale of Goods.
- 10.2. No oral or written additional agreements were made.
- 10.3. The assignment of rights under this contract requires the prior written consent of the other party. This does not apply to the assignment of payment claims.
- 10.4. Should individual provisions of this contract be or become wholly or partially invalid or unenforceable, this will not affect the effectiveness of the remaining provisions of this contract. Instead of the invalid or unenforceable regulation, the parties will make a valid and effective regulation that comes as close as possible legally and economically to this regulation, which they would reasonably have agreed if they had taken into account the ineffectiveness or unenforceability of the respective regulation when concluding this contract. The same applies in the event of a loophole in the regulations.

## B. Supplementary terms and conditions for the use of Software-as-a-Service

### 1. Preamble

- 1.1. In addition to the above General Terms and Conditions, these additional terms and conditions regulate the use of the software "Zive", which is described in more detail in the offer and service description ("Software"), by GermanAI customers, i.e. the granting of the use of the software for a fee and limited to the duration of the contract of software in the customer's company via the Internet as well as the provision of storage space on the servers of GermanAI or its service providers.

### 2. Services

- 2.1. GermanAI grants the customer the use of the latest version of the software for the agreed number of authorized users via the Internet via access via a browser or a mobile app.
- 2.2. GermanAI guarantees the functionality and availability of the software for the duration of the contractual relationship and will maintain it in a condition suitable for use in accordance with the contract. The range of functions of the software and the conditions of use can be found in the offer and service description.
- 2.3. The customer can increase or reduce the number of authorized users of the software as required in accordance with the conditions specified in the offer. After conclusion of the contract, GermanAI will immediately send the customer access data for the authorized users in electronic form if the customer cannot set this up in the software themselves.
- 2.4. Furthermore, upon conclusion of the contract, GermanAI will provide the customer with user documentation in English in electronic form upon first request. The user documentation can also be viewed at any time while using the software and can be accessed via browser.
- 2.5. GermanAI can update and further develop the software at any time and adapt it in particular due to a changed legal situation, technical developments or to improve IT security. GermanAI will appropriately take the legitimate interests of the customer into account and inform the customer of any necessary updates in a timely manner. In the event of a significant impairment of the customer's legitimate interests as a result of the above adjustment, the customer is entitled to a special right of termination.
- 2.6. GermanAI is not obliged to adapt it to the customer's individual needs or IT environment, unless the parties have agreed otherwise.
- 2.7. GermanAI will carry out regular maintenance on the software and inform the customer about this in a timely manner. Maintenance is carried out regularly outside of the customer's usual business hours, unless there are compelling reasons for maintenance to be carried out at another time.

- 2.8. GermanAI provides the customer with storage space on its servers for the storage of data and for the purposes of using the software, up to an extent that is specifically quantified in the offer and service description. GermanAI ensures that the data is accessible when using the software. The customer can expand or reduce the storage space volume as required in coordination with GermanAI.
- 2.9. GermanAI will take state-of-the-art measures to protect data. However, GermanAI has no custody or custody obligations with regard to the data. The customer is responsible for ensuring adequate backup of the data.
- 2.10. The customer remains the owner of the data stored on GermanAI's servers and can request this at any time.

### **3. Scope and rights of use**

- 3.1. The software is not physically handed over to the customer.
- 3.2. The customer receives a simple, i.e. non-sublicensable and non-transferable, right to use the software in accordance with the contractual provisions in the most current version of the software for the contractually agreed number of users.
- 3.3. The customer may only use the software within the scope of his own business activities by his own staff. The customer is not permitted to use the software further unless this is specified separately through appropriate additions.
- 3.4. The software enables the customer or their employees the use of generative AI via chatbots. The number of chat messages (prompts) per customer and calendar month is limited to a maximum of 100 per licensed user account. The customer has the option of increasing the monthly quota of chat messages (prompts). The applicable prices are based on Section 4 of the General Terms and Conditions of GermanAI.
- 3.5. These regulations take precedence over Section 8 of the GermanAI General Terms and Conditions.

### **4. Support**

- 4.1. GermanAI sets up a support service for customer inquiries about software functions. Inquiries can be made via the support hotline or ticket system specified on the GermanAI website at the times specified there or by email. Requests will be processed in the chronological order in which they are received.

### **5. Service levels; Troubleshooting**

- 5.1. GermanAI guarantees a total availability of services of at least 99% on an annual average at the handover point. The transfer point is the router output of the GermanAI data center.
- 5.2. Availability means the customer's ability to use all of the main functions of the software. Maintenance times as well as times of disruption while adhering to the resolution time are

considered times when the software is available. Times of insignificant disruptions are not taken into account when calculating availability. GermanAI's measuring instruments in the data center are crucial for proving availability.

- 5.3. The customer must report any disruptions immediately to the contact details stated in the offer and service description. Fault reporting and rectification is guaranteed Monday to Friday (excluding public holidays at GermanAI's headquarters) between 9:00 a.m. and 6:00 p.m. (service times) Central European Time.
- 5.4. Faults in the software will be divided into the following categories by the customer at its reasonable discretion, taking into account the interests of GermanAI:
  - Category 1 defect (very high priority): Malfunction that causes a failure of the software or essential parts of it, so that use of the software is completely or almost completely impossible. The disruption to operations is so significant that immediate remedial action is essential.
  - Category 2 defect (higher priority): Malfunction that affects the use of the software in such a way that meaningful use is not possible or is only possible with disproportionate effort. Several Category 2 defects occurring in parallel can constitute a Category 1 defect.
  - Category 3 defect (normal priority): Other faults that do not or only insignificantly affect the use of the software. Several Category 3 defects occurring in parallel can constitute a Category 2 or Category 1 defect.
- 5.5. GermanAI responds to the customer's report of a defect within the following response periods:
  - For category 1 defects: within two hours of receiving the report,
  - For category 2 defects: within four hours of receipt of the report,
  - For category 3 defects: Within one working day of receipt of the report.
- 5.6. Unless otherwise agreed, GermanAI endeavors to eliminate the defects within the following deadlines:
  - For category 1 defects: within 24 hours of receipt of the report,
  - For category 2 defects: within 5 days of receipt of the report,
  - For category 3 defects: If possible, with the next program version of the software.
- 5.7. If there are defects in categories 1 and 2, GermanAI will endeavor to provide a work around solution until the defects have been completely eliminated within the elimination period if the defects cannot be remedied within this period.
- 5.8. Any other legal claims of the customer against GermanAI remain unaffected.
- 5.9. The above deadlines begin with an error message from the customer. If there is a disagreement about the classification of an error in the above categories, the customer's

management and GermanAI will reach a joint classification. If this is not successful, the final classification is the responsibility of GermanAI. However, the customer can request classification into a lower category. In this case, the customer will reimburse GermanAI for the additional effort if they do not prove that their classification was correct.

## **6. Obligations of the customer**

- 6.1. The customer must protect and store the access data transmitted to him from access by third parties in accordance with the state of the art. The customer will ensure that use only occurs to the extent agreed in the contract. Unauthorized access must be reported to GermanAI immediately.
- 6.2. The customer is obliged not to store any data on the storage space provided, the use of which violates applicable law, official orders, third-party rights or agreements with third parties.
- 6.3. The customer will check the data for viruses or other harmful components before storing or using it in the software and will use state-of-the-art measures (e.g. virus protection programs) for this purpose.
- 6.4. The customer is responsible for regularly making appropriate data backups.

## **7. Warranty**

- 7.1. With regard to the granting of use of the software and the provision of storage space, the warranty provisions of rental law apply (Sections 535 et seq. German Civil Code, BGB).
- 7.2. The customer must report any defects to GermanAI immediately.
- 7.3. The warranty for only insignificant reductions in the suitability of the service is excluded. Liability regardless of fault in accordance with Section 536a Paragraph 1 German Civil Code (BGB) for defects that already existed when the contract was concluded is excluded.

## **8. Compensation**

- 8.1. Deviating from the provisions in Section 4 of the General Terms and Conditions, remuneration for services in accordance with these supplementary terms and conditions must be paid annually in advance.
- 8.2. The remuneration increases automatically by 5% annually, unless otherwise agreed. The customer has the right to object to the increase by informing GermanAI in writing at least 3 months before the end of the term. In the event of an objection, GermanAI receives a unilateral right of termination at the end of the term, which must, however, be exercised in writing no later than 14 days after receipt of the objection.

## 9. Duration

- 9.1. The contractual relationship under these additional conditions comes into force upon signing and has a term of 12 months. The contract term is then automatically extended by a further 12 months, unless the contractual relationship is terminated by one of the parties at the end of the contract term with 3 months' notice.
- 9.2. The right of both parties to extraordinary termination for good cause remains unaffected. An important reason exists in particular if one party intentionally or negligently violates an essential obligation under this contract and it is therefore no longer reasonable for the terminating party to adhere to the contract.
- 9.3. GermanAI is entitled to do so in particular if the customer repeatedly or significantly defaults on payment. GermanAI is entitled to extraordinary termination of the contract if the customer violates an obligation according to Section 6 of this contract and GermanAI has previously warned him.
- 9.4. Termination of this contract must be in writing.

## 10. Final provisions

- 10.1. These supplementary terms and conditions apply primarily to the General Terms and Conditions relating to the product "Zive" of GermanAI.
- 10.2. Should individual clauses of these supplementary conditions be or become invalid, this will not affect the validity of the remaining conditions.