

General Terms and Conditions for IT Services and Products of CloudRebels UG (haftungsbeschränkt)

1. Scope of the General Terms and Conditions

1.1 These are the general terms and conditions of CloudRebels UG (haftungsbeschränkt) (hereinafter referred to as "Cloud Rebels") in relation to the IT services and products offered by Cloud Rebels. The subject matter of these is the regulation of the legal relationship between Cloud Rebels and the customer with regard to the commissioned IT services and products.

1.2 The offer of Cloud Rebels is exclusively directed at customers who are entrepreneurs in the sense of § 14 BGB (German Civil Code) or legal entities, tradesmen as well as self-employed persons or freelancers.

1.3 These General Terms and Conditions apply exclusively to the contractual relationship. Conflicting or more extensive terms and conditions of the customer shall not become part of the contract. They shall also have no effect if Cloud Rebels has not objected to them in individual cases.

1.4 The General Terms and Conditions are supplemented by the respective valid product description. These documents are available at any time at www.cloudrebels.de and can be downloaded, saved and printed by the customer there.

1.5 Individual agreements between Cloud Rebels and the customer take precedence over these General Terms and Conditions in the area of the respective individually agreed contractual condition (cf. § 305b BGB) and are then supplemented by these General Terms and Conditions. The offer or the order documents as well as the invoice of Cloud Rebels shall be deemed individual agreements which take precedence over these General Terms and Conditions. Individual agreements require text form to be effective.

2. Amendment of the General Terms and Conditions

2.1 Cloud Rebels is entitled to change the General Terms and Conditions after conclusion of the contract, provided that this does not affect essential provisions of the contractual relationship and this is necessary to adapt to such developments that were not foreseeable at the time of conclusion of the contract and whose non-consideration would not insignificantly affect the balance of the contractual relationship. Material provisions are in particular those relating to the type and scope of the contractually agreed services, term and termination.

Furthermore, adjustments or additions may be made insofar as this is necessary to eliminate loopholes that have arisen after conclusion of the contract. This may be the case in particular if case law changes and one or more clauses of these General Terms and Conditions are affected.

2.2 Amendments to these General Terms and Conditions shall be notified to the Customer in text form in good time before their planned date of entry into force. The Customer shall have the right to object to the notified amendments. If the customer does not object to the changes in text form within a reasonable period of explanation specified by Cloud Rebels in the individual case after receipt of the change notification, the changes shall become effective at the planned time and become part of the contract.

The customer will be specifically informed of this consequence in the notification of change. If the Customer objects in due time, the previous terms and conditions shall remain valid. If the customer objects to the amended General Terms and Conditions for Cloud Rebels, Cloud Rebels shall be entitled to a special right of termination with a notice period of one month. Cloud Rebels shall exercise this right of termination in text form within 4 weeks after the customer's objection.

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3. Change of IT services and products and price

3.1 Cloud Rebels is entitled to increase the agreed prices after conclusion of the contract to the extent of price increases of third parties from whom Cloud Rebels obtains necessary preliminary services for the execution of the contract. The agreed prices shall also increase to the extent that it is caused by an increase in value added tax or mandatory statutory levies.

3.2 Changes to Cloud Rebels or the functionalities contained therein and its price shall be notified to the customer in text form in due time before they take effect. The customer has the right to object to the notified changes. If the customer does not object to the changes within four weeks after receipt of the change notification in text form, the changes will become effective at the scheduled time and become part of the contract.

The customer shall be specifically informed of this consequence in the notification of change. If the customer objects to the change of Cloud Rebels or its functionalities or its price, Cloud Rebels is entitled to terminate the contract with a notice period of one month. Cloud Rebels shall exercise this right of termination within 4 weeks after the customer's objection.

4. Conclusion of contract

4.1 All offers of Cloud Rebels are subject to change without notice. An offer by Cloud Rebels is only binding if this is expressly stated in writing or text form. Unless otherwise stated, the offer with the calculated prices and services shall be binding for Cloud Rebels for a period of four weeks.

4.2 On the basis of Cloud Rebels' non-binding offer, the customer places a binding order for the service offered by Cloud Rebels.

4.3 Order confirmations are generally not tendered. However, if the order is concluded by telephone, verbally or online, a confirmation letter in text form by Cloud Rebels is required. All other verbal agreements also require a confirmation by Cloud Rebels in text form.

4.4 The contract is concluded impliedly with the provision of services by Cloud Rebels or with the receipt of an order confirmation in text form.

4.5 With the order, the customer assures to be an entrepreneur in the sense of § 14 BGB (German Civil Code), legal entity, tradesman or self-employed person or freelancer.

4.6 Cloud Rebels is entitled at any time to reject orders at its own discretion or to withdraw from the contract without the customer incurring any claims for damages if it turns out that the content or form of the service owed violates changed legal provisions.

4.7 Cloud Rebels also has the right to withdraw from the contract if there are reasonable doubts about the customer's creditworthiness.

5. Subject of the contract

5.1 Part of the contract are the order documents, in particular the offer and a possibly advertised order confirmation of Cloud Rebels as well as these General Terms and Conditions. Individual agreements require text form to be effective.

5.2 The subject matter of the contract are the IT services and products of Cloud Rebels, which are specified in more detail in the order documents.

5.3 The customer shall specify the task. The performance of the task shall be jointly planned on this basis.

5.4 It is the sole responsibility of Cloud Rebels to decide which employees will be deployed for the specific task fulfillment. In this context, own and freelance employees as well as other companies may be used within the scope of the task fulfillment. Irrespective of this, Cloud Rebels reserves the right to exchange employees at any time.

5.5 The employees deployed for task fulfillment are exclusively subject to the instructions of Cloud Rebels, irrespective of whether the service is rendered directly at the customer. The employees shall not be integrated into the operations of the client. The client may only submit suggestions and tasks to the project manager or the account manager of Cloud Rebels, but not directly to the individual employees.

5.6 The deadlines stated in the implementation and project plans are generally estimated times, unless the agreements reached between the parties indicate that deadlines have been set as binding.

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5.7 If Cloud Rebels is dependent on the cooperation or information of the customer and the performance is delayed for lack of / due to delayed cooperation or if the performance is impeded due to force majeure, e.g. war, riot, natural disasters or due to similar events such as e.g. strike, lockout, official intervention or other circumstances for which Cloud Rebels is not responsible, agreed deadlines shall be extended by a reasonable period of time.

5.8 Cloud Rebels shall inform the customer in such a case about the circumstances of the impediment and shall immediately agree on a new date for the provision of services after its termination.

5.9 During the term of the contract and the associated use of Cloud Rebels systems, the client may propose changes and adjustments at any time.

5.10 Cloud Rebels shall respond to the customer's requests for changes and / or adaptations in writing by means of a statement regarding a corresponding feasibility as well as the preparation of a corresponding offer.

5.11 Upon acceptance of the offer by the customer, a contract is concluded between the customer and Cloud Rebels with amended content in accordance with the offer. The remuneration for this shall be based on the current price list of Cloud Rebels at that time.

5.12 Until the conclusion of the amended contract, all other work shall continue to be performed according to the existing contracts. However, the customer is entitled to demand the complete or partial interruption of any work. Any resulting delay in performance or deadlines shall, however, be borne by the customer.

6. Acceptances

6.1 If an order of the Customer consists of several individual works that can be used independently of each other, the Customer shall accept each individual work separately and promptly.

6.2 If market products are used as a basis or tool for the realization of an order, functional restrictions and errors caused by these products shall not constitute a reason for refusal of acceptance.

6.3 Concepts and specifications of the customer require written acceptance by Cloud Rebels. Concepts and specifications of Cloud Rebels must be accepted by the customer prior to realization. A written order from the content of these elaborations constitutes an acceptance free of defects and errors.

6.4 The client must check the result within 10 working days and notify any defects or declare acceptance. The service shall be deemed to have been accepted if the Client neither notifies defects nor declares acceptance within this period. Insignificant defects shall not entitle the Customer to refuse acceptance.

6.5 Cloud Rebels shall notify the supplier of any defects attributable to market products for rectification, insofar as rectification is necessary for Cloud Rebels to provide its services.

7. Cooperation obligations of the customer

7.1 The customer is aware that the provision of the services included in Cloud Rebels as well as their quality may be decisively dependent on his cooperation. For this reason, the customer is obligated to support Cloud Rebels in the provision of the agreed services to the best of his ability, to create the prerequisites within his operational and risk sphere that are necessary for the proper execution of the order and, in addition, to fulfill the obligations imposed on him in accordance with this clause 7 in a timely and complete manner.

7.2 He is responsible for the timely provision, accuracy and completeness of all information, documents and other means required for work, free of charge for Cloud Rebels, in order to be able to perform the services offered. He is also responsible for contacting subordinate employees with specialized functions.

Proper data backup is the responsibility of the client.

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If the client does not sufficiently fulfill his obligation to cooperate in the agreed manner, he shall bear the resulting consequences such as additional expenses or delays and compensate Cloud Rebels for all damages resulting therefrom. During this period Cloud Rebels shall be released from the obligations arising from the respective service contract and from these terms and conditions of service.

7.2.1 Contract data

The customer is obliged to provide all contract data requested upon conclusion of the contract completely and truthfully.

Furthermore, the customer has to inform Cloud Rebels immediately in text form about all changes of the contract data and all essential circumstances which are required for the execution of the contract.

7.2.2 Legal concerns

The customer shall clarify all legal issues, in particular professional, competition, trademark, copyright, personality, data protection and name law issues, on his own initiative before placing the order.

7.2.3 Securing of provided access data

The customer is obligated to treat provided access data strictly confidentially and to protect them against unauthorized access to the required extent. He shall inform Cloud Rebels immediately as soon as he becomes aware that these access data have become known to unauthorized third parties.

The customer is not permitted to make the access data and/or the services based on the access available to third parties for the purpose of use without prior agreement with Cloud Rebels.

7.2.4 Other obligations to cooperate

For the use of the Cloud Rebels systems, the customer shall provide the appropriate working environment (workstations, network) in accordance with the specifications of Cloud Rebels.

The customer shall cooperate free of charge in the performance of the order, in particular in implementations and the execution of works, e.g. by providing employees, work rooms, hardware and software, data and telecommunication facilities. He grants Cloud Rebels access to hardware and software directly and by means of remote data monitoring. He shall answer questions, check results and test systems provided by Cloud Rebels without delay. Cloud Rebels shall be notified of any errors or defects immediately upon becoming aware of them.

The customer shall name one or more contact persons as well as their communication data under which the contact person(s) can be reached. The contact person(s) must be in a position to make the necessary decisions for the customer or to bring them about immediately. The contact person(s) shall ensure good cooperation with the contact persons (usually project managers, account managers) of Cloud Rebels. The customer's employees shall be released from other activities to a reasonable extent for these activities.

The customer is obliged to use the services and systems provided by Cloud Rebels in accordance with the respective applicable legal provisions, any official orders and the contractual agreements made with Cloud Rebels.

7.2.5 Legal consequences of a breach of (cooperation) obligations

Reference is made to the customer's indemnification obligation and/or liability in the event of Cloud Rebels being held liable by third parties in the event of a breach of the (cooperation) obligations pursuant to Section 10 of these General Terms and Conditions for Cloud Rebels.

Furthermore, Cloud Rebels shall not be in default with the fulfillment of its performance obligations insofar as a delayed or omitted fulfillment of an information, cooperation or other obligation of the customer is (co-)causal for this. In the event of delays in the provision of individual contractual services due to the customer's failure to cooperate or delayed cooperation, Cloud Rebels' claim to remuneration and its due date shall remain unaffected.

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8. Granting of rights

8.1 The client irrevocably grants Cloud Rebels the simple, but transferable right of use, unlimited in terms of time, content and territory, with regard to the content provided and the results produced as a result of the provision of the service, to the extent necessary for the fulfillment of the contract. The transfer of rights includes the complete granting of rights with regard to all already known as well as future types of use.

8.2 The customer agrees that Cloud Rebels may use the results or parts thereof created as a result of the service provision for reference purposes for self-promotion.

8.3 Cloud Rebels is the exclusive owner and holder of the service, software, all graphics, logos, trademarks and names used by Cloud Rebels in connection with the products.

8.4 Furthermore, Cloud Rebels shall become the owner of all intangible property rights, in particular copyrights, to the results, e.g. concepts, planning documents, specifications, developments, documentations, studies, inventions, user or maintenance manuals as well as other documentations, upon creation of the service.

8.5 The customer shall be free to make suggestions to Cloud Rebels for the improvement of the service. However, by doing so, the Customer acknowledges and recognizes that all rights to the improvements and/or changes accompanying such suggestions are vested in Cloud Rebels and Cloud Rebels is under no obligation to compensate the Customer for such suggestions.

8.6 If the customer acquires copyrights to the results through his cooperation, he shall transfer to Cloud Rebels the exclusive right, unrestricted in terms of location, time and content, to process, exploit, market and otherwise use these results in any conceivable way.

8.7 If the results are protectable, Cloud Rebels shall be entitled to apply for the respective property rights at its own discretion and in its own name in any countries, to maintain them or to drop them at any time.

9. Rights of use of the customer

9.1 After full payment, the customer is entitled to the simple right of use of the work results, limited in terms of time and content to the duration of the contract period and for his own purposes to the extent projected, unless otherwise agreed.

9.2 By granting the license of use Cloud Rebels grants the customer a non-exclusive right, limited in time and content to the duration of the business relationship, non-transferable and revocable, to use the products offered under the conditions and purposes described in the offer or contract.

9.3 Any other and / or further use or exploitation is excluded. Cloud Rebels assures in this context that it is the right holder or licensee of all offered programs of third party providers and that it has been granted the corresponding rights of use for all third party products required for the service to the customer.

10. Liability of the customer and indemnification

The customer shall indemnify Cloud Rebels and Cloud Rebels' vicarious agents against all claims of third parties asserted against Cloud Rebels or Cloud Rebels' vicarious agents on the basis of a breach of one of the aforementioned obligations set forth in Clause 8 and Clause 9. This also includes the compensation of damages resulting from this, including the costs for an adequate legal defense.

11. Warranty and liability of Cloud Rebels

11.1 Cloud Rebels warrants that the contractual software will have the functions specified in the service description during the term of the contract. Cloud Rebels assures to perform the assumed work with utmost care and to the best of its ability. In this context, the customer shall immediately notify Cloud Rebels of program errors, need for changes and other circumstances indicating the necessity of maintenance measures.

11.2 Errors notified by the customer shall be remedied within a reasonable period of time. If the elimination of errors proves to be impossible, Cloud Rebels shall offer an alternative solution.

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11.3 Cloud Rebels in particular does not guarantee the uninterrupted availability of the service as well as the quality of the services.

11.4 Cloud Rebels has no influence on the transport of data via the internet. Cloud Rebels therefore also does not guarantee that sent messages reach the recipient correctly.

11.5 A certain service result or even a certain success are generally not owed. If the provision of a certain service result is expressly agreed and Cloud Rebels cannot provide the owed service result at the agreed time for whatever reason, Cloud Rebels shall be entitled to make up for the owed service result.

11.6 If the customer refuses to inspect the notified defects, the customer shall not be entitled to assert any further warranty claims. If notified defects can no longer be verified after joint verification, the notification of defects and thus also the defect shall be deemed to have been eliminated.

11.7 The warranty shall be excluded for defects/damage occurring after handover to the customer as a result of faulty or negligent handling on the part of the customer or his vicarious agents/representatives, his/their disregard of Cloud Rebels' instructions or due to special external influences outside Cloud Rebels' sphere of responsibility.

11.8 If the customer or third parties make non-agreed changes to programs or systems, the warranty for these and the resulting consequences shall also be excluded. Properties are not warranted by Cloud Rebels.

11.9 In the event of wholly or partially defective performance for which Cloud Rebels or its partners are responsible, the customer shall have a claim against Cloud Rebels for rectification of defects. If the rectification has failed, the customer has the right to either an appropriate reduction of the remuneration (abatement) or to withdraw from the contract. The rectification shall be deemed to have failed after the second unsuccessful attempt. Further claims of the customer are excluded.

11.10 Cloud Rebels shall be liable in accordance with the statutory provisions for damages to life, body and health which are based on a culpable breach of duty by Cloud Rebels, Cloud Rebels' legal representatives, employees or vicarious agents, as well as damages which are covered by liability under the Product Liability Act.

11.11 Unforeseeable events, such as force majeure, strikes, official measures, failures of means of transmission or other disruptions for which Cloud Rebels is not responsible, shall release Cloud Rebels from its obligation to perform and warranty. Cloud Rebels' liability is also fully excluded in such a case.

11.12 Cloud Rebels shall not be liable for materials, contents and services of the customer (e.g. provided employees, work rooms, hardware and software, data and telecommunication facilities), which the customer makes available to us for the execution of the contract or which he publishes or distributes through the components of Cloud Rebels.

11.13 For other damages, which are not covered by the above clauses, the liability of Cloud Rebels, irrespective of the legal ground, is excluded to the extent permitted by law, unless Cloud Rebels is guilty of intent or gross negligence. In addition, liability in case of slight negligence is not excluded if Cloud Rebels is charged with the violation of such an obligation, the fulfillment of which enables the proper execution of the contract in the first place (so-called cardinal obligation). In the latter case, liability is limited to the contract-typical foreseeable damage, however, to a maximum of the sum of the annual order value.

11.14 All claims of the customer against Cloud Rebels shall become statute-barred within one year from the statutory commencement of the limitation period. This does not apply to the limitation of claims based on an intentional or grossly negligent breach of duty.

11.15 As far as the liability of Cloud Rebels is limited or excluded, this also applies to its service providers, legal representatives, employees or other vicarious agents.

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12. Payment / Offset / Retention

12.1 The remuneration is basically based on the respective valid price list of Cloud Rebels, unless otherwise stipulated by contract. The price list is subject to change.

12.2 Except in the case of a VAT exemption, all prices are exclusive of the respective statutory VAT. Cloud Rebels is entitled to invoice partial services if this is reasonable for the customer. Payments are to be made with the payment term stated on the invoice / partial invoice. Cash discount will not be granted. From 30 days after the due date, Cloud Rebels may charge interest in the amount of the applicable statutory default interest rate.

12.3 Services are generally invoiced by Cloud Rebels after they have been rendered. Services are invoiced once a month. Exceptions require separate agreement. Cloud Rebels may demand payments on account if the term of works and services exceeds 1 month. The amount of the down payment shall be based on the degree of completion.

12.4 In the case of invoicing on a time and material basis, this shall take place upon presentation of the proof of activities customary at Cloud Rebels. Travel time, travel expenses and accommodation costs shall be charged depending on the place of business of the Cloud Rebels employee.

12.5 Cost increases for licenses and maintenance services provided and charged by third parties within the scope of the performance of the services between Cloud Rebels and the customer shall be passed on by Cloud Rebels to the customer unchanged.

12.6 Cloud Rebels reserves the right to charge reminder costs for reminders issued (in non-commercial business transactions only from the 2nd reminder). At the latest 30 days after the due date Cloud Rebels may charge interest in the amount of the respective applicable statutory default interest rate.

12.7 As a matter of principle, order intermediaries, third-party service providers and other third parties are not entitled to accept payments on behalf of Cloud Rebels. In case of collection or cash payment note by Cloud Rebels, prepayment or cash payment has to be made immediately upon placing the order. Payments made to Cloud Rebels' agent shall be accepted upon proper receipt.

12.8 Cloud Rebels is entitled, even during the term of the contract, to make the further performance of services dependent on the settlement of outstanding invoice amounts in case of objectively justified doubts about the customer's solvency.

12.9 The customer is only entitled to set-off and/or retention if the counterclaims have been legally established or are undisputed.

13. Confidentiality and data protection

13.1 The contracting parties shall treat as confidential the trade and business secrets of the other contracting party of which they have become aware in the course of the business relationship, even after termination of the business relationship.

13.2 The Customer may only make Contractual Objects accessible to employees and third parties to the extent that this is necessary for exercising the right of use granted to it; otherwise, it shall keep all Contractual Objects secret. He shall instruct all persons to whom he grants access to contractual objects about Cloud Rebels' rights to the contractual objects and the obligation to maintain secrecy.

13.3 Personal data shall only be processed in compliance with the applicable data protection law, in particular the DSGVO and the BDSG. The parties agree to conclude a contract for commissioned processing according to Art. 28 DSGVO or a contract for joint responsibility according to Art. 26 DSGVO in case of necessity.

14. Other

14.1 The place of performance and jurisdiction for both parties is the registered office of Cloud Rebels unless the law mandatorily prescribes otherwise.

14.2 The law of the Federal Republic of Germany shall apply to all legal relationships arising from the use of the services, excluding the regulations on international private law and the UN Convention on Contracts for the International Sale of Goods.

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