

Consulting Terms

General Terms and Conditions for Consulting Services of Conjola GmbH

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Convenience translation: this English version is provided solely to aid understanding. The German version is the authoritative contractual version.

§ 1 Scope

1. These General Terms and Conditions for Consulting Services ("Consulting Terms") apply to consulting, support and other services provided by Conjola GmbH ("Conjola") to entrepreneurs within the meaning of section 14 of the German Civil Code (BGB), legal entities under public law and special funds under public law ("Customer").
2. These Consulting Terms apply in particular to services in the areas of IT and SAP consulting, Application Management Services (AMS), process and system analysis, conceptual design, implementation and customizing support, error analysis and correction, optimization, transformation, project support, workshops and training, and related functional and technical consulting and support services.
3. These Consulting Terms do not apply to the paid or free use of Conjola's software-as-a-service products, software or other digital products insofar as separate contractual terms apply to them.
4. Individual agreements in the relevant quotation, order, statement of work or other individual contract take precedence over these Consulting Terms.
5. Any differing terms and conditions of the Customer apply only if Conjola has expressly agreed to their application.

§ 2 Contract formation and scope of services

1. The nature and scope of the services to be provided by Conjola are determined by the relevant quotation, order or other individual agreement between Conjola and the Customer.
2. Unless expressly agreed otherwise, Conjola provides consulting and support as services under a contract for services (Dienstvertrag). Conjola owes the professional performance of the agreed services, but does not owe any particular economic, technical or other result.
3. In particular, consulting, support, error analysis and AMS services do not, without express agreement, entail an obligation to fully correct a specific error within a specific period or to establish a particular system state.
4. Any indication of an anticipated number of hours, days or other volume of services constitutes a non-binding estimate unless expressly agreed to be binding. A minimum purchase obligation exists only if expressly agreed.

5. Services provided at the Customer's request beyond the agreed scope may be invoiced at the agreed rate or, if no rate has been agreed, at Conjola's rate applicable at the time the services are provided.

§ 3 Performance of services

1. Conjola performs the agreed services professionally and with the care customary in the relevant field of activity.
2. Services are generally provided remotely unless expressly agreed otherwise.
3. Conjola is generally free to determine how the services are performed, unless the agreed subject matter, the Customer's legitimate operational requirements or mandatory statutory provisions require otherwise.
4. Conjola may engage suitable employees, freelancers or subcontractors to perform the services unless expressly agreed otherwise. Conjola remains responsible to the Customer for the contractual performance of the services owed by Conjola.
5. Specific response, recovery, standby or resolution times are owed only if expressly set out in a service level agreement (SLA) or a comparable individual agreement.

§ 4 Customer cooperation and Customer systems

1. The Customer provides Conjola in good time with all information, documents, contact persons, decisions, system access, authorizations and other resources necessary to perform the services.
2. The Customer is responsible for proper and regular backups of its data, systems and configurations. Before changes are made to production systems, the Customer must ensure that state-of-the-art backups and an appropriate means of restoring the previous system state are available.
3. Insofar as possible and reasonable given the nature of the services, changes, configurations and other work results should be tested in a suitable test or quality assurance environment before being transferred to a production system.
4. Changes are generally transferred to a production system after approval by the Customer. Where Conjola makes changes directly in a production system on the Customer's express instructions or with its consent, the Customer's obligations regarding appropriate backups, testing and restorability remain unaffected.
5. The Customer ensures that the access and authorizations made available to Conjola are sufficient and permissible for the agreed services. Conjola uses them exclusively within the scope of the agreed services and in accordance with the requirements communicated by the Customer.
6. If, in performing the services, Conjola identifies a significant risk to the stability, security or integrity of a Customer system, Conjola may suspend the relevant activity pending consultation with the Customer insofar as this appears appropriate to prevent damage.
7. Delays or additional effort arising from missing, incomplete or late cooperation by the Customer may be invoiced on the agreed time-and-materials basis.

§ 5 Fees and invoicing

1. Fees are determined by the relevant quotation or other individual agreement.
2. Where time-based billing is agreed, the services actually performed are invoiced on the basis of the agreed hourly or daily rate.
3. For hourly billing, the time actually spent is recorded. Billing is in units of 15 minutes unless the relevant quotation provides otherwise.
4. When billing in 15-minute units under paragraph 3, the time actually spent is aggregated per Customer and calendar day. Only the resulting daily total is rounded up to the next full 15-minute unit. Individual activities, telephone calls or emails are not rounded up separately.
5. Unless agreed otherwise, invoices are issued monthly in arrears.
6. Conjola may document the services performed in activity reports. These may include, in particular, the date, time spent and an appropriate description of the activity performed.
7. All prices quoted are exclusive of statutory value added tax at the applicable rate, where applicable.

§ 6 Travel and on-site services

1. On-site services and associated travel are generally subject to prior coordination with the Customer.
2. Unless the relevant quotation provides otherwise, travel time is charged at 50% of the agreed hourly rate or corresponding daily rate.
3. Necessary and reasonable travel and accommodation costs and other expenses directly related to the travel are charged additionally at actual cost. Where possible, Conjola agrees significant travel costs with the Customer in advance.
4. Different travel expense arrangements or flat-rate travel allowances may be agreed in the relevant quotation for regularly recurring or extensive on-site services.

§ 7 Payment terms

1. Invoices are payable without deduction within the payment period specified in the relevant quotation or on the invoice.
2. Unless a different payment period has been agreed, payment is due within 14 days of the invoice date.
3. Timely payment is determined by receipt of the full invoice amount in the account specified by Conjola.
4. In the event of late payment, the statutory provisions apply.

§ 8 Dates, availability and service times

1. Dates and service times indicated are binding only if expressly agreed to be binding.
2. Delays attributable to missing or late cooperation by the Customer or to circumstances outside Conjola's responsibility extend the agreed performance periods appropriately.

3. Unless an SLA or another express agreement exists, Conjola does not owe any specific availability or specific response, recovery or resolution times, particularly for support and AMS services.
4. Without express agreement, Conjola is not obliged to monitor systems continuously, provide on-call services or perform services outside normal business hours.

§ 9 Work results and rights of use

1. Insofar as work results protected by copyright or other rights are created in the course of the consulting services, including in particular documentation, concepts, analyses, presentations, configurations, scripts or other Customer-specific materials, the Customer receives the rights of use necessary for the agreed contractual purpose upon full payment of the fees owed for those results.
2. Unless expressly agreed otherwise, rights of use are granted on a non-exclusive basis and without limitation in time.
3. Pre-existing methods, concepts, templates, models, tools, software components, libraries, frameworks, know-how and other materials of Conjola remain with Conjola. This also applies where such components are used in performing the consulting services.
4. Conjola may use general knowledge, experience, methods, concepts and skills used or acquired in performing the services for other purposes and customers, provided they do not contain confidential information of the Customer.
5. Broader or exclusive rights of use require express agreement.

§ 10 Confidentiality and data protection

1. Both parties undertake to treat as confidential any confidential information of the other party made available to them in connection with the performance of the contract and to use it exclusively for the purposes of performing the contract.
2. Confidential information includes, in particular, business and trade secrets and technical, commercial and organizational information designated as confidential or recognizable as confidential by its nature.
3. The confidentiality obligation does not apply to information that is demonstrably publicly known or becomes publicly known without a breach of a confidentiality obligation, was already lawfully known to the receiving party, was lawfully disclosed by an authorized third party or was independently developed by the receiving party.
4. Statutory disclosure obligations or disclosure obligations imposed by public authorities remain unaffected.
5. The parties comply with the applicable data protection laws.
6. Insofar as Conjola processes personal data on behalf of the Customer in performing the services and the statutory requirements for doing so are met, the parties conclude a separate data processing agreement.

§ 11 Liability

1. Conjola is liable without limitation for damage caused intentionally or through gross negligence and for damage resulting from injury to life, body or health. Where a guarantee is given, liability is determined by its terms.
2. In the event of a slightly negligent breach of an essential contractual obligation, Conjola is liable only for damage typical of the contract and foreseeable at the time of contract formation. Liability under this paragraph is limited to a total of EUR 100,000 per individual order. Essential contractual obligations are those whose fulfillment makes proper performance of the contract possible in the first place and on whose observance the Customer may regularly rely. Liability under paragraph 1 and mandatory statutory liability remain unaffected.
3. In all other respects, Conjola's liability for damage caused by slight negligence is excluded. Liability under paragraph 1 and mandatory statutory liability remain unaffected.
4. In the event of loss, damage, alteration or impairment of data caused by simple negligence, Conjola is liable within the scope of paragraphs 2 and 3 only for the damage that would also have occurred had the Customer maintained proper and regular backups appropriate to the importance of the data. This limitation does not apply insofar as backups were impeded or made impossible for reasons for which Conjola is responsible. Liability under paragraph 1 and mandatory statutory liability remain unaffected.
5. The above limitations of liability also apply for the benefit of Conjola's legal representatives, employees and persons engaged to perform its obligations.
6. The above limitations of liability do not apply insofar as mandatory statutory liability provisions preclude them.

§ 12 Term and termination

1. The term and termination rights are primarily governed by the relevant quotation or individual contract.
2. Where ongoing consulting, support or AMS services are agreed for an indefinite period and no individual termination provision has been agreed, either party may terminate them in text form (Textform under German law) with 14 days' notice to the end of a month.
3. The right of either party to terminate for good cause remains unaffected.
4. Services properly performed and expenses incurred up to the effective date of termination are invoiced in accordance with the agreed remuneration.

§ 13 Force majeure

1. Neither party is liable for delays or failure to perform obligations insofar as these are attributable to events beyond its reasonable control whose effects could not have been prevented despite appropriate measures.
2. The affected party informs the other party within a reasonable period of the event and its anticipated effects on the performance of the services.

3. The affected performance obligations are suspended for the duration and to the extent of the effects of the event. If the impediment continues for an extended period and continuation of the contractual relationship thereby becomes unreasonable for either party, statutory termination rights remain unaffected.

§ 14 Final provisions

1. The laws of the Federal Republic of Germany apply, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
2. If the Customer is a merchant (Kaufmann under German law), a legal entity under public law or a special fund under public law, Conjola's registered office is the exclusive place of jurisdiction for all disputes arising out of or in connection with the contractual relationship, insofar as legally permissible.
3. Individual agreements between the parties take precedence over these Consulting Terms. Amendments and additions are governed by the formal requirements agreed in the relevant contract and by statutory formal requirements.
4. These Consulting Terms are provided in German and English. The German version is authoritative. The English version is provided solely as a convenience translation to aid understanding.