

# Terms & Conditions

## Zirkel Technologies GmbH

January 2026 · B2B

# Consultancy and Development Services

General Terms and Conditions for Consultancy and Development Services of Zirkel Technologies GmbH ("ZirkelTech"). These terms apply exclusively to enterprises, public-law entities and special funds under public law.

## §1 Scope of Application

1.1 These terms and conditions apply to all current and future offers and contracts concluded with enterprises (§14 BGB), public-law entities or special funds. Any general terms and conditions of the Customer shall only become part of the contract if and to the extent that we have expressly agreed to their applicability.

## §2 Contract Formation

2.1 Unless otherwise stated, our offers are non-binding. A contract is formed upon issuance of our written order confirmation or by commencing performance with the Customer's knowledge. Only our order confirmation is authoritative for the contract content. Amendments require our written confirmation.

2.2 We are entitled to engage third parties to fulfil our obligations.

## §3 Changes to Deliverables

3.1 If the Customer wishes to change a deliverable, such requests must be made in writing. We will inform the Customer whether and under what conditions we accept the change.

3.2 We reserve the right to make changes to illustrations, descriptions, drawings, weight, dimensional and other specifications from our brochures, price lists, catalogues, our website and our offers, provided the delivery/service item is not materially changed or its quality is improved and the changes are reasonable for the Customer.

## §4 Customer Cooperation Obligations

4.1 The Customer shall provide all documents necessary for order execution in a timely manner and inform us of all circumstances relevant to performance. Upon request, Customer information shall be provided in writing.

4.2 The Customer warrants that all software products and data carriers provided to us have been checked for viruses using current antivirus protection.

## **§5 Prices and Payment Terms**

5.1 All prices are exclusive of statutory VAT. Unless otherwise agreed in writing, the price list valid at the time of contract conclusion applies.

5.2 Third-party services and additional services not included in the price list or offer are invoiced separately.

5.3 Payment is due without deduction upon delivery/performance. The Customer is in default 10 calendar days after delivery without the need for a reminder.

5.4 Monthly licence fees are payable net in advance by the 3rd business day of each month.

5.5 In case of material deterioration of the Customer's financial situation, we are entitled to withdraw and accelerate all outstanding claims.

5.6 Set-off and retention are only permitted for undisputed or legally established counterclaims.

5.7 If performance is delayed more than 6 months for reasons we are not responsible for, we may adjust the price to the current list price.

## **§6 Deadlines, Time Limits and Impediments**

6.1 Delivery and performance dates are based on case-by-case agreements. A delivery deadline is met when the delivery item has been dispatched, dispatch readiness has been established and communicated, or when the software solution has been made accessible to the Customer.

6.2 If we are unable to meet the agreed deadline due to force majeure events (operational disruptions, strikes, lockouts, pandemics, epidemics, energy supply difficulties, delayed self-delivery, third-party product issues, etc.), we will promptly inform the Customer. The Customer is not entitled to withdraw in such cases.

6.3 If it is foreseeable that performance cannot be rendered within a reasonable period of no more than 4 months, both parties may withdraw.

## **§7 Delivery, Transfer of Risk, Acceptance**

7.1 Delivery of goods (e.g. hardware) is EXW Frankfurt am Main (Incoterms 2020). Risk passes upon notification of dispatch readiness if the Customer is in default of acceptance.

7.2 Partial deliveries are permitted where usable and without significant additional cost to the Customer.

7.3 Services are deemed accepted when: (a) the Customer does not declare acceptance or refuse citing defects within four weeks of our acceptance notification; (b) the application has been made accessible to third parties for four weeks; or (c) the Customer has productively used the services for four weeks.

## **§8 Defect Claims**

8.1 We shall first remedy defects by repair or replacement at our choice.

8.2 We bear supplementary performance costs except where the item is at a non-designated location.

8.3 We may make supplementary performance conditional on payment of the due purchase price.

8.4 The limitation period for defect claims is 12 months from delivery or acceptance, except in cases of fraud.

8.5-8.6 For third-party product defects, we may assign our warranty claims. Defect claims are excluded for unauthorised modifications.

## **§9 Liability**

9.1 For culpable breach of material contractual obligations, we are liable under statutory provisions. For simple negligence, liability is limited to foreseeable, typical damages.

9.2 For intentional or grossly negligent acts, guarantees, and personal injury, statutory liability applies.

9.3 Product liability remains unaffected.

9.5 For negligent data loss, we are only liable for damages that would have occurred even with proper data backup.

9.7 All other damage claims are excluded.

## **§10 Usage Rights**

10.1 We grant the Customer a simple usage right per §31(2) UrhG for the contractually intended purposes.

10.2 Services may contain open source or third-party software, subject to their respective licence terms.

10.3 Usage rights expire upon payment default and revive upon full payment.

10.4-10.5 Sublicensing requires our prior written consent. The Customer must provide usage information upon request.

## **§11 Retention of Title**

11.1 We retain title to all delivered physical items until full payment of all claims from the business relationship.

11.2 The Customer must separately store, mark and insure reserved goods.

11.3 Third-party access to reserved goods must be reported immediately.

11.4 Over-collateralisation: release when the value of security rights exceeds secured claims by more than 10%.

## **§12 Third-Party Rights**

12.1-12.2 For IP infringements: we may modify the services or acquire usage authorisation. If neither is economically feasible, both parties may withdraw.

12.3 Obligations apply only upon prompt written notification and where the infringement is not caused by Customer-provided materials.

12.4 The Customer indemnifies us against third-party claims arising from Customer-provided materials.

## **§13 Copyright Notices**

13.1 The Customer shall retain all copyright and proprietary notices unchanged, including notices in program code.

## **§14 Customer Data Backup Obligations**

14.1 The Customer must adequately protect against data loss, including full backup before any software installation or modification.

14.2 For software rentals, the Customer must secure the software and access credentials against unauthorised third-party access.

## **§15 Drawings, Designs and Documents**

15.1 Drawings, designs, calculations and other documents provided by us remain our property and must be returned after order completion.

15.2 The Customer indemnifies us against third-party IP claims arising from deliveries made per the Customer's drawings or specifications.

## **§16 Information and Technical Advisory**

16.1 Our information and recommendations are non-binding and exclude all liability, unless we have expressly committed to providing them in writing. They do not constitute quality guarantees for our products.

## **§17 Confidentiality, Data Protection**

17.1 The Customer shall treat all information obtained in connection with contract performance as confidential, during and after the contractual relationship.

17.2 Standard exceptions apply: previously known information, publicly available information, information from authorised third parties, and statutory disclosure obligations. §5 GeschGehG remains unaffected.

17.3 We process Customer data required for contract initiation and performance in accordance with applicable law.

## **§18 Final Provisions**

18.1 Amendments require written form. Oral side agreements, including the waiver of this written form requirement, are invalid.

18.2 German law applies. The UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.

18.3 Place of performance for all obligations is our registered office.

18.4 The exclusive court of jurisdiction is Frankfurt am Main. We additionally have the option to have all disputes arising from the business relationship finally decided by one or more arbitrators appointed in accordance with the Rules of Arbitration of the International Chamber of Commerce (ICC) at the place of arbitration Frankfurt.

18.5 If any provision of these terms is or becomes invalid, the validity of the remaining provisions shall not be affected. The invalid provision shall be replaced by a valid provision that most closely approximates the economic purpose.

Zirkel Technologies GmbH | Taunustor 1, 60310 Frankfurt am Main | Commercial Register: AG Frankfurt am Main, HRB 120145 | Managing Directors: Kapil Gupta, Valentin Kaltenbach | VAT ID: DE 815 765 464 | Effective: January 2026

# Cloud Application Services

General Terms and Conditions for Cloud Application Services of Zirkel Technologies GmbH ("ZirkelTech"). These terms apply exclusively to enterprises, public-law entities and special funds under public law.

## §1 Applicability

1.1 Unless expressly agreed otherwise, these General Terms and Conditions for Cloud Services (hereinafter: "Cloud Terms") shall apply to all contractual relationships in which Zirkel Technologies GmbH (hereinafter: "ZirkelTech") provides Cloud Services to another enterprise, public-law entity or special fund (hereinafter: "Customer").

1.2 Any conflicting or deviating general terms and conditions of the Customer shall not apply, even if ZirkelTech does not expressly object to them.

## §2 Cloud Services

2.1 "Cloud Services" are Platform as a Service solutions provided by ZirkelTech through the provision of hardware, software and services, which the Customer uses via the Internet. These Cloud Terms form the basis for the Customer's use of the Cloud Services.

2.2 ZirkelTech works with certified IT service providers in delivering the Cloud Services. ZirkelTech ensures that these providers deliver their services according to the latest state of the art and are bound by equivalent rules of confidentiality and data protection as ZirkelTech towards the Customer.

## §3 Usage Rights

3.1 During the term of the Cloud Services ("Contract Term"), ZirkelTech grants the Customer a simple, non-transferable right to use the Cloud Services (including their implementation and configuration) and the documentation in accordance with the contractually agreed conditions.

3.2 The Customer may permit Authorised Users to use the Cloud Services within the contractually agreed scope. "Authorised Users" are persons at the Customer, its affiliated companies or external service providers to whom the Customer grants access rights.

3.3 For user-based licences: access credentials may not be shared simultaneously by more than one person but may be transferred to another person when the original user no longer has the right to use the Cloud Services. For resource-based licences: credentials may only be used per resource and may be transferred accordingly.

3.4 The Customer is responsible for the acts and omissions of its Authorised Users as for its own acts and omissions. The Customer is not entitled to sublicense, licence, sell, lease, rent or otherwise make the Cloud Services available to third parties.

3.5 The Customer is prohibited from: (a) copying, translating, disassembling, decompiling, reverse engineering or otherwise modifying the Cloud Services (except where permitted by mandatory law); (b) using the Cloud Services in a manner that violates applicable law; (c) compromising or

circumventing the operation or security of the Cloud Services.

3.6 ZirkelTech may temporarily limit or suspend the Customer's access for damage prevention purposes. ZirkelTech will promptly notify the Customer and limit the restriction to what is reasonable in the circumstances.

3.7 Where Authorised Users access Cloud Services via mobile applications provided through third-party platforms, the use of those applications is governed by the terms agreed upon download, not by these Cloud Terms.

## **§4 ZirkelTech Obligations**

4.1 ZirkelTech shall maintain system availability of the Cloud Services in accordance with the current state of the art. Scheduled interruptions for updates, upgrades and maintenance will be communicated to the Customer in advance.

4.2 ZirkelTech shall implement and maintain appropriate technical and organisational measures for the protection of personal data processed within the Cloud Services, as described in the data processing agreement provided to the Customer.

4.3 ZirkelTech may create analyses using anonymised and aggregated technical customer data. Unless otherwise agreed, personal data shall only be used for the provision of Cloud Services. Analyses may be used for: (a) product improvement and new product development; (b) resource and support improvement; (c) internal demand planning; (d) training and development of machine learning algorithms; (e) product performance improvements; (f) security and data integrity verification; (g) identification of industry trends; (h) creation of indices and anonymous benchmarking.

## **§5 Customer Data; Customer Obligations**

5.1 The Customer is responsible for the content of Customer Data. Customer Data includes: (1) raw data, i.e. base data generated via IoT devices, in particular regarding the productivity of the Customer's machinery; (2) productive data, i.e. data generated by algorithms through ZirkelTech's software; and (3) customer-owned data, i.e. data entered or stored by the Customer such as maintenance plans and documents.

5.2 The Customer grants ZirkelTech and its subcontractors a non-exclusive right to use Customer Data exclusively and to the extent necessary (i) for the provision of the Cloud Services and associated support, and (ii) to verify the Customer's compliance with Section 3.

5.3-5.5 The Customer shall comply with applicable data protection law, maintain adequate security standards, and cooperate as required at its own expense. Failure to cooperate shall result in corresponding delays.

5.6 During the term, the Customer may access Customer Data at any time. Upon termination, the Customer may request data export in a standard format (PDF or CSV) for up to 3 months. After termination, ZirkelTech may continue to use anonymised data for the purposes described in Section 4.3, unless the Customer objects prior to termination.

## **§6 Alert Functions**

6.1 The Cloud Services provide alert functions that notify the Customer of critical events via platform messenger, e-mail or SMS. Alert functions are not active by default and must be configured and activated by the Customer. The Customer is responsible for verifying alerts and taking appropriate action.

6.2 Constant availability of alert functions via the Internet or mobile networks cannot be guaranteed under the current state of the art.

6.3 ZirkelTech provides alert functions as a service that the Customer uses at its own risk. ZirkelTech assumes no liability or warranty for the proper functioning of alert functions. False alarms cannot be technically excluded. ZirkelTech is not liable for damages resulting from delayed or omitted Customer action.

6.4 Alert functions serve to detect process and system errors. The Cloud Services do not control the Customer's machinery nor resolve process and system errors. The Customer must actively intervene and manually initiate corrective measures.

## **§7 Changes to Cloud Services**

7.1 ZirkelTech reserves the right to perform technical software updates at any time for reasons of technical progress, security, availability and system integrity.

7.2 Changes to existing functions or new functions are bundled into software releases. Release availability and timing will be announced one week in advance.

7.3 ZirkelTech may further develop and adapt the Cloud Services to reflect technical progress or ensure compliance with mandatory law ("Continuous Modification"). The Customer will be notified by e-mail typically two months before the change takes effect. If the modification adversely affects the Customer's legitimate interests, the Customer may terminate the affected Cloud Service in writing with one month's notice. If the Customer does not terminate, the modification takes effect on the stated date.

## **§8 Warranty; Defect Rights**

8.1 ZirkelTech warrants that the Cloud Services meet the agreed specifications and do not infringe third-party rights when used contractually at the Customer's premises.

8.2 ZirkelTech remedies defects by either eliminating the defect or providing a new defect-free Cloud Service, at ZirkelTech's choice.

8.3 The Customer shall notify ZirkelTech of any defect promptly in text form (e-mail or fax) with a detailed description.

8.4 ZirkelTech is entitled to two attempts at supplementary performance. If both fail, the Customer may only demand rescission or damages in lieu of performance if the defects prevent or substantially impair the use of the Cloud Services.

8.5 ZirkelTech is not liable for defects caused without ZirkelTech's fault, including unauthorised modifications, third-party software, improper use, or use outside documented environments.

8.6 Warranty claims arising from quality defects expire one year after provision of the Cloud Services.

## **§9 Liability; Limitation of Liability**

9.1-9.2 ZirkelTech is fully liable for intentional acts. For gross negligence and absence of a guaranteed quality, liability is limited to foreseeable damages.

9.3 In all other cases, ZirkelTech is only liable for breach of material contractual obligations, up to the liability caps in Section 9.4.

9.4 ZirkelTech is not liable for indirect or consequential damages, including lost profits or loss of goodwill.

9.5 Contributory negligence applies. Limitations do not apply to personal injury or product liability.

9.6 The limitation period for all claims is one year, beginning per §199(1) BGB, subject to a maximum of five years. This does not apply to intentional acts, gross negligence, personal injury or product liability.

## **§10 Third-Party Rights**

10.1 If a third party asserts IP rights claims against the Customer regarding the Cloud Services, the Customer shall promptly notify ZirkelTech in writing.

10.2 If the Customer ceases use for damage mitigation purposes, the Customer must inform the third party that cessation does not constitute acknowledgement of infringement.

10.3 The Customer shall only conduct legal proceedings with the third party in agreement with ZirkelTech or authorise ZirkelTech to conduct such proceedings.

## **§11 IP Rights**

11.1 The Customer may use the Cloud Services only to the contractually agreed extent. All rights not expressly granted remain with ZirkelTech or its licensors, even where arising from Customer specifications.

11.2 Unless otherwise agreed, all rights in Customer Data remain with the Customer. ZirkelTech may use Customer-provided trademarks only for the purpose of providing the Cloud Services.

## **§12 Confidentiality**

12.1 Both parties undertake to treat all confidential information of the other party with at least reasonable care, without time limit. Disclosure to third parties is only permitted where necessary for contractual performance and such parties are bound by comparable confidentiality obligations.

12.2 Standard exceptions apply: independently developed information, publicly available information, information already known at disclosure, and information released with written consent.

12.3 Neither party may use the other's name in public, advertising or similar activities without prior written consent. ZirkelTech may, however, use the Customer's name in reference lists and marketing activities.

## **§13 Final Provisions**

13.1 These Cloud Terms may be amended in relation to the provision and support of the Cloud Services, provided the amendment does not affect material contractual content and is reasonable for the Customer. ZirkelTech will notify the Customer of amendments in text form. If the Customer does not object in writing within four weeks, the amendment is deemed accepted. ZirkelTech will highlight this consequence in the notification.

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