

## **General Terms and Conditions for the provision of call centre services by Call Dispatch Scholz GmbH**

### **1. General, Definitions, Scope**

- 1.1 The contractor is Call Dispatch Scholz GmbH, Mombacher Str. 76, 55122 Mainz (hereinafter referred to as “CD•S”).
- 1.2 Clients are the natural persons or legal entities including their vicarious agents who have commissioned CD•S to provide call centre services.
- 1.3 These General terms and conditions of contract (hereinafter referred to as “GTC”) apply only to entrepreneurs, legal entities under public law or special funds under public law within the meaning of § 310 para. 1 of the German Civil Code. Consumers within the meaning of § 13 of the German Civil Code are not served by CD•S.
- 1.4 These GTC apply in particular to contracts for the provision of call centre services. Unless otherwise agreed, these General terms and conditions apply in the version valid at the time of conclusion of the individual contract or in any case last communicated in text form as a framework agreement even for similar future contracts without CD•S having to refer to them again in each individual case.
- 1.5 These GTC apply to the exclusion of any others. Differing, conflicting or supplementary general terms and conditions of the client shall only become part of the contract if and insofar as we have expressly agreed to their validity. This approval requirement applies in any case, for example, even if we provide our services without reservation in knowledge of the terms and conditions of the client.
- 1.6 In individual cases, individual agreements made with the client (including ancillary agreements, supplements and changes) have priority over these GTC in every case. Subject to evidence to the contrary, a written contract or written confirmation on our part shall be authoritative for the content of such agreements.
- 1.7 Legally binding declarations and notifications of the client with regard to the contract (e.g. the setting of a deadline, notice of defects or withdrawal) shall be in writing, meaning in written or textual form (for example letter, email, fax). Statutory formal requirements and further proof, especially in case of doubt about the legitimacy of the declarant, remain unaffected.
- 1.8 References to the validity of the statutory regulations are only for purposes of clarification. Even without such clarification, the statutory provisions shall apply unless they are directly amended or expressly excluded in these GTC.

### **2. Scope of services**

- 2.1 The scope of services of the call centre services owed by CD•S is governed by the separately concluded individual contract.
- 2.2 CD•S shall provide the call centre services according to the latest state of the art. CD•S shall take into account the most recently issued procedural instructions as well as, if applicable, specific provisions, methods and application practices of the client, insofar as these have been agreed.
- 2.3 CD•S shall only employ qualified and reliable personnel.
- 2.4 CD•S shall transfer its duties to third parties only with the prior written consent of the client. This also applies to the commissioning of subcontractors. The client may not refuse its consent without good reason.
- 2.5 The scope of services does not change as a result of a relocation of the CD•S headquarters within Germany.

### **3. Payment terms**

- 3.1 All prices are valid, unless stated otherwise in the individual contract, without VAT. The value added tax shall be shown separately on the invoice in the statutory amount on the date of invoicing CD•S.
- 3.2 The monthly invoice amount is due net (without deductions) within 14 days after receipt of the invoice by the client, unless otherwise agreed. A payment is deemed to have been made only when CD•S is able to dispose of the amount.
- 3.3 In the case of cessation of payments or the application for the opening of insolvency proceedings on the assets of the client, the entire claim of CD•S shall become due immediately.
- 3.4 If the client does not pay when due, interest at 5% is to be paid on the outstanding amounts as from the due date. The enforcement of higher interest rates and further damages in the event of default shall remain unaffected.
- 3.5 The client shall only be entitled to assert a right of retention or offset insofar as the underlying counterclaim has been legally established or is not disputed.

### **4. Place of performance**

- 4.1 The place of performance for all obligations arising from the individual contract is the registered office of CD•S, unless otherwise specified.

### **5. Liability**

- 5.1 CD•S is liable without limitation for intent or gross negligence, for injury to life, body or health, according to the provisions of the Product Liability Act and to the extent of a guarantee assumed by the contractor.
- 5.2 For a slightly negligent violation of an obligation which is essential for achieving the purpose of the agreement (cardinal obligation), the liability of CD•S is limited in terms of extent to damages which are foreseeable and typical to the nature of the business in question.
- 5.3 Further liability of CD•S does not exist.
- 5.4 The abovementioned limitation of liability also applies to the personal liability of the employees, representatives and organs of CD•S.
- 5.5 Further claims for damages are excluded, in particular the compensation for indirect damage and damages which occur due to the transmission of incorrect information by the client and force majeure, meaning unforeseen unavoidable events. This includes, without limitation, force majeure, civil or military unrest including terrorist attacks, fires, labour disputes, accidents, floods and epidemics

### **6. Contract period**

- 6.1 The duration of the contract and the termination options are based on the respective individual contract.
- 6.2 If a contracting party commits a material breach of this contract or a lack of conformity (hereinafter referred to as "breach of duty"), the other party may issue a warning regarding this breach of duty.  
This warning includes:
  - An indication of the facts relating to the breach of duty.
  - The provisions of the specific contract or these GTC to which the breach of duty relates.
  - The measures required to remedy the breach of duty.

However, the warning is not necessarily limited to this.

If the breach of duty is not remedied within thirty (30) days of receiving the warning or by a later date specified in such warning, the specific contract shall end with immediate effect.

- 6.3 The right of both parties to extraordinary termination of the individual contract for good cause remains unaffected. Good cause exists in particular in the following cases:
- if the financial situation of the other party deteriorates significantly,
  - if insolvency proceedings are instituted over the property of the other party or the opening of such proceedings is rejected due to lack of assets or if the underlying software leasing agreement is terminated by termination, resignation, contestation or otherwise ended. Click here to enter text.
- 6.4 Any notice of termination must be in writing. The timely receipt of termination is determined based on the delivery time at the recipient.
- 6.5 Upon termination, the parties shall cooperate to achieve an orderly, efficient, effective and timely termination of their respective activities under the specific contract concluded between them. CD•S shall return to the client all documentation, tools and property of the client, which is in the possession of CD•S at the corresponding time.

## **7. Confidentiality**

- 7.1 "Confidential Information" refers to all information and documentation of the other party, which is either marked as such or can be considered as confidential based on the individual circumstances; this particularly includes information concerning operational processes, business relationships and know-how.
- 7.2 The parties agree to maintain secrecy with respect to confidential information. This obligation remains in place for a period of two years after the termination of the contract.
- 7.3 The following confidential information is excluded from this obligation:
- a) information which was demonstrably already known to the recipient upon conclusion of the individual contract or subsequently disclosed by a third party, without any breach of a confidentiality agreement, statutory provisions or official orders;
  - b) information which was publicly known at the time the individual contract was concluded or subsequently made public, unless this is due to a breach of this contract;
  - c) information which must be disclosed on the basis of statutory obligations or by order of a court or public authority. Insofar as it is permissible and feasible, the recipient of the information obligated to be disclosed shall notify the other party in advance and give them the opportunity to take action against said disclosure.
- 7.4 The parties shall only grant access to confidential information to advisers who are subject to occupational secrecy, or upon whom the corresponding confidentiality obligations of this agreement have already been imposed. Furthermore, the parties shall only disclose confidential information to employees who need to know said information for the purposes of executing the contract, and provided that said employees are under an obligation to maintain secrecy after leaving the company to the extent permissible by employment law.

## **8. Data protection**

The contracting parties shall observe the relevant data protection regulations. The details are regulated by a contract to be concluded between the parties regarding the processing of orders pursuant to § 62 of the German Federal Data Protection Act

## **9. Final provisions**

- 9.1 If the client is an entrepreneur, legal entity under public law or special fund under public law within the meaning of § 310 para. 1 of the German Civil Code, the place of jurisdiction is the registered office of CD•S. This jurisdiction is exclusive.
- 9.2 The client is obligated to inform CD•S immediately of any relocation of its registered office.
- 9.3 If one or more of the above conditions is ineffective, the remaining conditions shall remain unaffected.
- 9.4 German law applies to these GTC and the respective individual contracts between the parties to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 11.4.1980 (UN Sales Convention).
- 9.5 In the case of different language versions of these GTC, an individual contract or other provisions made between the parties, only the German text of these regulations shall prevail.

**Mainz, 03.04.2019**