

General Terms and Conditions (GTC)

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Edition: July 2026

This document is an English translation provided for convenience only. Solely the German version is authoritative and legally binding. In the event of any discrepancy between this English translation and the German version, the German version shall prevail.

1. Scope of Application

1.1 These General Terms and Conditions (hereinafter "GTC") govern the contractual relationship between config.swiss GmbH (hereinafter "config.swiss") and its customers (hereinafter "Customer"). They apply to all offers, products and services of config.swiss.

1.2 These GTC apply to the entire business relationship, including future contracts, and form an integral part thereof, unless otherwise agreed in writing. Conflicting or deviating terms and conditions of the Customer shall only apply if config.swiss has expressly agreed to them in writing.

1.3 In the hierarchy of documents, individual written agreements take precedence over these GTC.

2. Conclusion of Contract

2.1 Information on the website or in a price calculator constitutes non-binding estimates and does not represent a binding offer.

2.2 A binding contract is concluded by means of an agreed quotation, in which the scope of services and the price are set out, and its acceptance by the Customer.

3. Services and Types of Contract

3.1 config.swiss develops software and provides IT services for companies, in particular custom software on its own platform. The type of contract applicable in each individual case is determined by the specific quotation.

3.2 Implementation/Development (contract for work and services).

3.2.1 The implementation of the modules is a service under a contract for work and services (Art. 363 et seq. of the Swiss Code of Obligations, CO) in accordance with the agreed scope (cf. Art. 5).

3.2.2 The scope of services is conclusively defined in the quotation. Services not expressly included therein are not owed.

3.3 Operation/Subscription (continuing obligation).

3.3.1 config.swiss operates the solution on its platform as a continuing obligation. Scope and conditions are governed by the quotation or the price list valid at the time.

3.3.2 Art. 7 and the provisions set out therein apply to the term, renewal, termination, price adjustments and availability.

3.4 Consulting, Support and Projects (mandate agreement).

3.4.1 Consulting, support and projects of limited duration are services subject to a duty of care (Art. 394 et seq. CO).

3.4.2 E-mail support is included in the operation and is provided on a "best effort" basis (cf. Art. 7.6). More extensive support packages require a separate agreement.

4. Duties of the Customer to Cooperate

4.1 The Customer shall provide config.swiss, in a timely manner, completely and free of charge, with all information, access, data, content, systems and contact persons required for the provision of the services.

4.2 The Customer shall ensure that it is lawfully entitled to process the data and content it provides and to make them available to config.swiss, and that they are free of third-party rights that would conflict with the agreed use.

4.3 If the Customer fails to fulfil its duties to cooperate in a timely manner, agreed deadlines shall be postponed accordingly; any additional expenses incurred as a result shall be invoiced in accordance with the quotation or price list valid at the time.

5. Acceptance

5.1 Delivery takes place upon provision of the solution for productive use.

5.2 Acceptance is deemed to have occurred when the Customer uses the solution productively or if the Customer does not give notice, in writing or by e-mail, of material defects preventing acceptance within ten (10) working days of provision.

5.3 Immaterial defects do not prevent acceptance; they shall be remedied under the warranty (Art. 8).

5.4 Acceptance shall be documented by means of a protocol or e-mail confirmation.

6. Remuneration

6.1 Prices are governed by the quotation or price list valid at the time.

6.2 All prices are exclusive of any applicable statutory value added tax (VAT).

6.3 Invoices are payable net within thirty (30) days of the invoice date.

6.4 The implementation of the modules becomes due upon go-live or acceptance; the subscription is invoiced annually in advance (cf. Art. 7.4).

6.5 In the event of late payment, default interest of 5% is owed without a separate reminder (Art. 104 CO); reminder fees remain reserved.

6.6 The Customer may only set off its own claims to the extent that these have been acknowledged by config.swiss or established by a legally binding decision.

7. Recurring Services

7.1 The subscription has a minimum term of twelve (12) months from activation and is automatically renewed thereafter for successive periods of twelve (12) months each, unless terminated in due time.

7.2 Ordinary termination is possible subject to a notice period of three (3) months as of the end of the respective term and must be made in writing or by e-mail.

7.3 The specific billing cycle is governed by the quotation or invoice.

7.4 The annual fee is payable in advance (one annual invoice). Monthly payment is only possible in exceptional cases and against a surcharge in accordance with the quotation or price list. Subscription fees already paid in advance will not be refunded in the event of ordinary termination by the Customer.

7.5 config.swiss operates the solution with reasonable care and commercially reasonable efforts. Maintenance windows are permitted and will be announced in advance where possible.

7.6 E-mail support is included in the operation and is provided on a "best effort" basis.

7.7 config.swiss may adjust the recurring fees as of the beginning of a new term. The adjustment will be announced no later than two (2) months before the end of the current term. If the Customer does not agree with the adjustment, the Customer has a special right of termination effective as of the date on which the adjustment takes effect. If the Customer does not terminate in due time, the adjustment is deemed accepted.

7.8 If the Customer is in default of payment, config.swiss may, following a reminder with a grace period of ten (10) days, block access to the solution until the outstanding amounts have been settled. The blocking does not release the Customer from its obligation to pay. During a blocking period, the Customer's data will not be deleted for a reasonable period of time.

8. Warranty

8.1 config.swiss warrants that the accepted implementation corresponds to the agreed scope at the time of acceptance. The warranty period is six (6) months from acceptance.

8.2 Defects must be notified immediately upon discovery, in writing or by e-mail, with a comprehensible and reproducible description.

8.3 The primary remedy is rectification free of charge within a reasonable period. Rescission of the contract is only possible if the solution is unusable for the Customer due to the defect.

8.4 Excluded from the warranty are defects attributable to: changes to the system made by the Customer, improper use, use contrary to the documentation, interventions by third parties, data or systems provided by the Customer, or an operating environment that was not agreed upon.

9. Liability

9.1 To the extent permitted by law, config.swiss excludes any liability towards the Customer or any third party, in particular for the performance of its contractual and non-contractual obligations. This exclusion of liability also applies to damage (including consequential damage, loss of profit, loss of data, third-party claims) arising directly or indirectly from the use of the software created by config.swiss.

9.2 Liability for the conduct of auxiliary persons (including employees and subcontractors) is excluded to the extent permitted by law.

9.3 To the extent that config.swiss is liable, its liability is limited in amount to the subscription fees paid by the Customer for the affected service in the twelve (12) months preceding the event giving rise to the damage.

9.4 To the extent permitted by law, liability for indirect damage, consequential damage, loss of profit, loss of data (beyond a backup reasonably expected of the Customer) and third-party claims is excluded.

10. Rights of Use

10.1 The platform, the software created, the modules and the know-how, together with all intellectual property rights, remain the property of config.swiss.

10.2 For the duration of the contract, the Customer is granted a non-exclusive, non-transferable and non-sublicensable right to use them within the agreed scope.

10.3 The Customer's data belong to the Customer.

10.4 config.swiss does not release any source code. There is no entitlement to its release, not even by way of escrow.

10.5 The Customer may not sell, rent, lend or pass on the solution or make it accessible to third parties – whether for consideration or free of charge, nor as a service for third parties.

10.6 The Customer undertakes to effectively prevent any unlawful use or use in breach of the contract by means of appropriate technical and organisational measures (in particular access control and careful handling of access credentials). The Customer is liable for the actions of the persons to whom it grants access.

10.7 In the event of a breach of the restrictions on use, config.swiss is entitled to block access and to claim damages. Material breaches entitle config.swiss to extraordinary termination.

10.8 config.swiss may freely reuse general knowledge, ideas, concepts, methods and generic components, as well as modules created, for other customers. Confidential content and the data of the respective customer are excluded.

11. Customer Data upon Termination of the Contract

11.1 Data export and migration are not part of the services and are not owed.

11.2 After the end of the contract, config.swiss deletes the Customer's data after thirty (30) days, subject to statutory retention obligations.

11.3 Optional export or migration support may be agreed separately and subject to a charge.

12. Data Protection

12.1 To the extent that config.swiss processes personal data in the course of operation, it does so on behalf of the Customer. The Swiss Federal Act on Data Protection (FADP) is applicable. Where there is an EU connection, the GDPR additionally applies to the extent applicable.

12.2 The details of the processing on behalf of the Customer (in particular measures, subcontractors and deletion) are governed by a separate Data Processing Agreement (DPA), to which reference is hereby made and which forms part of the contract.

12.3 The Customer is the controller under data protection law. The Customer shall ensure that it is entitled to process the personal data and to transmit it to config.swiss.

12.4 config.swiss operates the solution in Europe or in Switzerland and may engage subcontractors in Switzerland or Europe for this purpose.

13. Confidentiality

13.1 The parties shall treat all non-public information of the other party received in the course of the business relationship as confidential and shall use it only for the performance of the contract.

13.2 This obligation continues to apply after the end of the contract. Excluded are the permissible reuse pursuant to Art. 10.8 and any disclosure required by law or ordered by an authority.

14. Use of AI

14.1 If artificial intelligence (AI) is used in a solution, the scope and costs shall be agreed separately.

14.2 config.swiss provides no warranty for the accuracy, completeness or suitability of AI-generated results. The Customer shall itself review such results before using them.

15. Final Provisions

15.1 These GTC become part of the contract by reference in the quotation with an accessible link or as an attachment. Upon acceptance of the quotation, they are deemed accepted.

15.2 config.swiss may amend these GTC subject to reasonable notice. If the Customer does not object by the effective date or continues to use the services, the amended GTC are deemed accepted.

15.3 Severability clause: should any provision of these GTC be wholly or partially invalid, the validity of the remaining provisions shall remain unaffected. The invalid provision shall be replaced by a valid provision that comes closest to its economic purpose.

15.4 Swiss law applies exclusively, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

15.5 The exclusive place of jurisdiction is the registered office of config.swiss GmbH (Langenthal, Canton of Bern, Switzerland).

15.6 The German version of these GTC is authoritative and binding.