

General Terms & Conditions for Training Services



General Terms and Conditions (GTC) of baramundi software GmbH, Forschungssallee 3, 86159 Augsburg, Germany, hereinafter referred to as "baramundi", for the provision of training services.

§ 1 General

(1) The following General Terms and Conditions of Business shall apply to the business relationship between baramundi and the Customer, where baramundi provides training services for the Customer. Other services, such as the provision or individual adaptation of software or other services, shall not form part of this contractual relationship. If baramundi offers such services, they must be separately agreed. The version valid at the time of contract conclusion shall be authoritative in each case.

Even if repeat reference is not made to these GTC when similar contracts are concluded, baramundi's General Terms and Conditions in the version provided to the Customer when the Customer submits its declaration shall apply exclusively, unless otherwise expressly agreed between the contracting partners.

(2) For the purpose of these General Terms and Conditions, "entrepreneur" means any natural or legal persons or partnerships with legal personality which, when concluding the legal transaction, are acting in the exercise of their commercial or independent professional activity. For the purpose of these General Terms and Conditions of Business, customers are exclusively entrepreneurs.

(3) Individual contractual agreements shall take precedence over these General Terms and Conditions. Divergent, opposing or supplementary general terms and conditions shall not become part of the contract unless their validity is expressly approved.

§ 2 Contract Conclusion

(1) By using the registration form on baramundi's website, the customer may register bindingly for training services. The contract is concluded when the customer places the order with baramundi by clicking the „register now“ button in baramundi's registration form and baramundi confirms acceptance of the order.

(2) By placing an order, the customer bindingly declares that he wishes to obtain training services.

(3) Unless otherwise separately agreed between the parties, baramundi shall be entitled to accept the contractual offer contained in the order placement within one week of receipt. Acceptance may as a whole be declared by means of a written declaration of acceptance or by another form of declaration through which the willingness to accept the order which has been placed is discernible. As a rule, a legal obligation shall materialize when baramundi issues a written order confirmation.

(4) Separate contracts have to be concluded for other types of deliveries and services (e.g. provision of software, software maintenance).

§ 3 Object of the contract

(1) The object of the assignment of baramundi in the context of training is the agreed activity, not the achievement of a specific personal or economic success. The training services can be provided in one or more of the four types of training selected by baramundi according to § 8 of these GTC (classroom training, virtual classroom training VCT, e-learning or blended learning). Details regarding the type of training applied during the respective booked training date are available to the customer in the booking portal.

As a result of the order being placed and its acceptance, baramundi shall undertake to carry out training services and provide training material including any planned work resources, in the agreed scope, to monitor training success, where applicable, and to give the Customer all instructions which it recognizably requires to benefit from the training offer.

(2) The order is generally placed with baramundi, not with a specific employee of baramundi, unless a separate agreement has been made. baramundi reserves the right to select the employees who provide the services. The assignment of the respective employees in the processing department shall be carried out by baramundi in accordance with the company's internal organization. In accordance with its own internal organization, baramundi shall endeavor to comply with the Customer's request to have the order carried out by specific employees. However, the Customer shall not be entitled to this. baramundi may also - where this appears necessary - use qualified subcontractors. The Customer may only request, stating an objective reason, that baramundi no longer deploy a subcontractor for whose deployment it has already given its consent for further individual orders. The Customer hereby gives its consent, which may be revoked at any time, to the use of a subcontractor.

(3) Unless explicitly stated within the context of the offer, the Customer's travel and accommodation expenses shall as a rule not be included in the price quoted by baramundi. In case of classroom training, drinks and snacks are available during the training event.

(4) Unless otherwise separately stated, the fee for the respective training which has been booked shall include access to baramundi's learning environment, the respective learning material and participation in the training event.

§ 4 Accompanying materials

As a rule, all accompanying materials or other work resources for training or consulting services shall be subject to copyright protection. Where the Customer is provided with written accompanying material for the respective services booked by the Customer, such material may not be duplicated, distributed or made publicly accessible without baramundi's consent.

§ 5 Obligations of the customer

(1) It is the customer's responsibility to ensure that the technical requirements for the use of the object of the contract are met, particularly regarding the hardware and software used, the connection to the Internet and current browser software. The customer is also responsible for regular data backups and the use of up-to-date virus protection software. baramundi is not liable for virus damage that could have been prevented by using appropriate software. The limitations of liability pursuant to § 12 of these General Terms and Conditions also apply.

(2) The Customer shall comply with the applicable laws of the Federal Republic of Germany, in particular data protection and youth protection regulations, criminal law provisions as well as these General Terms and Conditions. In particular the customer is obliged to:

- (a) to protect provided or self-generated access data as well as corresponding identification and authentication mechanisms from access by unauthorized third parties and not to pass them on to such third;
- (b) not to infringe the rights of third parties, in particular copyrights and ancillary copyrights, trademark rights, patent rights and other property rights as well as personal rights;
- (c) respect the privacy of others, i.e. do not spread defamatory, threatening, violence glorifying, harassing, damaging, racist or otherwise reprehensible contents;
- (d) not to run applications that can lead to a change in the physical or logical structure of the networks, such as viruses;
- (e) not to use the infrastructure made available to for unauthorized advertising purposes, in particular for the unsolicited transmission of electronic mail.

(3) Insofar as the customer provides for the collection, processing and use of personal data within the scope of using the contractual services of baramundi, without this being permitted under applicable data protection regulations or other legal provisions, the customer must obtain the necessary consent of the person affected. Personal data is data that contains information about the personal and factual circumstances of a specific or identifiable person.

(4) If storage space is made available to the customer, the customer may not store any illegal content, content that violates laws or official regulations, or content that violates the rights of third parties. In particular, the infrastructure provided by baramundi or the storage space provided by baramundi may not be used for offers that violate industrial property rights (such as trademark, patent, utility model and design rights), copyrights and ancillary copyrights as well as other rights (such as the right to one's own image, name and personal rights), their advertising or distribution. The same applies to pornographic material and material harmful to minors, propaganda articles and products bearing the marks of unconstitutional organizations..

(5) If the customer becomes aware of misuse of his access data or the identification and authentication mechanisms, he must inform baramundi immediately. In the event of misuse, baramundi is entitled to block access to its services. The block can only be lifted by written request from the customer. The customer is liable for any misuse for which he is responsible.

§ 6 Blocking access

(1) baramundi reserves the right to delete information from servers and block user accounts if these General Terms and Conditions are violated. In the event of a violation of applicable laws, baramundi is entitled to forward the relevant information to the responsible government agencies.

(2) baramundi reserves the right to temporarily block access to the agreed services in whole or in part if and insofar as the customer uses these services unlawfully or violates the obligations anchored in § 5 of these General Terms and Conditions. The customer will be informed of this immediately by e-mail.

§ 7 Confirmation of participation

The Customer may be issued with participation certificates confirming participation in training courses. Ultimately, recognition of participation in specialist training courses as compulsory professional training for specific professions remains at the discretion of the competent chambers, authorities or agencies for the respective profession.

§ 8 Training Course, safety and house rules, exclusion from training

(1) An undisturbed course of training is important to us and we would like to enable the participants to take part in the training without any disturbances. Cell phones must be switched off or muted during the training.

(2) The participant is obligated to comply with the safety and house rules while in the training rooms of baramundi. In the event of non-compliance or sustained disruption of the event, baramundi is entitled to exclude the participant.

§ 9 Types of training courses(Classroom training, virtual classroom training (online), e-learning or blended learning)

In the following, the types of training courses mentioned under § 3 are defined in detail:

(1) A classroom training is the provision of the contractually owed service with the physical presence of the participants in a baramundi training center..

(2) Virtual Classroom Training (online) is the provision of the contractually owed training service in a digital training environment provided by a third-party provider (Avendoo, Microsoft Teams), whereby the digital options enable the training to be carried out in the same way as classroom training..

(3) In the case of e-learning, the contractually owed training service is made possible by a training platform provided by a third party. The participant carries out the training created by baramundi independently on the platform based on an e-learning concept.

(4) Blended learning is the combination of different methods and media, such as classroom training and e-learning. Also the mixture of formal and informal learning and the enrichment of print media with digital content such as 2D-codes.

§ 10 Remuneration

(1) The prices quoted by baramundi are binding. The prices do not include the statutory value-added tax and, if applicable, other taxes.

(2) Customers may generally pay the remuneration owed on account.

(3) Unless where applicable otherwise separately agreed between the parties, the Customer must pay the total price within 14 days of receiving the order confirmation by e-mail or the invoice. After expiry of this period, the Customer shall be deemed to be in default. The Customer must in principle recognize the agreed payment methods. During the period of default, the Customer shall pay interest of 9 percentage points above the base interest rate on the monetary debt. baramundi reserves the right to claim higher damages for default.

Subject to any further claims, baramundi shall, in the event of default in payment, be entitled to temporarily block access to all or some of the agreed services. The Customer shall be informed of this by e-mail without delay.

(4) The Customer shall have a right of set-off only if its counterclaims have been established by a court of law, have been acknowledged or have not been contested by baramundi. This shall not affect the Customer's right of set-off against contractual and other claims resulting from the initiation or implementation of this contractual relationship. The Customer may only exercise a right of retention if its counterclaim is based on the same contractual relationship.

(5) baramundi shall be entitled to provide partial delivery, where partial delivery is reasonable for the Customer, taking into account baramundi's interests. The Customer shall not incur any additional costs as a result.

§ 11 Withdrawal and right of retention

(1) When booking training services the Customer shall in principle not have any right of revocation. All orders and bookings are, in principle, binding.

(2) If the Customer is prevented from participating in a training course, it may nevertheless withdraw from the contract free of charge up to 4 weeks before the training is due to start. In the event of withdrawal less than 4 weeks and up to the 14th calendar day before the training is due to start, 25% of the training fee shall be charged as a cancellation fee; the remaining residual amount shall be reimbursed without delay. In the event of withdrawal within a period from less than the 14th calendar day up to 72 hours before the training is due to start, 50% of the training fee shall be charged as a cancellation fee; the remaining residual amount shall be reimbursed without delay. In the event of withdrawal less than 72 hours before the training is due to start or if the participant simply fails to appear, the full training fee shall be payable.

(3) Up to and including the third calendar day prior to the training or the agreed date of the consulting service, the Customer may transfer its entitlement to participate to a suitable replacement participant (who must be named by the Customer in writing), or the Customer may arrange to rebook.

The Customer may not itself otherwise rebook to a subsequent date of a corresponding training service.

(4) All cancellations or designations of a replacement participant pursuant to para. 2 or 3 must be made in writing by e-mail to academy@baramundi.com and must be addressed to baramundi.

(5) baramundi shall reserve a right of retention with regard to the provision of its performance if the agreed remuneration has not been paid by the start of the training course or the consulting service. In such cases the services may not be used initially.

(6) baramundi shall provide the services on the dates agreed with the Customer in each individual case. Any entitlement to implementation of the training or consulting service shall cease if it cannot take place due to obstacles to performance for which baramundi is not responsible. Obstacles to performance for which baramundi is not responsible shall include cases of force majeure. In the event of impossibility, baramundi shall also be exempt from its contractual obligation. In such cases the Customer shall be informed immediately and any fee which has already been paid shall be reimbursed.

baramundi shall be liable for claims for damages or for compensation for unnecessary expenditure incurred by the Customer as a result of the cancellation only within the framework of the limitation of liability pursuant to § 12 of these General Terms and Conditions of Business.

(7) Individual training courses may be canceled if there are too few participants or for other important reasons (e.g. if a trainer is unavailable). The participation fee shall be refunded in these cases, unless otherwise expressly agreed between the parties. Further claims shall be excluded, except in cases of intentional or grossly negligent conduct on the part of employees or other vicarious agents of baramundi.

§ 12 Limitations of liability

(1) In the event of slightly negligent breaches of duty, liability shall be limited to the average foreseeable, direct damage typical for the contract. This shall also apply in the event of slightly negligent breaches of duty on the part of baramundi's statutory representatives or vicarious agents or persons employed by baramundi in the performance of its obligations. baramundi shall not be liable for slightly negligent breaches of minor contractual obligations. In contrast, baramundi shall be liable for a breach of legal positions of the Customer which are material to the contract. Legal positions which are material to the contract are legal positions which the contract must guarantee to the Customer according to the content and purpose of the contract. baramundi shall also be liable for a breach of obligations the fulfillment of which makes due performance of the contract possible in the first place and on the fulfillment of which the customer may rely.

(2) The above limitations of liability shall not affect claims of the Customer involving warranties and/or product liability. Furthermore, the limitations of liability shall not apply in the event of malicious intent, in the event of a breach of essential contractual obligations or in the event of physical injury to, damage to the health or of death of the Customer which is attributable to baramundi.

§ 13 Confidentiality

baramundi and its employees undertake to maintain strict confidentiality in respect of all information or personal secrets of the Customer which become known to it in connection with the order. Within the context of order processing (e.g. payment processing), it may become necessary to forward certain customer data to third parties who are not involved in implementation of the order. Such third parties shall be obligated to treat the data received in confidence and to use said data only for the purpose of the service and the business transaction.

§ 14 Data Privacy

(1) The contracting parties shall observe the applicable data protection regulations, in particular those valid in Germany, and shall bind separately their employees employed in connection with the contractual relationship and its performance to data secrecy – unless they are already generally obliged in this regard.

(2) If the Customer collects, processes or uses personal data, it shall be responsible for ensuring that it is entitled to do so in accordance with the applicable provisions, in particular those of data protection law, and shall indemnify baramundi from claims by third parties in the event of an infringement.

(3) Personal data which baramundi collects in the course of performing its contractual obligations shall be dealt with in confidence and shall be collected, processed and used only to the extent that this is permitted by reason of provisions of data protection law or that the Customer consents thereto.

(4) Data is only passed on to third parties within the scope of our training services to platform providers to the extent necessary for the business relationship in order to perform the service owed.

(5) So-called functional cookies are required for the proper functioning of the training platform. Without these functional cookies, the training platform does not offer full performance.

§ 15 Amendment of these General Terms and Conditions of Business

(1) baramundi reserves the right to amend these General Terms and Conditions of Business at any time while observing an appropriate period of notice of at least six weeks. baramundi shall inform the Customer of a corresponding amendment in text form.

(2) If the Customer does not object, the amended Terms and Conditions of Business shall be deemed to have been accepted. If an objection is made, the contract shall continue to apply unchanged, with the existing terms and conditions of business; baramundi shall, however, be entitled to pronounce ordinary termination in accordance with the contract.

§ 16 Final Provisions

(1) The law of the Federal Republic of Germany shall apply. The provisions of the United Nations Convention on the International Sale of Goods shall not apply.

(2) Where the Customer is a merchant, a legal entity under public law or a special fund under public law, the legal venue for all disputes arising under the present contract shall be the court with jurisdiction for baramundi's registered office, unless an exclusive legal venue applies. baramundi shall, however, also be entitled to bring an action against the merchant at his place of residence or place of business. This shall not affect jurisdiction based on an exclusive legal venue.