

## **General Terms and Conditions of Circle 2 GmbH,**

**- Status December 2021-**

### **§ 1 Scope of application**

- 1.1 These General Terms and Conditions (hereinafter also referred to as "GTC") shall apply to all contractual relationships and pre-contractual negotiations of circle2 GmbH, registered office: Sumpfweg 6, 72070 Tübingen, registration court: AG Stuttgart, HRB 781420, managing directors: Dr. Tobias Heisig, Dr. Alexander Wittwer (hereinafter "CIRCLE2") with customers and prospective customers (hereinafter uniformly referred to as "Customers"), irrespective of the type and scope of the service within the scope of current and future business relationships. The concrete subject of the owed service results in each case from the written (or text form) offer directed to the Customer.
- 1.2 The services provided by CIRCLE2 are directed exclusively at entrepreneurs. An entrepreneur within the meaning of these General Terms and Conditions is a natural or legal person or a partnership with legal capacity who, when concluding a legal transaction, acts in the exercise of his commercial or independent professional activity.
- 1.3 All services and offers from CIRCLE2 are provided exclusively in accordance with these General Terms and Conditions and in accordance with the specifically agreed content of the order. Terms and conditions of the Customer or of third parties shall not become part of the contract, even if CIRCLE2 does not expressly object to them. Deviations from these Terms and Conditions shall only be effective if CIRCLE2 expressly confirms them in writing. If CIRCLE2 performs the service without express objection, it may in no case be inferred from this that any conditions of the Customer have been accepted.
- 1.4 Acceptance of a service from CIRCLE2 shall be deemed to be acceptance of these GTC by the Customer General Terms and Conditions.
- 1.5 The contract language is German. The GTC shall be made available exclusively in German.

### **§ 2 Conclusion of contract - subject of the service**

- 2.1 CIRCLE2 always provides consulting services (management consulting, coaching, training, etc.) on the basis of these GTC as the main service; this is done by concluding a service contract with the Customer, the details of which can be found in CIRCLE2's offer.
- 2.2 In order to improve the performance of the main services, CIRCLE2 may also provide the Customer with the use of software (as a service) via the Internet, which is third-party software that CIRCLE2 does not produce itself but receives as standard software for the purpose of commercial use by the Customer. In this respect, the Customers shall receive licenses to use (in more detail under § 7) this third-party software (hereinafter referred to only as "Software").

- 2.3 Insofar as CIRCLE2 publishes descriptions of services on its website or elsewhere, or provides the Customer with such a description, these - unless expressly marked otherwise - do not in principle constitute binding offers. They initially serve as a basis for discussion for the negotiation of a concrete order.
- 2.4 The contract shall be concluded by means of an offer and acceptance, as a rule on the basis of a written (or textual) offer (as a rule referred to as "Offer") to the Customer specifically formulated by CIRCLE2, which shall specify the content of the service and the service price (also referred to as "Fee"), as well as any further individual agreements between the Parties. The Customer may accept this offer within the acceptance period stated on the offer or - if no such period is stated - within 14 days from the date of the offer, by countersigning the offer (usually containing a section headed "Order Confirmation" for this purpose) and sending the original (by mail or messenger) to CIRCLE2.

The Parties may agree (in writing or text form) that the Customer is allowed to accept CIRCLE2's offer by sending CIRCLE2 another order confirmation (in writing or text form) by appropriate means (mail, fax or e-mail).

The time of conclusion of the contract is determined by the receipt of the Customer's declaration of acceptance by CIRCLE2.

If there is no acceptance in the aforementioned sense, the offer shall be deemed rejected; CIRCLE2 shall then no longer be bound by the offer.

### **§ 3 Communication**

The Customer is obligated to provide the contact data necessary for the execution of the contract within the framework of the conclusion of the contract. If communication by e-mail is intended (which will regularly be the case), CIRCLE2 may use the e-mail address designated by the Customer upon conclusion of the contract. The Customer shall ensure that he only provides functioning and correct e-mail addresses. Should he use SPAM filters, he shall ensure that the mails sent by CIRCLE2 pass the filter and can actually be delivered to him. Also with regard to all other contact data provided, such as postal address, telephone number and the like, the Customer shall ensure that he can be reached by CIRCLE2 under these.

#### **§ 4 Protection of the intellectual property of CIRCLE2**

- 4.1 Any working materials used by CIRCLE2 in the course of the performance of the Contract and, if applicable, provided to the Customer for its use, such as training materials, shall be and remain the sole property of CIRCLE2. The intellectual property rights thereto are and shall in principle remain with CIRCLE2. The Customer is not granted a license to use the material, but is merely permitted to view the material for the purpose of executing the contract. The material must be returned to CIRCLE2 upon request or, after the end of the contract, without request. Any further use outside the contractual (training) purpose is prohibited.
- 4.2 If the Customer also wishes to use CIRCLE2's services for affiliated companies, it shall require CIRCLE2's express prior consent (to be declared at least in text form), which may also be refused without stating reasons
- 4.3 If work results are copyrightable, the Customer shall receive from CIRCLE2 heran an irrevocable, exclusive and non-transferable right of use to these work results, which shall be limited by the aforementioned provisions, but otherwise unrestricted in terms of time and place.
- 4.4 With regard to the rights to the (third-party) software provided for use as an ancillary service, if any, §§ 7, 10 and 11 of the GTC shall apply with priority below.

#### **§ 5 Remuneration, accounting**

- 5.1 The remuneration for the agreed service provided by CIRCLE2 is determined in each case by the underlying order. In case of doubt, the Customer shall remunerate CIRCLE2 for the cost of materials in accordance with the market rates prevailing at the time of performance, unless expressly stated in the offer. If CIRCLE2 incurs accommodation costs or other expenses in connection with the performance of the service, these expenses shall be reimbursed by the customer upon presentation of proof; this shall also apply to travel expenses.
- 5.2 Unless otherwise agreed, payment shall be due when the invoice is issued. Invoices will be issued in each case after the service has been provided. CIRCLE2 reserves the right to invoice for periods of time. The invoice shall be sent by post or by e-mail as a PDF document, at CIRCLE2's discretion, unless expressly agreed otherwise.
- 5.3 Unless expressly agreed otherwise, invoices shall be payable without deduction upon receipt. Default shall occur 30 days after receipt of invoice without reminder.
- 5.4 Prices quoted by CIRCLE2 are "plus VAT", i.e. net prices which do not yet include the statutory value added tax/sales tax.
- 5.5 In the event of premature termination of the contract, the customer shall in principle owe the share of the agreed remuneration that is attributable pro rata temporis to the service already provided.

## **§ 6 Obligations of the customer to cooperate**

- 6.1 The Customer is obliged to fully support CIRCLE2 and, in particular, to create all the conditions necessary for the execution of the order and to provide the Consultant with all relevant documents, premises, access, etc. in good time. At the Consultant's request, the Customer shall confirm in writing the correctness and completeness of any documents provided.
- 6.2 In the event that the Customer is in default of acceptance of the service or fails to fulfill an obligation to cooperate incumbent upon it, despite a reminder and the setting of a deadline, CIRCLE2 shall be entitled to terminate an ongoing contract without notice (§ 17 shall apply in addition). The exercise of such right of termination shall not affect any claims of CIRCLE2 for compensation for the damage caused by the default or the failure to cooperate, or for compensation for necessary additional expenses.

## **§ 7 Software transfer, purpose of transfer (ancillary service) and rights of use**

- 7.1 Where applicable, CIRCLE2 shall make third-party software available to the Customer for use as an ancillary service within the scope of the Services to be provided. These are products from various software providers that are to be used as required to support CIRCLE2 in the provision of the main services (Services). It is therefore an ancillary service in the context of the service contracts to be concluded with the Customers within the meaning of these GTC.
- 7.2 The various Third Party Software Products are in each case those that can be used purely online, i.e. that can be accessed via the Internet and a browser, and originate from a company other than CIRCLE2. In this respect, CIRCLE2 is contractually linked to these software providers (third party companies) and is entitled to provide the Customer with access to the corresponding third party software. In each case, the software is a so-called SaaS (Software as a Service) offering, which is used to create evaluations that are used as a partial basis for CIRCLE2's consulting services. In the following, these software products are uniformly referred to only as "Software".
- 7.3 The details of the Software and its scope of functions can be found in the service description of the respective software (provider), which CIRCLE2 will make available to the Customer upon request.
- 7.4 In this respect, the Customer does not enter into any contractual relationship with the Software Provider, but receives permission from CIRCLE2 to use the Software via the Internet for the duration of this Agreement. The Customer shall not be granted any further licenses.
- 7.5 For this purpose, CIRCLE2 shall have the Software set up on a server of the Third-Party Provider that is accessible to the Customer via the Internet.

The Software, the computing power required for its use and the necessary storage and data processing space shall be provided by CIRCLE2 with the assistance of the Third-Party Provider. However, CIRCLE2 is not responsible for establishing and maintaining the data connection between the Customer's IT systems and the server with the Software.

- 7.6 CIRCLE2 shall, with the assistance of the Third-Party Provider, promptly eliminate all Software errors to the extent technically feasible. A defect shall be deemed to exist if the Software does not perform the functions specified in the specification of services, delivers defective results or does not function properly in any other way, so that the use of the Software is impossible or restricted.
- 7.7 As a rule, the third-party providers continuously develop the software and will therefore improve it through ongoing updates and upgrades. A fixed interval for version changes or updates/upgrades is not provided. These are carried out as required. As a rule, the need arises when or if a software error is detected and/or security gaps need to be eliminated. Version changes may also be made if the third-party provider decides to adapt the design of certain functions of the software and/or introduce new functions. The implementation of legal requirements may also trigger a version change. In addition, adjustments and/or changes to the hardware/software in the data center can lead to the need to adapt the software and thus require a version change.
- 7.8 CIRCLE2 grants the Customer the non-exclusive and non-transferable right, derived from the Third-Party Provider, to use the Software, if any, provided and expressly designated, for the duration of the Agreement within the scope of the SaaS Services as intended.
- 7.9 The Customer may not duplicate the software to the extent that this is covered by the intended use of the software according to the respective current service description. Necessary duplication includes loading the software into the main memory on the server, but not even temporary installation or storage of the software on data carriers (such as hard disks or similar) of the hardware used by the customer.
- 7.10 The customer is not entitled to make the SOFTWARE available to third parties for use against payment or free of charge. Thus, the customer is expressly not permitted to sublet the SOFTWARE.

## **§ 8 Support concerning the software**

CIRCLE2 will respond to inquiries from the Customer regarding the use of the contractual software within business hours (i.e., generally Mon-Fri between 9 a.m. and 5 p.m.) by telephone or in text form within 72 hours of receipt of the respective question.

## **§ 9 Interruption/impairment of the accessibility of the software**

- 9.1 Adjustments, changes and additions to the contractual software as well as measures serving to determine and remedy malfunctions will only lead to a temporary interruption or impairment of accessibility if this is absolutely necessary for technical reasons.
- 9.2 CIRCLE2 draws the Customer's attention to the fact that restrictions or impairments may arise that are beyond CIRCLE2's control. These include, in particular, actions of third parties not acting on behalf of CIRCLE2, technical conditions of the Internet beyond CIRCLE2's control, and force majeure. The hardware, software and technical infrastructure used by the Customer may also have an influence on the services provided by CIRCLE2. Insofar as such circumstances have an influence on the availability or functionality of the service provided by CIRCLE2, this shall have no effect on the contractual conformity of the services provided.
- 9.3 The Customer is obliged to notify CIRCLE2 immediately and as precisely as possible of any functional failures, malfunctions or impairments of the Software. If technically possible, the Customer is obliged to send a screenshot with such notifications, which makes the problem recognizable for CIRCLE2.
- 9.4 The monitoring of the basic functions of the Software shall be performed by the Third-Party Provider as a rule on a daily basis. Maintenance of the SaaS Services is generally provided by the Third Party Provider from Monday to Friday 09:00 - 18:00 CET. CIRCLE2 will notify the Customer of any maintenance work planned by the Third Party Provider as soon as CIRCLE2 becomes aware thereof. CIRCLE2 will encourage the Third Party Provider to perform such maintenance in the shortest possible time according to the technical conditions.
- 9.5 As a rule, the Third-Party Providers guarantee CIRCLE2 the availability of the Software for an annual average of 98.5% of the time. This generally applies with the exception of such periods in which the server used (on which the Software is installed) is unavailable due to technical or other problems that are beyond the control of the Provider (force majeure, fault of third parties, etc.). If necessary, there may also be a short-term loss of accessibility due to version changes and/or maintenance work; such measures will, however, be announced to the Customer by CIRCLE2 in advance with an indication of their duration.
- 9.6 For details of the Software Providers' obligations, reference is made to their respective GTC and service descriptions, which will be made available to the Customer by CIRCLE2 upon request.

## **§ 10 Obligations of the customer regarding the use of the software**

- 10.1 The Customer shall - in addition to its obligations under § 6 - also provide CIRCLE2 with reasonable support in the performance of the contractual services that are performed using the Software.

- 10.2 The customer's system requirements must be met in order to use the software. The customer is responsible for this.
- 10.3 The Customer shall keep the access data made available to it secret and shall ensure that any employees to whom access data is made available do likewise. The software may not be made available to third parties unless this has been expressly agreed by the parties.
- 10.4 The Customer shall be obliged to prevent unauthorized access by third parties to the protected areas of the Software by taking appropriate precautions. For this purpose, the Customer shall, to the extent necessary, instruct its employees to comply with copyright law.
- 10.5 The Customer is obliged to check its data and information for viruses or other harmful components before entering them into the software and to use state-of-the-art virus protection programs for this purpose.
- 10.6 The data and content entered by the Customer into the Software may be protected by copyright and data protection laws. The Customer hereby grants CIRCLE2 - irrespective of or in addition to the foregoing - the right to make the contents stored on the server accessible to the Customer when the latter makes queries via the Internet and, in particular, to reproduce and transmit them for this purpose and to be able to reproduce them for the purpose of data backup. In this context, the Customer undertakes to indemnify CIRCLE2 against any liability and any costs, including possible and actual costs of legal proceedings, in the event that a claim is made against CIRCLE2 by third parties, including employees of the Customer personally, as a result of alleged acts or omissions of the Customer. CIRCLE2 shall notify the Customer of the claim and, to the extent legally possible, give the Customer the opportunity to defend the asserted claim. At the same time, the Customer shall immediately provide CIRCLE2 with all information available to it concerning the facts that are the subject of the claim in full.

## **§ 11 Third-party property rights concerning the software**

- 11.1 CIRCLE2 shall indemnify the Customer against all claims brought against it in connection with the use of the Software for infringement of copyrights, patents or other intellectual property rights, provided that
- the Customer notifies CIRCLE2 without undue delay of all infringement allegations made,
  - Customer does not acknowledge any such claims without CIRCLE2's consent,
  - Customer permits CIRCLE2 to conduct all negotiations and proceedings, and provides CIRCLE2 with all necessary assistance, with all negotiation and litigation costs to be borne by CIRCLE2
- 11.2 The foregoing obligation shall not apply if the copyright or patent infringement or other impairment of rights is due to the fact that the Software or parts thereof are used

with devices or programs that were not supplied by CIRCLE2 or the combined use of which was not consented to.

11.3 The foregoing provisions govern CIRCLE2's entire liability in connection with the infringement of copyrights, patent rights or other intellectual property rights.

11.4 If the use of the Software or parts thereof is prohibited by a court decision or if, at CIRCLE2's discretion, an action for infringement of Proprietary Rights is imminent, CIRCLE2 shall be entitled, to the exclusion of all other rights of the Customer, at its option and expense, to

- modify the Software in such a way that it no longer infringes any Intellectual Property Rights;
- procure for the Customer the right to continue using the Software;
- replace the software in question with software that does not infringe any proprietary rights and that either meets the Customer's requirements or is equivalent to the replaced software.

## § 12 Warranty regarding the software

In principle, the statutory provisions on warranty in rental agreements shall apply. The

§§ 536b BGB (knowledge of the Tenant of the defect upon conclusion or acceptance of the contract), 536c BGB (defects occurring during the rental period; notification of defects by the Tenant) shall apply. However, the application of Section 536a (2) BGB (Tenant's right of self-remedy) is excluded. The application of Section 536a (1) BGB (Landlord's liability for damages) is also excluded insofar as the standard provides for strict liability.

12.1 The contracting parties agree on the following defect classes and response times with regard to any existing defect rights of the customer:

a) Defect class 1: Defects preventing operation:

- This is the case if the software is not accessible at all (not even through a work-around) and the customer cannot work with it in any way.
- The Provider shall immediately, at the latest within four hours after the error message, begin to eliminate the error and shall continue to do so with vigor until the error is eliminated, as far as reasonable also outside normal working hours (weekdays 09.00 to 18.00 CET).

b) Defect class 2: Defects hindering operation:

- This is the case if the software is accessible (possibly via a work-around), but its functions cannot be used in essential parts, so that the customer's work is severely impaired.

The Provider shall commence fault rectification on the same day if the fault is reported before 10:00 a.m., and at the beginning of the next working day if the fault is reported later, and shall continue until the fault is rectified within the usual working hours. In doing so, the Provider may initially demonstrate a workaround solution and eliminate the error later if this is reasonable for the Customer.

c) Defect class 3: Other defects:

- In particular, these are minor malfunctions that basically allow the work with the software and the use of its essential functions and do not severely interfere with it.

- The provider will start to eliminate the error within one week or will eliminate the error only with the next version change/update if this is reasonable for the customer.

### **§ 13 Service provision by third parties**

CIRCLE2 may perform the commissioned services - this applies in particular to the main services - itself or through third parties. For this purpose, CIRCLE2 shall obtain the Customer's prior written consent, in particular if the scope or content of particularly important or critical services is to be outsourced to third parties. If CIRCLE2 requires additional staff to process the order, it shall select and employ such staff independently. CIRCLE2 may always provide the ancillary service of transferring the use of the Software through the Software Provider.

### **§ 14 Limitations of liability**

Without prejudice to §11 (Third Party Intellectual Property Rights) and to any written agreement to the contrary between the Parties, the following shall apply to CIRCLE2's liability:

- 14.1 Claims of the customer for damages or reimbursement of futile expenses shall be governed by this § 14 without regard to the legal basis of the claim.
- 14.2 CIRCLE2 shall have unlimited liability for damages arising from injury to life, limb or health caused by an intentional or negligent breach of duty by a legal representative or vicarious agent of CIRCLE2.
- 14.3 CIRCLE2 shall otherwise be liable without limitation only in the absence of a guaranteed quality and for intent and gross negligence also on the part of its legal representatives and executive employees. CIRCLE2 shall only be liable for the fault of other vicarious agents to the extent of its liability for slight negligence pursuant to clause 14.4.
- 14.4 CIRCLE2 shall not be liable in the event of slight negligence on the part of its executive bodies, legal representatives, employees or other vicarious agents, unless this involves a breach of material contractual obligations (so-called cardinal obligations). Essential contractual obligations are obligations whose compliance is of particular importance for the achievement of the purpose of the contract. In principle, these are duties of consultation, protection and care which are intended to enable the Customer to make use of CIRCLE2's services in accordance with the contract or which are intended to protect the life and limb of the Customer's personnel or to protect the Customer's property from considerable damage.

- 14.5 If damage to the Customer results from the loss of data, CIRCLE2 shall not be liable for such damage, insofar as the damage would have been avoided if the Customer had made a regular and complete backup of all relevant data. The Customer shall carry out or have carried out a regular and complete data backup itself or through a third party and shall be solely responsible for this.
- 14.6 The liability for loss of data (which may exist in spite of clause 14.5), insofar as such loss occurs due to the fault of CIRCLE2, shall be limited to the typical recovery costs that would have been incurred if back-up copies had been made regularly and in accordance with the risk.
- 14.7 The foregoing exclusions and limitations of liability shall apply to the same extent in favor of CIRCLE2's corporate bodies, legal representatives, employees and other vicarious agents.
- 14.8 The limitation period for non-material breaches of contract shall be limited to two years.

## **§ 15 Data protection, data security**

- 15.1 If personal data or databases are processed by the Customer with the Software, the Customer shall ensure by means of suitable agreements with its employees, tariff partners and vicarious agents and by means of organizational measures that the respective provisions of the Federal Data Protection Act, the State Data Protection Act(s) and the respectively applicable special data protection provisions are complied with. In the event of cross-EU data traffic, the Customer undertakes to regulate data transmission and transfer in accordance with the respective current standard contractual clauses of the EU Commission 2001/497/EC and 2004/915/EC or to have other regulations reviewed by the competent supervisory authority for their permissibility.
- 15.2 For its part, CIRCLE2 shall not process personal data attributable to the Customer, either directly or indirectly, for its own purposes, unless this is necessary for the contractual relationship.

When content is requested non-linearly, access data is stored by the software provider. This data includes the page from which the file was requested, the name of the requested file, the date, time and duration of the request, the amount of data transferred and the access status (e.g. file transferred, file not found) and the access data received from CIRCLE2. For details of data processing by the Software Provider, please refer to the Software Provider's privacy policy, which is available on its website (via which registration for the Software takes place). The software provider will process the data collected from the customer or the site visitor and user of the software in the sense of your personal data (e.g. names, first names, as requested from the software provider) linked to the evaluation of your input into the software (e.g.

Answering questionnaires and their evaluations, etc.) are then forwarded to CIRCLE2 so that they can be further used in the context of consulting the customer.

15.3 CIRCLE2's data protection notices, which will be made available to the Customer in the course of the contractual negotiations, shall apply in addition to the processing of the Data at CIRCLE2. The Customer is obliged to also inform its employees and/or other vicarious agents and/or persons brought into contact with CIRCLE2's service by the Customer of CIRCLE2's data protection notices, as their data may also have to be processed by CIRCLE2 through its intermediary in the context of the service.

## § 16 Vertraulichkeit

16.1 CIRCLE2 and the Customer shall be mutually obliged - unless an individual, separate agreement is made in this respect - to keep secret all business and trade secrets, in particular all illustrative material such as program and development documentation, source code, written documents, minutes of meetings, recordings, notes, etc., as well as all written information marked "confidential", for a period of five years after the termination of the respective contract. "confidential" for a period of five years after the termination of the respective contract and not to pass them on to third parties or to use them in any way. The documents, drawings and other information received by the other contracting party on the basis of the business relationship may only be used by the latter within the scope of the respective purpose of the contract. The contracting parties undertake to treat the information received from the other party in each case with the care they apply in their own affairs and to use it only within the scope of the underlying purpose of the contract.

16.2 CIRCLE2 and the Customer shall ensure, by means of suitable agreements with employees, vicarious agents and other assistants/contributors, and also by means of suitable organizational measures, that these persons are subject to the same duty of confidentiality.

16.3 The obligations of confidentiality do not apply to confidential information,

- a. that was already in the public domain before it was communicated to the recipient;
- b. which becomes publicly available after it has been communicated to the recipient and the publication has not been made in violation of contractual or legal provisions;
- c. which the recipient was demonstrably aware of prior to notification to the recipient and the recipient could lawfully dispose of such information freely and without obligation of confidentiality;
- d. which the recipient can prove to have lawfully received from a third party without any obligation of confidentiality or without any restrictions on disclosure;
- e. which the recipient demonstrably possesses independently of the other party as a result of its own developments or research;
- f. with regard to which the disclosing party waives the obligation of confidentiality;

- g. if, on the basis of an official or statutory order, communication of the confidential information to third parties (in particular to courts and tax authorities) is ordered by law.

### **§ 17 Term and termination of contracts for continuing obligations**

- 17.1 Insofar as no one-time performance is the subject matter of the contract, i.e. the services are to be provided over a certain period of time (so-called continuing obligations), the term of the contract shall commence upon conclusion of the contract.
- 17.2 If the parties do not agree on a specific contract term for continuing obligations, the contracts shall be deemed concluded for an indefinite period.
- 17.3 If the contract is concluded for a specific term, it shall end upon its expiry. Ordinary termination before this time is then excluded.
- 17.4 The right of both parties to a possibly justified extraordinary termination for good cause shall remain unaffected by the foregoing. Good cause shall generally be deemed to exist if the terminating party, taking into account all circumstances of the individual case and weighing the interests of both parties, cannot reasonably be expected to continue the contractual relationship until the agreed end of the term or until the expiry of the respective notice period.
- 17.5 Any termination must be in writing or at least in text form to be effective.

### **§ 18 Obligations of the customer upon termination of the contract**

After complete performance of the service or termination of a continuing obligation concluded between the parties, all items that were provided to the customer for temporary use shall be returned, whereby the transport and insurance costs shall be borne by the customer.

### **§ 19 Provisions for seminars, workshops, lectures, coaching, etc.**

Insofar as the subject of the agreed service is seminars, workshops, lectures, coaching or similar services, the following shall apply:

- 19.1 If the Participant is named in the Offer, only the Participant named therein shall be entitled to participate. Any transfer of the right to participate to a third party requires the consent of CIRCLE2. Insofar as a third party (i.e. not an employee/representative of the Customer) is entitled to participate, he shall be liable to CIRCLE2 as joint and several debtor alongside the Customer for the service price and for any additional costs that may arise as a result of his participation.

- 19.2 If CIRCLE2 determines a minimum number of Participants for its service as defined in 19.1, this will be expressly communicated in the service description. It will then also announce a date by which the Participants must be registered. If the minimum number of participants is not reached by the relevant date, CIRCLE2 shall be entitled to withdraw from the contract vis-à-vis the Customer.
- 19.3 Insofar as CIRCLE2 exercises its right to withdraw from the contract pursuant to 19.2, it shall immediately refund any service price paid.
- 19.4 CIRCLE2 reserves the right to change the time, place, instructor and/or content of the Event, provided that the change is reasonable for the Customer, taking into account the interests of CIRCLE2. Reasonable in this sense are insignificant changes in services that become necessary after the conclusion of the contract without CIRCLE2 having brought about this necessity contrary to good faith. Insofar as CIRCLE2 makes use of the aforementioned entitlement, it shall notify the customer thereof without delay, and shall in any event inform the customer in good time prior to the agreed commencement of performance.
- 19.5 In the event that CIRCLE2 makes a significant change to its services as defined in 19.4, the Customer shall be entitled to withdraw from the contract free of charge (right of withdrawal). The Customer shall declare such withdrawal without undue delay after receipt of the corresponding change information. The date of receipt by CIRCLE2 of a corresponding notice of withdrawal shall be decisive.
- 19.6 Irrespective of the foregoing, CIRCLE2 shall always be entitled to refuse the provision of services in the event of an important reason, such as force majeure (see § 20 of these GTC) or illness of the Course Instructor. In the event of such impediments to performance, CIRCLE2 shall inform the Customer without delay. Any service fees already paid will then be refunded to the Customer without delay. Any existing statutory rights of termination, in particular those for good cause, shall remain unaffected by this.
- 19.7 In addition to § 4 of these General Terms and Conditions, the following shall apply: CIRCLE2 is and shall remain the sole owner of all rights of use to materials, in particular documents, made available for the performance of the Event within the meaning of this paragraph. Consequently, the Customer may only use the specific content of the event and any documents provided to it to the extent required for the purpose of the contract.
- 19.8 The event may not be recorded (in whole or in part) without the express permission of CIRCLE2. The documents provided may not be reproduced, distributed or made available to the public without the express permission of CIRCLE2.
- 19.9 As a matter of principle, CIRCLE2 alone shall decide whether Accompanying Materials/Documents are to be provided and in what form. If the provision of accompanying materials/documents is contractually agreed as an exception, CIRCLE2 shall be entitled to provide these materials/documents exclusively in paper or electronic form (if applicable by download link or by e-mail); the Customer shall then have no claim to additional provision of the materials/documents in any other form.

19.10 If, as agreed, the Service is provided as part of an online event, CIRCLE2 shall provide the Service by online video conference. Appropriate technical means shall be used for this purpose. CIRCLE2 shall provide the Customer with the necessary application software and shall transmit any necessary access data for participation prior to the commencement of the service. The Customer shall be responsible for ensuring that the system used by it meets the minimum requirements specified by the software. The Customer may request these from CIRCLE2 prior to the commencement of the service. CIRCLE2 shall not be liable for technical problems arising from the Customer's sphere of responsibility, in particular if these are due to a lack of system requirements on the part of the Customer.

## **§ 20 Service**

CIRCLE2 always renders its services with the greatest care and to the best of its knowledge and belief. However, as a matter of principle, it does not owe the occurrence of a certain success. More specifically, CIRCLE2 does not assume any liability or any other guarantee for the occurrence of a learning success for the Customer or other persons who receive consultations or participate in courses, coachings and the like (cf. § 19), because such success always depends on the personal commitment and will of the Customer or the participants.

The regulations on the transfer of the software and the liability and warranty regime applicable thereto shall remain unaffected.

## **§ 21 Performance times and force majeure**

21.1 Performance times shall only be deemed binding if expressly agreed as such.

21.2 If the provision of the contractual service subsequently becomes impossible or considerably more difficult as a result of obstacles to performance that could not be foreseen at the time the contract was concluded, such as force majeure, illness or accident, and also otherwise through no fault of CIRCLE2, both the Customer and CIRCLE2 may terminate the contract. In the event of such impediments to performance, CIRCLE2 shall inform the Customer without delay. Any service fees already paid shall then be refunded to the Customer without delay. Any existing statutory rights of termination, in particular those for good cause, shall remain unaffected by this.

## **§ 22 Applicable law and place of jurisdiction**

16.1 The law of the Federal Republic of Germany shall apply to all legal relationships of the parties as well as all claims arising from or in connection with a concluded contract, excluding the laws on the international sale of movable goods (CISG / UN Sales Convention).

- 16.2 If the Customer is a merchant, a legal entity under public law or a special fund under public law with its registered office in the territory of the Federal Republic of Germany, the exclusive place of jurisdiction for all disputes arising from or in connection with this contract shall be the registered office of CIRCLE2.
- 16.3 16.3 If the Customer has its registered office outside the territory of the Federal Republic of Germany, the registered office of CIRCLE2 shall be the exclusive place of jurisdiction for all disputes arising from or in connection with this contract, if the contract or claims arising from the contract can be attributed to the Customer's professional or commercial activity. In the above cases, however, CIRCLE2 shall in any case be entitled to apply to the court at the Customer's place of business.
- 16.4 Should any provision of this contract be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. Instead, the parties undertake to replace the invalid provision with a valid provision that comes as close as possible to the economically intended provision. The same shall apply to loopholes.