

MARVme General Terms and Conditions

(as of 09/2025 | Translation via DeepL - Reference to original Terms and Conditions in German version)

1. Scope

- 1.1 These General Terms and Conditions (GTC) apply to all contracts concluded between **SCHMALZ+SCHÖN Next Level GmbH**, Ringstraße 39-41, 70736 Fellbach, Germany (hereinafter **referred to as "Provider"**) and the **customer** for the use of the Software-as-a-Service (SaaS) application "MARVme".
- 1.2 The version of these GTC valid at the time of conclusion of the respective contract applies. The GTC are subordinate to the company's offer documents and other service-specific contracts between the contracting parties.
- 1.3 Any terms and conditions of the customer that conflict with or deviate from these GTC shall not apply unless the company has expressly agreed to their validity. These GTC shall also apply if the company provides the agreed services in the knowledge that the customer's terms and conditions conflict with or deviate from these GTC or statutory provisions.
- 1.4 These General Terms and Conditions apply only in relation to companies, legal entities under public law, or special funds under public law.

2. Changes to the Terms and Conditions

- 2.1 The provider is entitled to change the terms and conditions under the following conditions.
- 2.2 The provider has the right to amend these General Terms and Conditions if this is necessary for the reasonable execution of the contractual relationship for both parties for the reasons listed below:
 - 2.2.1 to fill a contractual gap, provided that the contractual gap does not cause significant difficulties in the performance of the contract and these cannot be avoided in any other way; or
 - 2.2.2 to adapt these General Terms and Conditions to changes in the legal situation, insofar as this is necessary to ensure the legality of these General Terms and Conditions and the services; or
 - 2.2.3 to restore the equivalence between performance and consideration, insofar as this is significantly impaired after conclusion of the contract by unforeseeable changes in the legal or other framework conditions that are not caused by and cannot be influenced by the provider.
- 2.3 The provider shall notify the customer of any changes to the General Terms and Conditions at least 30 days before the planned effective date of the changes. The customer may object to the changes in writing within 30 days of receiving notification thereof. If the customer does not object, the changes to the General Terms and Conditions shall be deemed to have been agreed with effect for the future upon expiry of the deadline.
- 2.4 In the aforementioned notification, the provider shall refer to the aforementioned deadline and the legal consequences of its expiry if the option to object is not exercised.

3. Subject matter of the contract

The subject matter of the contract is the granting of use of the functionalities of the "MARVme" software (hereinafter referred to as "software") on a platform managed by the provider as so-called Software as a Service ("SaaS") in the customer's company via the Internet for a fee and limited to the term of the contract, as well as the provision of storage space on the provider's servers. The scope of functionality of the Software, storage capacities, and other details regarding the storage of data are set out in the service description.

4. Conclusion of contract

- 4.1 The provider's offer to conclude a contract for the use of the software is binding, unless otherwise stated in the offer.
- 4.2 The customer may accept the offer within a period of two weeks from the date of the offer by returning the signed offer. The date of receipt of the declaration of acceptance by the provider shall be decisive for compliance with the deadline. Electronic transmission of the signed offer by email is sufficient for this purpose.
- 4.3 The contract is concluded upon receipt of the offer signed by the customer by the provider.

5. Services provided by the provider

- 5.1 The provider grants the customer the use of the latest version of the software via the Internet by means of access through a browser. The software consists of various modules, whereby the modules selected by the customer are specified in the contract.
- 5.2 The provider guarantees the functionality and availability of the software for the duration of the contractual relationship and will maintain it in a condition suitable for contractual use. The provider guarantees the functionality and availability of the software in a condition suitable for contractual use in accordance with the specifications in the service description.
- 5.3 After conclusion of the contract, the provider shall immediately send the customer access data for the corresponding number of authorized users in electronic form.
- 5.4 The provider shall make application instructions available to the user within the applications, which can be viewed via info buttons and FAQs at relevant points.
- 5.5 The provider may, without being obliged to do so, update or further develop the software at any time and, in particular, adapt it due to changes in the legal situation, technical developments, or to improve IT security. In doing so, the provider shall take the legitimate interests of the customer into account and inform the customer in good time about necessary updates. In the event of a significant impairment of the legitimate interests of the customer, the customer shall be entitled to a special right of termination.
- 5.6 The provider is not obliged to adapt the platform to the individual needs or IT environment of the customer. The development of customer-specific solutions or necessary adaptations requires a separate agreement between the parties.

- 5.7 The provider shall regularly maintain and service the platform, including the software, and shall inform the customer in good time of any associated restrictions. Maintenance and servicing shall be carried out regularly outside normal business hours (before 8:00 a.m. and after 4:00 p.m. CET), unless compelling reasons require the work to be carried out at another time.
- 5.8 The provider shall provide the customer with storage space on its servers for the storage of data and for the purposes of using the software. The provider shall ensure that the data is available for retrieval within the scope of the use of the software.
- 5.9 The provider shall take state-of-the-art measures to protect the data and, in particular, shall make regular backups. However, the provider shall not be subject to any custody or safekeeping obligations with regard to the data. The customer is responsible for ensuring that the data is adequately backed up.
- 5.10 The customer remains the owner of the data stored on the provider's servers and may request its return at any time.

6. Rights of use and scope of use

- 6.1 The customer receives a simple, non-sublicensable, and non-transferable right to use the functionalities of the software via a browser in accordance with the contractual provisions for the duration of the contract, based on the latest version of the software.
- 6.2 The customer may only use the software within the scope of its own business activities by its own personnel and the personnel of its suppliers. Any further use of the software by the customer is not permitted.
- 6.3 If the customer or its suppliers violate the provisions set forth in these General Terms and Conditions, the provider is entitled to block the relevant account until the violation has been remedied. In the event of repeated violations by the customer or its suppliers, the provider may permanently block and delete the relevant account.

7. Support, service level

The provider shall set up a support service in accordance with the service description for customer inquiries regarding the functions of the software. The service levels are specified in the service description.

8. Customer obligations

- 8.1 The customer shall protect and store the access data provided to them in accordance with the state of the art against access by third parties. The access data may not be passed on to persons other than those defined in Section 6.2. The customer shall ensure that use is only made to the extent agreed in the contract. Unauthorized access must be reported to the provider immediately.
- 8.2 The customer is obliged not to store any data on the storage space provided whose use violates applicable law, official orders, third-party rights, or agreements with third parties.

- 8.3 The customer shall check the data for viruses or other harmful components before storing or using it in the software and shall use state-of-the-art measures (e.g., virus protection programs) for this purpose.
- 8.4 The customer shall take appropriate measures to ensure compliance with the aforementioned conditions of use.
- 8.5 The customer is responsible for the actions and omissions of persons authorized by him to use the software. He is also responsible for misuse of the subject matter of the contract within the meaning of Section 8.3, insofar as he could have prevented this by taking appropriate measures and culpably failed to do so.
- 8.6 The provisions of this Section 8 shall also apply to the customer's suppliers.

9. Warranty

- 9.1 With regard to the granting of use of the software and the provision of storage space, the warranty provisions of tenancy law, Sections 535 et seq. BGB, apply.
- 9.2 The customer must notify the provider of any defects without delay.
- 9.3 The warranty for only insignificant reductions in the suitability of the service is excluded. Strict liability pursuant to Section 536a (1) of the German Civil Code (BGB) for defects that already existed at the time of conclusion of the contract is excluded.

10. Liability

- 10.1 The parties shall be liable without limitation in cases of intent, gross negligence, and culpable injury to life, limb, or health.
- 10.2 Notwithstanding the cases of unlimited liability pursuant to Section 10.1, the parties shall only be liable to each other for slightly negligent breaches of duty in the event of a breach of essential contractual obligations, i.e., obligations whose fulfillment is essential for the proper execution of the contract or whose breach jeopardizes the achievement of the purpose of the contract and on whose compliance the other party may regularly rely. However, this shall be limited to the damage typical for the contract and foreseeable at the time of conclusion of the contract.
- 10.3 The above limitations of liability do not apply to liability under the Product Liability Act or in the context of guarantees assumed by one party.
- 10.4 Section 10 also applies in favor of employees, representatives, and organs of the parties.

11. Legal defects and indemnification

- 11.1 The provider guarantees that the software does not infringe any third-party rights. The provider shall indemnify the customer against all third-party claims for infringements of property rights for which it is responsible in connection with the contractual use of the software upon first request and shall reimburse the costs of reasonable legal action. The customer shall immediately inform the provider of

Claims by third parties asserted against him on the basis of the contractual use of the software, inform him and grant him all necessary powers of attorney and authorizations to defend the claims.

- 11.2 The customer warrants that the content and data stored on the provider's servers, as well as its use and provision by the provider, do not violate applicable law, official orders, third-party rights, or agreements with third parties. The customer shall indemnify the provider against any claims asserted by third parties due to a violation of this clause upon first request.

12. Remuneration and payment terms

- 12.1 The monthly fee to be paid by the customer is specified in the provider's offer.
- 12.2 Invoices are issued monthly. Payment is due within 14 business days.

13. Contract term and termination

- 13.1 The contract shall come into effect on the date specified in the offer, initially for the term agreed in the offer. During this minimum term, early termination by either party is excluded.
- 13.2 The contract can be terminated with one month's notice, at the earliest at the end of the minimum term. If this does not happen, the contract is extended for a further month, unless it has been terminated with one month's notice to the end of the respective extension period.
- 13.3 The right to terminate without notice for good cause remains unaffected. Good cause shall be deemed to exist for the provider in particular if
- 13.3.1 if the customer grants access to the software to third parties who are not suppliers of the customer,
 - 13.3.2 if the customer or its supplier repeatedly violates the terms and conditions set out in these GTC.
- 13.4 Termination must be made in writing in all cases.
- 13.5 The provider shall, at its own expense, provide the customer with appropriate support in transferring or backing up the data after termination of the contract.
- 13.6 The provider shall irretrievably delete all customer data remaining on its servers 30 days after termination of the contractual relationship. There shall be no right of retention or lien on the data in favor of the provider.

14. Data protection and confidentiality

- 14.1 The parties shall comply with the applicable data protection regulations applicable to them.

14.2 If and to the extent that the provider has access to the customer's personal data in the course of providing services, the parties shall conclude a corresponding data processing agreement prior to the commencement of processing and attach this agreement as an annex. In this case, the provider shall process the relevant personal data solely in accordance with the provisions set out therein and in accordance with the customer's instructions.

14.3 The provider undertakes to maintain confidentiality regarding all confidential information (including trade secrets) that it learns in connection with this contract and its implementation, and not to disclose, pass on, or use this information in any other way to third parties. Confidential information is information that is marked as confidential or whose confidentiality is apparent from the circumstances, regardless of whether it has been communicated in written, electronic, physical, or oral form. The confidentiality obligation shall not apply if the provider is obliged to disclose the confidential information by law or on the basis of an existing or legally binding decision by an authority or court. The provider undertakes to agree on a provision with all employees and subcontractors that is identical in content to the above paragraph.

15. Other provisions

15.1 Amendments and additions to these General Terms and Conditions must be made in writing (email is sufficient).

15.2 The law of the Federal Republic of Germany applies exclusively, excluding the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG).

15.3 The exclusive place of jurisdiction for all disputes arising from or in connection with the business relationship between the company and the customer is the registered office of the provider.

15.4 Should any provision of these General Terms and Conditions and the further agreements made be or become invalid, this shall not affect the validity of the rest of the contract. The contracting parties are obliged to replace the invalid provision with a provision that comes as close as possible to it in terms of economic success. This also applies to any gaps in the General Terms and Conditions.