

General Terms and Conditions of Kickscale GmbH

(hereinafter "**GTC**")

Status: March 24, 2025

General provisions

0. Company and product description

0.1 Company description: Kickscale specializes in the analysis and optimization of sales and Customer conversations. The technology enables companies to refine their sales conversations and develop a deeper understanding of their Customers. Kickscale's AI-powered sales coach analyzes conversations and suggests improvements.

0.2 Mode of Operation: Kickscale automatically connects to popular calendar and online video conferencing systems (e.g. MS Teams, Google Meet, Zoom) and records conversations, transcribes them and provides analytics.

1. Scope of application

1.1 Kickscale GmbH, with its registered office in Vienna, registered in the Commercial Register of the Commercial Court of Vienna under FN 535151 m (hereinafter "**Kickscale**"), shall provide all services to its Customers (hereinafter each the "**Customer**" and the Customer together with Kickscale the "**Parties**") on the basis of these GTC, in each case in the Version valid at the time of conclusion of the contract.

1.2 These GTC are binding for all current and future business transactions between the Parties, even if no express reference is made to them. Deviations from these GTC, supplementary agreements or any conflicting general terms and conditions of the Customer shall only be effective if confirmed in writing by Kickscale.

1.3 The provisions of these GTC may be amended by Kickscale at any time without giving reasons, hereby such amendments shall be announced at least 30 days before they come into force on the Kickscale website and by sending the text of the contract to the email address last provided by the Customer. If the Customer does not object to the amendments in writing by e-mail to legal@kickscale.com within 30 days of receipt of the aforementioned announcement, the amendments shall be deemed accepted. In the event of a timely objection by a Customer, the contractual relationship between this Customer and Kickscale shall continue to exist in accordance with the GTC in the Version prior to the announced change, whereby Kickscale is entitled to terminate the

contract without stating reasons, subject to a notice period of 14 days to the end of the month.

2. Self Service and Enterprise Customers

2.1 The contractual relationship between the Parties (hereinafter the "**Contract**") for the use of the sales enablement Platform operated by Kickscale (hereinafter the "**Platform**") may be entered into via Kickscale's website (hereinafter the "Self-Service") or, at Kickscale's discretion, with certain Customers through direct contact with Kickscale's Customer service (hereinafter the "**Enterprise Customers**").

2.2 Customers who conclude a contract directly via a Kickscale website without the dedicated signature of a prior Offer shall be deemed "Self-Service Customers". Customers who have received a prior Offer from Kickscale and accept it by signature shall be deemed "Enterprise Customers".

2.2 These GTC contain

- (i) General provisions, which are set forth in this section of the GTC and shall apply to all Customers;
- (ii) Provisions that apply exclusively to Customers who conclude the Contract via the Self-Service (Points 11 to 16 of these GTC); as well as
- (iii) Provisions that apply exclusively to Enterprise Customers (Points 17 to 21 of these GTC).

3. Licence rights

3.1 During the term of the Contract, the Customer shall be entitled to use the Platform worldwide as Software as a Service for its own purposes.

3.2 The right to sub-license, the right to edit, and any right of exploitation or use not covered by Clause 3.1. shall be excluded.

4. Obligations of the Customer

4.1 In order to be able to use the Platform to its full extent, the Customer must use the latest (browser) technologies or enable their use. When using older technologies, it may be the case that the Customer cannot use the Platform to its full extent.

4.2 The Customer undertakes to use the Platform exclusively as intended and not in an abusive manner, and to refrain from actions that could harm and/or endanger Kickscale and/or restrict the availability of the Platform for other users.

4.3. The Customer shall be obliged to provide Kickscale with all information and documents necessary for the provision of the service in a timely and complete manner. This also applies to information that only becomes known during the provision of the service. The Customer shall bear the additional expense arising from the fact that work must be repeated or is delayed by Kickscale as a result of its incorrect, incomplete, or subsequently changed information.

4.4 The Customer shall indemnify and hold Kickscale harmless for damages resulting from the breach of obligations of the user and/or the Customer in accordance with this point 4 of these GTC.

4.5. The Customer hereby acknowledges and grants permission for Kickscale to utilize data derived from sales and customer conversations recorded on behalf of the Customer solely for the purpose of training and optimizing the AI-powered sales coach within the Customers domain. Notwithstanding the foregoing, Kickscale warrants that such data shall be processed exclusively within the Customer's specific domain to enhance the feedback and coaching functionalities provided to the Customer. It is expressly understood and agreed that no Customer data shall be utilized by any Sub-processors for the purpose of training or refining their own respective artificial intelligence models or general-purpose algorithms.

5. Data protection

The processing of personal data by Kickscale as the Customer's processor shall be carried out on the basis of the Data Processing Agreement, available at <https://www.kickscale.com/de/legal/> (hereinafter the "**Data Processing Agreement**"). The Customer hereby agrees to the validity of the Data Processing Agreement between the Parties.

6. Warranty

6.1. In the event of functional malfunctions of the Platform, Kickscale shall endeavor to rectify the error within a reasonable period or to provide the Customer with workaround solutions. Kickscale hereby points out that the functionality and/or the scope of service of the Platform for the user may also be influenced by circumstances beyond Kickscale's control and which are not covered by Kickscale's service program.

6.2. The use of the Platform depends significantly on the technical access possibilities to calendars (Microsoft, Google, ...) and online video conferencing systems (MS Teams, Google Meet, Zoom, ...). Kickscale does not always have an influence on the

access possibilities to these Platforms. Kickscale therefore provides no warranty that the integration of certain online video conferencing systems into the Platform is possible.

6.3. Unless otherwise agreed, the Customer shall only be entitled to a reduction of the fee (*Minderung*) if the use of the Platform was not possible for reasons within Kickscale's sphere of influence for more than 1% per calendar year (uptime of less than 99%). The Customer shall bear the burden of proof for the existence of reasons within the sphere of Kickscale. Planned maintenance work, which is notified to the Customer at least 2 days in advance, shall be disregarded for the calculation.

6.4. Kickscale provides no warranty for the legal permissibility of the use of the Platform by the Customer, particularly regarding data protection, administrative, competition, and intellectual property law. The assessment of the legal permissibility of the execution of the Contract shall be the responsibility of the Customer.

6.5. Any warranty and/or liability for sample templates / document templates provided by Kickscale to the Customer is hereby excluded. All sample templates / document templates provided by Kickscale to the Customer are to be understood as a voluntary service without any commitment by Kickscale. These documents must therefore be checked in detail (and if necessary: revised / adapted) by the Customer on its own responsibility so that they comply with the legal provisions applicable to the Customer and the purposes of use pursued by the Customer. Kickscale assumes no liability of any kind whatsoever for the content of the provided sample templates / document templates.

7. Liability

7.1. Kickscale shall only be liable for damages caused by gross negligence or wilful intent. For damages caused by slight negligence, Kickscale shall only be liable insofar as personal injury is concerned or insofar as Kickscale violates an obligation under data protection law and damage arises therefrom. The burden of proof for the existence of gross negligence or intentional causation of damage shall be borne by the Customer.

7.2. Kickscale shall not be liable for damages and delays resulting from force majeure, labor disputes, and natural disasters, as well as other circumstances beyond Kickscale's control.

7.3. Any liability of Kickscale shall be time-barred within 6 months from the Customer's knowledge of the damage and the damaging party. The total liability of Kickscale under this Contract shall be limited in amount to that sum which corresponds to the total payments made by the Customer to Kickscale in the last 6 months prior to the event giving rise to liability. Compensation for consequential damages, pure

economic loss, loss of profit, loss of interest, and damages arising from third-party claims against the Customer by Kickscale is in any event excluded.

7.4. The liability provisions in this Point 7 of these GTC shall also apply *mutatis mutandis* to the Data Processing Agreement. The limitations of liability mentioned in this point shall also apply to the legal representatives, employees, and authorised representatives of Kickscale.

7.5. The Customer undertakes to use the product and the Platform provided by Kickscale exclusively in accordance with all applicable legal provisions. In the event that the Customer uses the product or the Platform provided by Kickscale unlawfully and third-party claims or official measures arise or are initiated against Kickscale as a result, the Customer undertakes to fully indemnify and hold Kickscale harmless with regard to all resulting claims, damages, costs, and expenses (including loss of profit, indirect damages, consequential damages, and reasonable costs of legal prosecution and defense). This obligation shall also apply in the event that Kickscale is held liable as a joint tortfeasor (*Mitstörer*) or other participant.

8. Third party services

Kickscale shall be entitled to perform the service itself or to utilize the services of third Parties for the provision of the services.

9. Confidentiality

9.1. The Parties undertake to maintain confidentiality regarding all information that becomes known to them on the basis of the Contract; this shall also apply after the expiry of the Contract.

9.2 In particular, all information concerning the Platform as well as the commercial terms agreed in the Contract (prices, discounts, etc.) shall be kept confidential.

This does not apply to information,

- which is generally known or easily accessible;
- which was demonstrably already known to the Party at the time of the conclusion of the Contract;
- to the disclosure of which the Party is legally obliged;
- which the Party must disclose in order to safeguard its interests in the course of legal proceedings.

9.3 The Parties shall also impose this obligation on their employees and other third Parties to whom they disclose information to be kept confidential (e.g., supporting agencies).

10. Final provisions

10.1 These GTC, the Contract, and the Data Processing Agreement shall be governed by Austrian law, to the exclusion of the UN Convention on Contracts for the International Sale of Goods and the conflict of law rules of private international law.

10.2 For all disputes between the Parties, the exclusive jurisdiction of the court having subject-matter jurisdiction at the registered office of Kickscale is hereby agreed. Notwithstanding the foregoing, Kickscale shall be entitled to sue the Customer at its general place of jurisdiction.

10.3 The place of fulfilment for deliveries and services of Kickscale is the registered office of Kickscale.

10.4. For declarations within the scope of these GTC, the Contract, and all related contracts (e.g., Data Processing Agreement), communication by email shall be deemed to be in writing within the meaning of § 886 ABGB, even without a qualified electronic signature within the meaning of the eIDAS Regulation.

10.5 Should individual provisions of these GTC be or become invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected thereby. An invalid or unenforceable provision shall be replaced by the Parties in accordance with the standards of good faith in such a way that the intended economic purpose thereof is achieved in the best possible manner. The same shall apply to the filling of unrecognized contractual gaps.

Self-service

The provisions of this chapter apply exclusively to the conclusion of contracts via Self-Service:

11. Conclusion of contract, subject matter of contract

11.1 The contract is concluded via Self-Service via any Kickscale website. (e.g. www.kickscale.com or app.kickscale.com)

11.2 All prices, descriptions, the presentation during the ordering process in Self-Service as well as all advertising communication by Kickscale - in particular on the website - merely represent an invitation to the Customer to place an order and are non-binding.

11.3 By submitting the order in Self-Service, the Customer makes a binding Offer to conclude a contract with Kickscale. The acceptance of this Offer, and thus the conclusion of the Contract, shall be effected by the display of a notification regarding the activation of the Customer for the Platform.

12. Trial access

12.1 Kickscale may, at its own discretion, Offer time-limited Enterprise Customers to the Platform (hereinafter the "**Trial Access**").

12.2 The use of the Trial Access shall be free of charge.

12.3 The Customer is not authorised to conclude several trial accounts without the consent of Kickscale.

12.4 Trial access is limited to the period specified in the Self-Service for the respective Enterprise Customers. If no period for the Enterprise Customers is specified in the Self-Service, the Trial Access shall be limited to one month.

12.5 Kickscale does not guarantee any specific scope of performance for the Trial Access.

13. Contract term

13.1 Activation for the use of the Platform via Self-Service shall be effected through the conclusion of time-limited contracts (hereinafter the "**Subscription**") for a fee. The duration of the Subscription (hereinafter the "**Subscription Period**"; e.g., one month, one year) and the fee to be paid by the Customer for the Subscription (hereinafter the

"**Subscription Price**") shall be described within the framework of the ordering process in the online shop. The Subscription shall commence on the day of the order confirmation.

13.2 Subscriptions are entered into for the Subscription Period selected during the ordering process in the online shop. Upon expiry of a Subscription Period, the term of the Subscription shall be extended by a further Subscription Period, unless the Customer or Kickscale terminates the Subscription before the expiry of the respective Subscription Period (at the latest one month before the end of the respective Subscription Period) or objects to such an extension..

13.3 The Customer may object to the extension of the Subscription term by a further Subscription Period by making a corresponding declaration via the user account.

13.4 The objection to the extension of the term of the Subscription by a further Subscription Period by Kickscale shall be made in writing by e-mail (to the e-mail address last provided by the Customer).

13.5 Premature termination of the Subscription by the Customer is excluded. The right to termination for good cause remains unaffected hereby. For Kickscale, good cause shall exist in particular if:

- the fulfilment of the service becomes impossible for reasons for which the Customer is responsible or is further delayed despite the setting of a grace period of 10 working days;
- the Customer persistently violates material provisions of the Contract;
- the economic capacity of the Customer deteriorates significantly or insolvency proceedings against the Customer are dismissed for lack of assets;
- the Customer violates the guidelines of the social networks used via the Platform;
- the Customer disseminates content via the Platform that is likely to damage the reputation of Kickscale (e.g. violence, harassment, hateful content, nudity and sexual content, exploitation, dangerous or fraudulent goods and activities or promotion of violent organisations, politically extreme or ideologically questionable views, fake news);
- Kickscale intends to cease operation of the Platform; or
- the Customer objects to the utilisation of a (further) sub-service provider or processor by Kickscale or one of its sub-service providers or processors.

13.6. Kickscale shall be entitled at any time to reject Customers and/or to terminate their Subscription insofar as the contractual relationship with the Customer is suitable to damage the reputation of Kickscale and the Customer is at fault for this (e.g., political or ideological groupings, violent organizations).

13.7. In the event of the termination of a Subscription, Kickscale shall store the data of the Customer required for the operation of the Platform for a maximum of a further **three**

months. During this time, the Customer shall be entitled at any time to demand the immediate deletion of this data by Kickscale.

14. Range of functions, down- and upgrade

14.1 Kickscale offers various Software Packages (hereinafter individually referred to as the "**Software Package**") on the Platform. The Software Packages have the functional scope described on the Kickscale website..

14.2 The functional scope of the individual Software Packages depends on which Version of the Software Package (hereinafter referred to as the "**Version**") the Customer has ordered.

14.3 The Versions are subject to quantitative restrictions in their use (for example, number of users, number of analysis hours), whereby the limits of these quantitative restrictions may be increased for a fee (for example, by adding further users or analysis hours). The increase of these quantitative restrictions shall be effected via the Customer's user account (e.g., by inviting additional users or by using additional features). In the event of an increase during the Subscription Period, the calculation of the Subscription Price owed for the increase shall be made *pro rata (aliquot)*. A reduction of the quantitative restrictions shall always become effective at the end of the current Subscription Period.

14.4 The Customer may switch from one Version to a higher Version at any time via the user account, in which case the Subscription Price shall be calculated *pro rata*. The Subscription Period and its end shall remain unchanged by such a switch..

14.5 A change to a lower Version is only possible at the end of a Subscription Period via the user account.

14.6 Kickscale provides Customer service in accordance with the conditions described on the Kickscale website for the respective Software Package and the Version selected by the Customer (e.g., support and response times).

15. Fee

15.1 The Customer owes the agreed Subscription Price.

15.2 The Subscription Price is due in advance for each Subscription Period.

15.3 Insofar as the payment of the Subscription Price is not made in advance, Kickscale shall be entitled to refuse the provision of services. Insofar as Kickscale nevertheless provides the service, this shall not preclude the Customer's obligation to pay the Subscription Price. Until the time of payment of the Subscription Price, Kickscale shall be entitled at any time to refuse the provision of services and to exclude the Customer from the use of the Platform.

16. Indexation of fees

16.1 The periodically recurring fees shall be adjusted in accordance with the Consumer Price Index. The Consumer Price Index 2015 (base year 2015) published monthly by Statistics Austria, or an index replacing it, shall serve as the benchmark for calculating the stability of value. The reference value for the Contract is the index figure calculated for the month of the conclusion of the Contract. Fluctuations of the index figure upwards or downwards of up to (but excluding) 5% shall be disregarded. This margin shall be recalculated upon each exceeding, whether upwards or downwards, whereby the first index figure outside the applicable margin shall always form the basis both for the recalculation of the claim amount and for the calculation of the new margin. All rates of change shall be calculated to one decimal place.

16.2 Failure to exercise the right to value adjustment shall not constitute a waiver of future adjustments. Index adjustments of the charges do not entitle the Customer to extraordinary termination.

Enterprise Customers

The provisions of this chapter apply exclusively to Enterprise Customers:

17. Conclusion of contract, subject matter of contract

17.1 Potential Enterprise Customers shall receive a written Offer from Kickscale (hereinafter referred to as the "**Offer**") for the use of the Platform in which the respective scope of functions is described on the basis of individual Software Packages.

17.2 Kickscale is bound to the Offer during the binding period specified in the Offer. Insofar as no binding period is specified in the Offer, a binding period of 14 days shall be deemed agreed. If the Customer accepts the Offer after expiry of the binding period, this constitutes an Offer to Kickscale, which may be accepted by Kickscale by express declaration or also impliedly (e.g., by sending an invoice). Subsequent amendments to the Contract require written confirmation by Kickscale.

17.3 The services of Kickscale include the granting of the rights of use to the Platform, the provision of the Platform and its hosting and the provision of Customer service at the agreed support hours.

18. Functional Scope

18.1 Use by the Customer, its employees, shareholders and other persons economically attributable to the Customer (e.g. freelancers, agencies, etc.) is limited to the scope of the Software Packages purchased by the Customer and to the other parameters specified in the contract - in particular the number of channels and number of users.

18.2 Kickscale shall provide Customer service in accordance with the conditions agreed in the contract (e.g. support and response times).

19. Remuneration

19.1 The Customer owes the fee agreed in the Contract.

19.2 The fee is due at the time agreed in the Contract. If no time of maturity has been agreed, Kickscale shall be entitled to invoice the payments annually in advance. Unless otherwise agreed, the fee is due 14 days after invoicing to the Customer and is to be paid to the account specified in the invoice.

19.3 In the event of default of payment by the Customer, Kickscale shall be entitled to charge default interest at a rate of 9.2 percentage points above the base interest rate from the respective due date. Furthermore, in the event of default of payment, the Customer undertakes to reimburse Kickscale for dunning and collection costs as well as

all costs necessary for appropriate legal prosecution. This shall include, in any event, two dunning letters from a licensed collection agency as well as one dunning letter from a lawyer commissioned with the collection.

20. Indixation

20.1 The periodically recurring fees shall be adjusted in accordance with the Consumer Price Index. The benchmark for the calculation of value stability is the Consumer Price Index 2015 (base year 2015) published monthly by Statistics Austria, or an index replacing it. The reference value for the Contract is the index figure calculated for the month of the conclusion of the Contract. Fluctuations of the index figure upwards or downwards of up to (but excluding) 5% shall be disregarded. This margin shall be recalculated upon each exceeding, whether upwards or downwards, whereby the first index figure outside the applicable margin shall always form the basis both for the recalculation of the claim amount and for the calculation of the new margin. All rates of change shall be calculated to one decimal place.

20.2 The failure to exercise the right to value adjustment shall not constitute a waiver of future adjustments. Index adjustments of the charges do not entitle the Customer to extraordinary termination.

21. Contract term

21.1 The contract is concluded for the agreed term (hereinafter referred to as the "**Contract Term**") and is extended by a further Contract Term after expiry of the Contract Term, unless the Customer or Kickscale objects to such an extension in writing at least three months before the end of the respective Contract Term. In the case of a Contract Term of less than six months, the objection must be made at least one month before the end of the Contract Term. The Customer's objection must be sent by e-mail to sales@kickscale.com.

21.2 If Kickscale objects to the extension of the Contract, the objection shall be made by Kickscale via e-mail to the e-mail address usually used by the Customer for communication with Kickscale.

21.3 Ordinary cancellation of the contract is excluded.

21.4 The Parties are entitled to terminate the contract with immediate effect for good cause. For Kickscale, an important reason exists in particular if

- the fulfillment of the service becomes impossible for reasons for which the Customer is responsible or is further delayed notwithstanding the setting of a grace period of 10 business days;
- the Customer persistently violates material provisions of the Contract;
- the economic capacity of the Customer deteriorates significantly or insolvency proceedings against the Customer are dismissed for lack of assets;

- the Customer disseminates content via the Platform which is suitable to damage the reputation of Kickscale (e.g., violence, harassment, hateful content, nudity and sexual content, exploitation, dangerous or fraudulent goods and activities, or promotion of violent organizations, politically extreme or ideologically questionable views, fake news);
- Kickscale intends to cease operation of the Platform; or
- the Customer objects to the utilization of a (further) sub-service provider or processor by Kickscale or one of its sub-service providers or processors.

21.5 In the event of the termination of a Contract, Kickscale shall store the data of the Customer required for the operation of the Platform for a maximum of a further three months. During this time, the Customer shall be entitled at any time to demand the immediate deletion of this data by Kickscale.