

General Terms & Conditions

Version 1.1 - 2026

1. Preamble

BrightFlare FlexCo ("BrightFlare") sees its business relationships as a partnership-based collaboration shaped by fairness, transparency and mutual trust.

Our General Terms and Conditions ("Terms") form the basis for a successful and reliable collaboration with our customers. They are intended to create a clear framework so that both parties have planning certainty and can achieve long-term success together.

BrightFlare works exclusively with business customers, i.e. companies within the meaning of the Austrian Commercial Code (Unternehmensgesetzbuch, UGB), legal entities under public law, and special funds under public law. Contracts with consumers within the meaning of the Austrian Consumer Protection Act (Konsumentenschutzgesetz) are not concluded.

Individual agreements always take precedence over these Terms. Earlier, deviating arrangements lose their validity upon conclusion of a new contract.

2. Contract Conclusion

2.1 Offers

Our offers may cover services from various areas – in particular consulting services, software services (e.g. development, implementation, licensing), non-software services (e.g. analyses, documentation, training) and third-party products (e.g. software or hardware solutions from manufacturers). All offers prepared by BrightFlare are non-binding and serve as a basis for your decision-making.

2.2 Placing an Order

By accepting our offer, you may instruct us to carry out the services named therein. Your acceptance may be given in writing or electronically (e.g. informally by email, citing the offer number).

2.3 Conclusion of Contract

A legally binding contract is only formed once we confirm your order by means of a written order confirmation. Alternatively, the contract is deemed concluded once we begin performing the service – whichever occurs first.

2.4 Individual Agreements

Individual agreements, oral arrangements or oral commitments are only effective if confirmed by us in writing.

3. Scope of Services and Changes

3.1 Scope of Services

The type and scope of our services arise from the respective contract.

3.2 Type of Pricing Arrangement

Services may be provided on the basis of fixed-price offers or under the time & material (T&M) model:

- **Fixed-price offers:** The agreed price applies to the scope of services defined in the contract. Changes or additional services beyond this scope are agreed separately and billed on a time-and-expense basis.
- **Time & material (T&M):** Billing is based on the hourly or daily rates agreed in the contract. BrightFlare provides the customer with verifiable records of services rendered.

3.3 Changes (Change Requests)

Changes or extensions to the scope of services may be proposed by either party. They only become binding once agreed in writing. Any effects on costs or deadlines are communicated transparently and agreed fairly.

3.4 Schedules

Agreed schedules are generally understood as planning bases and target dates. Binding fixed dates exist only if expressly agreed in writing. Delays caused by the customer's lack of cooperation or by subsequent changes extend the deadlines accordingly.

3.5 Use of Subcontractors

BrightFlare is entitled to engage qualified subcontractors to perform the contractually agreed services. These act exclusively on behalf of BrightFlare; no direct contractual relationship arises between the customer and the subcontractor as a result. BrightFlare remains fully responsible for the proper performance of the services.

4. Prices, Payment and Partial Deliveries

4.1 Prices for Services

Unless otherwise specified in the contract, we bill consulting, support or work services according to our current hourly or daily rates. We are, of course, happy to disclose these openly and transparently on request. Fixed-price agreements apply exclusively to the scope of services clearly described in the contract.

4.2 Prices for Products

The prices stated in the contract apply to software and hardware products. Unless expressly agreed otherwise, these are exclusive of statutory VAT and exclusive of incidental costs such as transport, insurance or customs duties. If you would like us to arrange shipping on your behalf, we will pass on the resulting costs fairly and transparently.

4.3 Fairness in Price Changes

Should material cost factors change after conclusion of the contract (e.g. taxes, levies, energy prices or manufacturers' purchase prices), we reserve the right to make a reasonable price adjustment. In doing so, we place great importance on fairness and transparency: you will always be informed of such changes in good time.

4.4 Payment Terms

Unless otherwise agreed in the contract, our invoices are due within 10 days of the invoice date without deduction. We may issue partial invoices for completed partial services, so that effort and costs remain proportionate for both sides at all times.

4.5 Advance Payment in Special Cases

If it becomes apparent already at the time of contract conclusion that your company is in economically strained circumstances, we reserve the right to provide services only against advance payment or upon the provision of suitable security. This ensures that projects remain reliably plannable for both parties.

4.6 Default in Payment

If an invoice is not paid by its due date, default in payment occurs automatically – no separate reminder is required. From that point on, the statutory default interest applies. We charge a flat fee of EUR 40 for reminders. Any costs beyond that (e.g. collection fees) must be passed on where applicable.

4.7 Instalment Payments

If we have agreed on payment in instalments and an instalment is missed, the entire remaining balance becomes immediately due. Incoming payments are applied in the statutory order: first to costs and fees, then to interest, and finally to the principal claim.

4.8 Partial Deliveries and Partial Invoicing

In order to implement projects efficiently and predictably, we may provide services in partial deliveries or partial performance – of course only where this is reasonable for you. Such partial services may be invoiced separately, provided they are independently usable or represent a completed project phase. You may not reject such partial services as long as they comply with the specifications agreed in the contract.

4.9 Services in the Event of Outstanding Claims

If invoices remain unpaid, we are entitled to temporarily suspend further services or access to ongoing services (e.g. software licenses or support). However, we only resort to this measure where it is genuinely necessary, and we will inform you transparently beforehand.

4.10 Refusal of Performance by Third Parties

Please note: manufacturers or third-party providers may also block services in the event of payment default (e.g. cloud services or software licenses). In such cases, we are obliged to pass these blocks on to you. No claims against BrightFlare arise as a result.

4.11 Set-off and Retention

Set-off against counterclaims is only possible if these are undisputed or have been established with final and binding effect. Rights of retention may only be exercised in the cases provided for by law.

4.12 Limitation of Payment Claims

Our payment claims are subject to the statutory limitation periods. This ensures that claims must be asserted within the periods provided for by law.

5. Customer's Duties to Cooperate

5.1 Your Support Under the Contract

In order for BrightFlare to provide the agreed services successfully and smoothly, your active cooperation is required. This includes in particular:

- timely provision of all necessary information, documents and data,

- ensuring access to systems, workstations, test environments or required infrastructure,
- naming a knowledgeable point of contact,
- coordinating and approving dates, specifications, tests and acceptances.

Any further duties to cooperate are set out in the respective offers.

5.2 Consequences of Insufficient Cooperation

If duties to cooperate are not fulfilled, or not fulfilled in time, the agreed deadlines are extended accordingly. Additional effort (e.g. waiting times, additional trips or staff deployment) is billed at the agreed hourly rates.

5.3 Material Breaches of Duty

If material duties to cooperate are permanently not fulfilled despite a request to do so, BrightFlare is entitled to withdraw from the contract or to suspend further performance. Costs already incurred will in this case be billed fairly.

5.4 Openness Regarding Financial Difficulties

Should your economic situation change such that doubts arise as to your ability to pay (e.g. impending payment difficulties, over-indebtedness, insolvency filing), please inform us early and in writing. This allows us to jointly look for fair solutions. If such circumstances are concealed and only become known later, additional damages may result, for which you may be held liable.

6. Software and Hardware Products

6.1 Pass-Through Provision

Where BrightFlare provides third-party software or hardware products ("products"), this is done exclusively on a pass-through basis. BrightFlare acts as an intermediary for the products; the contracting party for licensing, use, warranty and support remains the respective manufacturer. The contract specifies which products are involved and which manufacturer they originate from.

6.2 Applicability of Manufacturer Terms

Use of the products is governed exclusively by the respective manufacturer's terms. The customer acknowledges that manufacturers may change their terms from time to time. BrightFlare is entitled to accept these terms on the customer's behalf during the ordering process.

6.3 Scope of Manufacturer's Services

The products and the associated services are provided exclusively by the manufacturer or its partners. BrightFlare does not independently review the products for defects.

6.4 Manufacturer's Right to Block

The manufacturer is entitled to temporarily suspend or deactivate the provision or use of products for legal or regulatory reasons, or under its own terms.

6.5 Data Processing by the Manufacturer

In connection with the products, the manufacturer may process personal data and disclose it to affiliated companies, to the extent provided for in the respective manufacturer's terms. Data protection is governed exclusively by the technical and organizational measures implemented by the manufacturer, which the manufacturer may update from time to time.

6.6 Support and Warranty

Support and warranty claims for the products exist exclusively against the respective manufacturer. BrightFlare provides support or additional services only where this has been expressly agreed in the contract.

6.7 Liability

BrightFlare assumes no responsibility for the performance or use of the products. Any liability of BrightFlare for licensed software or hardware products is excluded. Should BrightFlare exceptionally be liable on another legal basis, the limitation of liability applies in accordance with the manufacturer's terms. In this case, the maximum liability amount is limited to the annual license volume of the affected product.

6.8 No Additional Warranties

Beyond the warranties given by the manufacturer, BrightFlare provides no further representations or guarantees regarding the products.

6.9 Delivery Terms for Hardware

Hardware products are delivered in accordance with the Incoterms 2020 agreed in the contract. Unless otherwise agreed, delivery is ex works/FCA by BrightFlare, or delivery directly to the agreed place of performance (DAP). The transfer of risk takes place in each case according to the rules of Incoterms 2020.

7. Data Protection and Confidentiality

7.1 Confidentiality

Both contracting parties undertake to treat as strictly confidential all information, documents and knowledge obtained under the contract that is marked as confidential or is recognizably confidential in nature. Disclosure to third parties is only permitted where necessary for the performance of the contract or where there is a legal obligation to do so.

7.2 Exceptions to Confidentiality

No confidentiality obligation applies to information that

- is already generally known or publicly accessible,
- was independently developed or lawfully obtained from third parties,
- must be disclosed due to legal or regulatory obligations.

7.3 Duration of Confidentiality

The confidentiality obligation continues to apply beyond the end of the contract for a period of five years, unless mandatory statutory provisions require longer retention periods.

7.4 Data Protection

BrightFlare processes personal data exclusively in accordance with the General Data Protection Regulation (GDPR) and the applicable national provisions. Personal data is only used to fulfil the purpose of the contract.

7.5 Customer's Responsibility

The customer ensures that the data it provides has been lawfully collected and transmitted, and that no third-party rights are infringed.

7.6 Use of Subcontractors

BrightFlare is entitled to engage carefully selected subcontractors for data processing. These are contractually obliged to comply with the same data protection and confidentiality standards as BrightFlare itself.

7.7 Technical and Organizational Measures

BrightFlare undertakes to maintain appropriate technical and organizational measures to protect the data processed and to review and adapt these regularly.

7.8 Retention of Documents

BrightFlare is not obliged to permanently retain project documentation, work results or other documents beyond the purpose agreed in the contract. At the customer's request, data and documents will be handed over or deleted after the end of the project, provided no statutory retention obligations exist.

8. Copyright and Usage Rights

8.1 Work Results from Consulting Services

You may use all reports, analyses, concepts or documentation ("work results") created under the contract for your own business purposes, without limitation of time or place, once payment has been made in full.

8.2 Individually Developed Software Services

For individually developed software, interfaces or customizations, you receive a non-exclusive, non-transferable right of use limited to the purpose described in the contract. Disclosure, reproduction or modification is only possible with our prior written consent.

8.3 BrightFlare's Tools, Methods and IPRs

BrightFlare uses its own tools, methods, libraries and templates ("IPRs") in projects. These remain our property. You receive a right of use to the extent required for the agreed services. Any use beyond this is not permitted without our consent.

8.4 BrightFlare's Know-How

BrightFlare may also use in future projects any experience, methods and generic know-how acquired under the contract – naturally without disclosing any of your confidential information or trade secrets.

8.5 Transfer of Rights Only After Payment

Where a transfer of usage rights is provided for, this only takes place once the contractually agreed remuneration has been paid in full.

9. Liability and Warranty

9.1 Principles of Our Liability

BrightFlare provides all services to the best of its knowledge, with the greatest care, and in accordance with the current state of technology and science. However, we cannot guarantee any particular outcome – in particular, we cannot guarantee the complete avoidance of cyber security risks.

9.2 Standard of Liability

We are only liable for damages

- without limitation in cases of intent or gross negligence,
- without limitation for personal injury,
- in all other cases only to the extent that material contractual obligations ("cardinal obligations") have been breached.

9.3 Limitation of Liability

Except in cases of intent, gross negligence and personal injury, our liability is limited in amount to the remuneration agreed in the contract. For third-party products (software or hardware licenses), a liability cap applies in the amount of the respective annual license volume.

9.4 Exclusions of Liability

To the extent permitted by law, we assume no liability for

- indirect damages or consequential damages,
- loss of profit, production downtime or loss of revenue,
- loss or alteration of data,
- damages caused by improper use of products or by changes outside our sphere of influence.

9.5 Third-Party Products

For software or hardware products from third-party providers, responsibility and warranty rest exclusively with the respective manufacturer. Please direct any claims for defects, failures or support directly to the manufacturer. BrightFlare accepts no liability in this regard.

9.6 Time Limits for Claims

Any claims arising from defects or damages must be asserted no later than within twelve months of the provision of the respective service. Thereafter they are excluded, unless the law mandatorily provides for longer periods.

9.7 No Additional Warranties

Beyond the services agreed in these Terms and in the contract, BrightFlare gives no further representations or guarantees.

10. Withdrawal and Termination

10.1 Ordinary Termination of Framework Agreements

Framework agreements and continuing obligations may be terminated by either party with three months' notice to the end of a quarter, unless otherwise agreed in the contract. Individual contracts directed at a specific scope of services cannot be terminated by ordinary notice; they end automatically upon complete performance of the contract.

10.2 Extraordinary Termination

Both parties have the right to terminate the contract for good cause without notice. Good cause exists in particular where

- a material contractual obligation is repeatedly or significantly breached despite a written warning,
- the customer is in significant default of payment despite a reminder,
- duties to cooperate are permanently refused,
- confidentiality or data protection obligations are seriously breached.

10.3 Withdrawal in the Event of Economic Difficulties

Should the customer's economic situation deteriorate such that doubts arise as to its ability to pay (e.g. in the event of impending insolvency or over-indebtedness), BrightFlare is entitled to

- provide further services only against advance payment or suitable security, or
- withdraw from the contract if such security is not provided.

10.4 Effect of Termination or Withdrawal

In the event of termination or withdrawal, all services provided by BrightFlare up to that point must be paid for in full. Services already started but not yet completed will be billed fairly according to the progress achieved.

10.5 Form of Termination

Notices of termination and declarations of withdrawal must be in writing to be effective (email is sufficient, unless the contract provides otherwise).

11. Dispute Resolution

11.1 Partnership-Based Search for Solutions

BrightFlare is convinced that most conflicts are best resolved through open discussion. Both contracting parties therefore undertake, in the event of disagreements, to first seek a joint solution at management level.

11.2 Mediation as an Option

If no agreement is reached within 30 days, either party may propose mediation with a neutral, external expert. The costs of mediation are borne equally by the parties.

11.3 Place of Jurisdiction

If no amicable settlement is reached, the court with subject-matter jurisdiction at BrightFlare's registered office in Austria (currently Graz) has jurisdiction over all disputes arising from or in connection with this contract. Mandatory statutory places of jurisdiction remain unaffected.

12. Force Majeure

12.1 Definition of Force Majeure

Force majeure means any events outside a party's reasonable sphere of influence that make the proper performance of the contract temporarily or permanently impossible. These include, in particular, natural disasters, epidemics, government intervention, labor disputes, failures of power or communication networks, IT disruptions, hacking or cyberattacks, as well as delivery delays by manufacturers or subcontractors.

12.2 Legal Consequences

If a party is unable to provide its services as agreed due to force majeure, the deadlines are extended to a reasonable extent. Both parties are released from their performance obligations for the duration of the force majeure event, without this giving rise to claims for damages.

12.3 Duty to Inform

The affected party will inform the other side without delay of the occurrence, expected duration and end of the force majeure event, in order to jointly find a fair solution for the further course of the project.

12.4 Right of Withdrawal

If the force majeure event lasts longer than three months, either party is entitled to withdraw from the contract. Services already rendered are to be billed fairly and in accordance with their value.

13. Non-Solicitation and Reference Policy

13.1 Non-Solicitation

In order to ensure the continuity and quality of our services, both contracting parties undertake, during the term of the contract and for a period of twelve months thereafter, not to directly or indirectly solicit or employ employees of the other party without prior written consent.

13.2 Consequences of Breaches

Should solicitation or employment occur despite this agreement, the parties undertake to find a fair solution. In such cases, BrightFlare reserves the right to claim damages where demonstrable harm arises from the loss of employees.

13.3 References

BrightFlare only names customers publicly as references (e.g. on the website, in presentations or brochures) where the customer has given express prior consent.

14. Final Provisions

14.1 Written Form

Amendments and additions to this contract, as well as deviations from these Terms, are only effective if agreed in writing. A simple email is sufficient, unless otherwise specified in the contract.

14.2 No Oral Side Agreements

There are no oral side agreements. Everything that applies to the collaboration is set out in writing in the contract or in these Terms.

14.3 Severability Clause

Should any provision of this contract be or become invalid or unenforceable, the validity of the remaining provisions shall remain unaffected. The invalid provision shall be replaced by a provision that comes as close as possible to the economic purpose of the invalid provision.

14.4 Transfer of Rights and Obligations

Rights and obligations arising from this contract may not be transferred to third parties without the prior written consent of the other party.

14.5 Applicable Law

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

14.6 Language

The German-language version of the contract and these Terms is authoritative. Translations serve for convenience only.