General Terms and Conditions of MARIAN GmbH

Effective as of August 31, 2026

§ 1 Provider, Scope of Application, and Definitions

1. These General Terms and Conditions—hereinafter “GTC”—apply to contracts between

   MARIAN GmbH
   Berggartenstraße 12
   04155 Leipzig
   —hereinafter “MARIAN”—

   and its customers regarding

   - the sale and delivery of electronic products, in particular PCIe audio interfaces and accessories,
   - the provision and licensing of driver and application software as a digital component of the associated electronic products, including any updates provided for this purpose, as well as
   - the inspection, maintenance, and repair of electronic products.

2. These Terms and Conditions apply regardless of whether the customer is a consumer, a business, a legal entity under public law, or a special fund under public law. To the extent that individual provisions apply exclusively to certain customer groups, this will be expressly stated.

3. A consumer is any natural person who enters into the contract for purposes that are predominantly neither commercial nor related to their self-employed professional activity.

4. An entrepreneur is a natural or legal person or a partnership with legal capacity that, at the time of concluding the contract, is acting in the course of its commercial or self-employed professional activity.

5. Any deviating, conflicting, or supplementary terms and conditions of the customer shall only become part of the contract if MARIAN has expressly agreed to their validity. This also applies to entrepreneurs even if MARIAN carries out a delivery or service without reservation while being aware of conflicting terms and conditions of the customer.

6. Individual agreements between MARIAN and the customer take precedence over these General Terms and Conditions.

§ 2 Offers and Conclusion of Contracts

1. Contracts are concluded exclusively on the basis of individual communication, in particular via email or telephone.

2. Product descriptions in brochures, catalogs, price lists, technical documentation, or on websites do not generally constitute a binding contractual offer unless they are expressly designated as such.

3. Individual offers from MARIAN are binding for the acceptance period specified therein. If no acceptance period is specified, the offer may be accepted within fourteen calendar days of receipt by the customer.

4. Conclusion of Contracts with Consumers:
   Inquiries and order requests from a consumer submitted by phone or email are not immediately accepted by MARIAN. MARIAN first sends the consumer an offer along with the contract documents and consumer information intended for the respective contract. MARIAN's offer constitutes a new contractual offer. The contract is not concluded until the consumer expressly accepts this offer via email within the acceptance period specified therein. If no acceptance period is specified, the period set forth in paragraph 3 applies. An acceptance declared after the expiration of the acceptance period is considered a new offer by the consumer and requires acceptance by MARIAN.

5. Conclusion of Contracts with Business Customers:
   An order placed by a business via telephone or email constitutes a binding offer to enter into a contract, unless it is expressly designated as a non-binding inquiry. MARIAN may accept this offer within five calendar days of receipt by:

   - an explicit order confirmation in writing,
   - delivery of the ordered goods,
   - notification that the shipment has been processed, or
   - performance of the agreed-upon repair service.

   The first act of acceptance is decisive for determining the time of the conclusion of the contract.

   A mere acknowledgment of receipt does not constitute acceptance of the contractor's offer to enter into a contract unless it expressly states that the contract has been accepted.

5. The type and scope of the delivery or service to be provided are determined by the individual offer, the order confirmation, the agreed-upon technical specifications, and, in addition, these General Terms and Conditions.

6. Subsequent changes or additions to the order require a separate agreement. Any additional costs resulting therefrom and changes to agreed delivery or service deadlines will be communicated to the customer prior to the implementation of the change.

§ 3 Product Quality and Compatibility

1. The agreed-upon quality of a product is determined by the individual offer, the order confirmation, and the technical specifications and product descriptions provided by MARIAN that were expressly incorporated upon conclusion of the contract.

2. Information regarding dimensions, weights, performance values, illustrations, and other technical data is binding to the extent that it has been expressly agreed upon or is relevant to the contractual use of the product.

3. Compatibility with specific hardware, specific operating systems, software products, driver versions, or system configurations is only guaranteed to the extent that

   - such compatibility has been expressly agreed upon,
   - it is specified in the product description applicable at the time the contract was concluded, or
   - the customer may reasonably expect it for products of this type in accordance with statutory provisions.

4. MARIAN assumes no liability for compatibility with hardware, software, operating systems, or system configurations that do not meet the agreed-upon or published system requirements.

5. Technical changes remain permissible provided that they

   - do not impair the agreed-upon quality,
   - do not restrict the use of the product as specified in the contract,
   - are reasonable for the customer, and
   - do not infringe upon the customer's mandatory statutory rights.

§ 4 Prices, Shipping Costs, and Terms of Payment

1. The prices stated in the individual offer or in the order confirmation shall apply.

2. Prices quoted to consumers include the applicable sales tax. Any additional delivery and shipping costs will be listed separately or communicated prior to the conclusion of the contract.

3. For business customers, prices are exclusive of statutory sales tax and exclude agreed-upon delivery, packaging, and shipping costs, unless otherwise specified in the offer or order confirmation.

4. Unless otherwise agreed, payment is due without deduction upon receipt of the invoice and upon delivery of the goods or services owed.

5. For repair services, payment is generally due upon acceptance of the repair work. If acceptance is not possible due to the nature of the service, payment is due upon full completion of the repair work.

6. Payments are considered made as soon as the amount due has been credited to MARIAN's account without reservation.

7. If the customer defaults on payment, the statutory provisions apply. In particular, MARIAN may demand the statutory flat-rate late payment fee from business customers.

8. The customer may set off counterclaims if these

   - undisputed,
   - legally established,
   - acknowledged by MARIAN, or
   - legally related to MARIAN's claim.

   Further statutory set-off rights of consumers remain unaffected.

9. The customer may exercise a right of retention to the extent that it is based on claims arising from the same contractual relationship. Mandatory statutory rights remain unaffected.

§ 5 Delivery and Performance Deadlines

1. Delivery and performance deadlines are specified in the individual offer or the order confirmation.
2. An agreed delivery period does not begin until
   - all technical and commercial issues necessary for performance have been clarified,
   - the customer has fulfilled the agreed obligations to cooperate, and
   - MARIAN has received an agreed-upon advance payment.

   With respect to consumers, this applies only to the extent that the relevant conditions were clearly agreed upon prior to the conclusion of the contract.
3. Subsequent changes requested by the customer may result in a reasonable extension of the delivery or performance period. MARIAN will inform the customer of any significant changes to the deadline.
4. MARIAN is entitled to make partial deliveries, provided that
   - the partial delivery is usable by the customer,
   - the delivery of the remaining ordered products remains guaranteed,
   - this does not result in any significant additional burden for the customer, and
   - the partial delivery is reasonable for the customer, taking their interests into account.
5. If, despite a timely and congruent procurement transaction with a supplier, MARIAN is not supplied, or is supplied incorrectly or late, through no fault of its own, MARIAN may withdraw from the contract to the extent that MARIAN is therefore unable to perform the service owed. MARIAN will inform the customer immediately and refund any consideration already received without delay.
6. If the delivery or performance is temporarily prevented or significantly impeded by an event for which MARIAN is not responsible, which was unforeseeable at the time the contract was concluded, and which could not have been averted even with reasonable care, the delivery or performance period shall be extended appropriately by the duration of the hindrance.
7. Events within the meaning of paragraph 6 may include, in particular, natural disasters, governmental measures, lawful labor disputes, significant disruptions to transportation routes, energy supplies, or communication networks, as well as production or delivery failures for which MARIAN is not responsible.
8. MARIAN shall immediately inform the customer of the onset and expected duration of a significant hindrance. If the hindrance persists for so long that it can no longer be reasonably expected of a contracting party to continue to perform the contract, that party may withdraw from the contract with respect to the portion of the contract that has not yet been fulfilled. Any consideration already provided shall be reimbursed accordingly.
9. The customer’s statutory rights arising from delays in delivery or performance remain unaffected.

§ 6 Delivery, Shipping, and Transfer of Risk

1. Delivery shall be made to the agreed-upon delivery address. If no delivery address has been expressly agreed upon, delivery shall be made to the address most recently provided by the customer.
2. With respect to consumers, the risk of accidental loss or accidental deterioration of the goods generally does not pass to the consumer until the goods are handed over to the consumer or to a third party authorized to receive them and designated by the consumer. If the consumer personally engages a carrier that MARIAN has not previously designated, the statutory provisions regarding the transfer of risk shall apply.
3. With respect to business customers, the risk passes to the customer as soon as MARIAN hands over the goods to the shipping agent, carrier, or any other person designated to carry out the shipment. If shipment is delayed at the customer's request or for a reason for which the business customer is responsible, the risk passes upon notification that the goods are ready for shipment.

§ 7 Default in Acceptance

1. If the customer fails to accept a properly offered delivery or repaired item, or fails to pick it up despite it being due and a request having been made, the statutory provisions regarding default of acceptance shall apply.
2. During the period of default in acceptance, MARIAN is entitled to store the item in question in an appropriate manner at the customer's expense. MARIAN may only charge storage and transportation costs that are actually necessary and reasonable.
3. Further statutory rights of MARIAN, in particular the right to compensation for damages resulting from the default in acceptance, remain unaffected. The customer may prove that no damage or only significantly less damage has been incurred.

§ 8 Repair Orders

1. Repair services shall be performed exclusively to the extent individually agreed upon.
2. When placing an order, the customer shall
   - clearly identify the affected product,
   - describe the identified malfunction as precisely as possible,
   - provide relevant operating conditions, and
   - indicate any previous repair attempts, modifications, or interventions by third parties.
3. Before handing over a device, the customer must remove any accessories, data storage media, and other items not related to the repair, unless their handover has been expressly agreed upon.
4. Troubleshooting, diagnosis, or the preparation of a cost estimate is subject to a fee only if this was agreed upon prior to their performance. An agreed-upon diagnosis fee may also apply even if
   - no fault can be identified,
   - the fault lies outside the scope of the repair order,
   - the product is technically or economically irreparable, or
   - the customer does not authorize the proposed repair.

5. If, during the repair, it becomes apparent that the estimated price will be significantly exceeded or that additional work not covered by the order is required, MARIAN will inform the customer and seek their decision. Until then, MARIAN may suspend the work.

6. If the customer refuses the necessary extension of the order, MARIAN will perform only the work originally agreed upon and that is technically feasible. If such partial performance is not feasible or not possible, the repair order may be terminated in accordance with statutory provisions.

7. Removed parts become the property of MARIAN if this was expressly agreed upon prior to the repair. Otherwise, they will be returned to the customer upon request, provided that

    - no statutory provisions preclude it,
    - the return is technically and practically feasible, and
    - the customer notifies MARIAN of the request for return no later than when the order is placed.

9. MARIAN may use new or technically equivalent, functional replacement parts during a repair, provided that the use of specific parts has not been expressly agreed upon and the use of equivalent parts is reasonable for the customer.

10. MARIAN is not obligated to ensure the success of repairs with respect to defects that

    - are not covered by the repair order,
    - were not detectable upon proper inspection, or
    - are located outside the device or component being worked on by MARIAN.

    MARIAN remains obligated to perform the requested repair in a professional manner.

11. To the extent that the repaired product may contain digital data, settings, or configurations, the customer is responsible for performing a reasonable and up-to-date data backup before the product is handed over. This does not apply if, due to the nature of the product, a data backup is not possible or cannot reasonably be expected of the customer.

12. Upon completion, MARIAN will notify the customer and make the repaired item available for acceptance or pickup, or ship it to the customer.

13. The customer is obligated to accept a repair service that has been performed in accordance with the contract and is ready for acceptance. Acceptance may not be refused due to minor defects.

14. Deemed acceptance with respect to consumers applies only under the statutory conditions. In this case, MARIAN will notify the consumer in writing, together with the request for acceptance, of the legal consequences of a failure to declare acceptance or a refusal to accept without specifying at least one defect.

15. MARIAN is entitled to the statutory merchant's lien on the repaired or refurbished item that has come into MARIAN's possession for any due and payable claims arising from the repair contract.

§ 9 Software and Rights of Use

1. This section applies to the driver and application software provided by MARIAN as a digital component of the hardware, including any updates provided for this purpose. The software is not sold as a standalone product but is provided exclusively in conjunction with or for the intended use of the associated MARIAN hardware.

2. Unless otherwise agreed in the individual contract, the customer is granted a simple, non-exclusive right to use the software provided by MARIAN to the extent intended for the operation or use of the associated MARIAN products.

3. The permitted scope of use, particularly with regard to supported devices, operating systems, computer workstations, or users, is set forth in the individual contract and the software or product description included at the time the contract is concluded.

4. The customer may create backup copies to the extent that this is necessary to ensure future use and is permitted by law.

5. Reproduction, modification, decompilation, or any other alteration of the software is permitted only to the extent that it

   - necessary for the intended use,
   - is expressly permitted by the contract, or
   - is mandatorily permitted by law.

7. The permanently granted right of use may be transferred to a third party together with the associated MARIAN hardware. A transfer separate from the associated hardware is permitted only to the extent that this is expressly agreed upon or is required by law. In the event of a permissible transfer, the previous user must permanently cease their own use of the software and delete any copies of the program remaining in their possession or hand them over to the transferee, unless their continued retention is permitted by law.

8. If the software contains third-party components or open-source components, the license terms of the respective rights holders, as effectively incorporated, shall apply to these components. MARIAN shall make these terms available to the customer in an appropriate manner.

9. Trademarks, copyright notices, serial numbers, and other markings belonging to MARIAN or third parties may not be removed or altered unless there is a legal basis for doing so.

10. MARIAN provides consumers with updates, including security updates, to the extent and within the timeframe required by law, and informs them of the availability of such updates.

11. If the customer fails to install a properly provided update within a reasonable period of time, the statutory provisions regarding liability for resulting defects shall apply. A prerequisite for this is, in particular, that MARIAN has informed the customer of the availability and the consequences of failing to install the update, and that the failure to install is not due to defective installation instructions.

12. Any obligation beyond this to continuously develop the software, to provide new features, or to adapt it to any future hardware or software environment exists only to the extent that this has been expressly agreed upon or is required by law.

13. The provision of software does not give rise to any obligation to provide consulting, training, or customization, unless such services have been expressly agreed upon.

§ 10 Rights in Case of Defects in Goods and Software

1. For goods containing digital elements, the statutory provisions regarding conformity with the contract, provision, updates, subsequent performance, and the statute of limitations apply in particular to consumers.

2. Deviations from the objective requirements for goods, including their digital elements, apply to consumers only if the consumer was specifically informed of such deviations prior to submitting their contractual declaration and the deviation was expressly and separately agreed upon in the contract. Such a deviation is not agreed upon solely by these General Terms and Conditions.

3. For business customers, the statute of limitations for claims for defects in newly manufactured goods and software is twelve months from the transfer of risk or provision, respectively.

4. The reduction provided for in paragraph 4 does not apply to claims
   - arising from intentional or grossly negligent breaches of duty,
   - arising from injury to life, limb, or health,
   - arising from fraudulent concealment of a defect,
   - based on an expressly assumed warranty,
   - arising from statutory supplier or seller recourse claims,
   - due to a third party's right in rem on the basis of which the return of the item may be demanded, or
   - to the extent that mandatory statutory provisions prescribe a longer statute of limitations.

6. If the purchase constitutes a commercial transaction for both contracting parties, the statutory obligations to inspect the goods and give notice of defects shall apply. The buyer must inspect the goods immediately upon delivery, to the extent that this is practicable in the ordinary course of business, and must report any apparent defects without delay. Hidden defects must be reported immediately upon their discovery.

7. In dealings with business customers, MARIAN is initially entitled, at its own discretion, to either remedy the defect or deliver a defect-free item as part of subsequent performance. The customer's statutory rights—in particular in cases of unreasonableness, impossibility, disproportionateness, refusal, or failure of subsequent performance—remain unaffected.

8. The customer must give MARIAN a reasonable opportunity to inspect the alleged defect and to provide subsequent performance. MARIAN shall bear the necessary transportation, travel, labor, and material costs to the extent required by law.

9. Claims for defects do not apply if the defect in question arose after the transfer of risk as a result of

   - natural wear and tear,
   - improper use or storage,
   - failure to follow operating or installation instructions,
   - an unsuitable power supply or other unsuitable operating equipment,
   - mechanical or electrical stress beyond the intended limits,
   - unauthorized modifications or repair attempts, or
   - a system environment that does not comply with the terms of the contract.

10. Modifications or attempted repairs by the customer or third parties do not automatically result in the loss of warranty rights. These rights are forfeited only to the extent that the modification or intervention caused the alleged defect or makes inspection or subsequent performance unreasonably difficult. MARIAN may charge for any additional expenses caused by such difficulties to the extent permitted by law.

11. A warranty exists only if MARIAN expressly designates it as a warranty and has specified its content, duration, and geographical scope. Statutory rights regarding defects are not limited by a warranty.

§ 11 Rights in Case of Defects for Repairs

1. Statutory rights regarding defects apply to repair services provided to consumers.

2. With respect to business customers, claims for defects arising from repair services are subject to a statute of limitations of twelve months from the date of acceptance.

3. The reduction in the statute of limitations under paragraph 2 does not apply to claims

   - arising from intentional or grossly negligent breach of duty,
   - arising from injury to life, limb, or health,
   - arising from fraudulent concealment of a defect,
   - based on an expressly assumed warranty,
   - under the Product Liability Act, or
   - to the extent that mandatory statutory provisions prescribe a longer statute of limitations.

4. In the event of a defective repair, MARIAN is entitled, within the scope of statutory rectification, to either remedy the defect or redo the work, at its own discretion.

5. MARIAN must be given the opportunity to inspect the alleged defect and to provide subsequent performance within a reasonable period of time. The customer’s right to remedy the defect themselves, as well as their other statutory rights, remain unaffected provided the statutory requirements for such action are met.

6. Claims for defects arising from a repair do not apply to

   - defects that were not the subject of the repair order,
   - defects in components not affected by the repair, or
   - damage that occurred after acceptance,

   provided that such damage was not caused by MARIAN.

7. Section 10, paragraphs 9 through 11, applies mutatis mutandis to repair services.

§ 12 Liability

1. MARIAN bears unlimited liability

   - in cases of willful misconduct and gross negligence,
   - for damages resulting from injury to life, limb, or health,
   - in the event of fraudulent concealment of a defect,
   - to the extent of an expressly assumed warranty,
   - under the Product Liability Act, and
   - in other cases of mandatory statutory liability.

2. In the event of a breach of a material contractual obligation due to slight negligence, MARIAN's liability is limited to the damages typical for the contract and foreseeable at the time the contract was concluded. Material contractual obligations are obligations whose fulfillment is essential for the proper performance of the contract and on whose compliance the customer may reasonably rely.

3. In all other respects, MARIAN's liability for damages caused by slight negligence is excluded.

4. The foregoing limitations of liability also apply in favor of MARIAN's legal representatives, employees, and vicarious agents.

5. To the extent that liability is effectively limited under the foregoing provisions, liability for data loss caused by slight negligence is limited to the typical restoration costs that would have been incurred had proper, risk-appropriate, and regular data backups been performed.

6. The above liability provisions apply to both contractual and non-contractual claims.

§ 13 Retention of Title

1. With respect to consumers, MARIAN retains title to the delivered goods until the purchase price owed for such goods has been paid in full.

2. With respect to business customers, MARIAN retains title to the delivered goods until all current and future claims arising from the ongoing business relationship have been settled in full.

3. The business customer is obligated to handle the goods subject to retention of title with due care and to inform MARIAN immediately if

   - the goods subject to retention of title are damaged or destroyed,
   - third parties seize the goods subject to retention of title, or
   - there is a change in their possession or location, to the extent that this may impair MARIAN's security interests.

4. The goods subject to retention of title may not be pledged or transferred by way of security without MARIAN's consent.

5. The business may resell the goods subject to retention of title in the ordinary course of business. The business hereby assigns to MARIAN, in advance, the receivables arising from the resale in the amount of the outstanding invoice amount, including sales tax. MARIAN accepts the assignment.

6. The business owner remains authorized to collect the assigned receivables. MARIAN may revoke this authorization to collect if the business owner fails to settle due receivables

despite a reminder, suspends payments, or a petition is filed to open insolvency proceedings.

7. Upon revocation of the authorization to collect, the business must notify MARIAN of the assigned claims and their debtors, surrender the necessary documents, and notify the debtors of the assignment.

8. Any processing or transformation of the goods subject to retention of title by the business owner is carried out on behalf of MARIAN, without this giving rise to any obligations on the part of MARIAN. If the goods subject to retention of title are processed, combined, or mixed with other items not belonging to MARIAN, MARIAN shall acquire co-ownership of the new item in proportion to the value of the goods subject to retention of title relative to the value of the other items at the time of processing, combination, or mixing.

9. The provisions regarding goods subject to retention of title shall apply mutatis mutandis to the new item created by processing, combining, or mixing.

10. If the realizable value of the security interests held by MARIAN exceeds the total secured claims by more than ten percent, MARIAN shall, at the contractor's request, release security interests of its own choosing to the corresponding extent.

11. The repossession of the goods subject to retention of title requires a withdrawal from the contract, unless otherwise provided by law. MARIAN's statutory rights remain unaffected.

§ 14 Intellectual Property Rights and Confidential Documents

1. MARIAN reserves all property rights, copyrights, and other intellectual property rights to offers, drawings, circuit diagrams, layouts, illustrations, calculations, technical documentation, test equipment, samples, and other documents.

2. Such documents may not be reproduced, made available to third parties, or used for purposes other than those contractually agreed upon without MARIAN's prior consent, unless there is a legal basis for doing so.

3. If the customer provides MARIAN with documents, software, circuits, specifications, or other content, the customer warrants that it is authorized to use such content in accordance with the contract.

4. The customer shall indemnify MARIAN against any valid claims by third parties arising from the fact that a design, specification, or content provided by the customer infringes the rights of third parties. This shall not apply if the customer is not responsible for the infringement.

§ 15 Export and Use Regulations

1. The customer is obligated to comply with applicable national, European, and international export control, embargo, and sanctions regulations to the extent that these apply to the delivery, transfer, or use of the products or software.
2. MARIAN is not obligated to perform a contract to the extent that such performance would violate directly applicable statutory prohibitions or official orders.
3. If a required official permit is definitively denied or cannot be obtained in a timely manner through no fault of MARIAN, the statutory provisions regarding impossibility of performance and rescission shall apply.
4. With respect to consumers, this section applies only to the extent that the relevant provisions are actually applicable in the specific case and do not conflict with mandatory consumer rights.

§ 16 Consumer Dispute Resolution

1. MARIAN GmbH is neither obligated nor willing to participate in dispute resolution proceedings before a consumer arbitration board.

§ 17 Choice of Law and Jurisdiction

1. The law of the Federal Republic of Germany shall apply, excluding the UN Convention on Contracts for the International Sale of Goods.
2. With respect to consumers, the choice of law under paragraph 1 applies only to the extent that it does not deprive them of the protection afforded by mandatory provisions of the country in which they have their habitual residence.
3. If the customer is a merchant, a legal entity under public law, or a special fund under public law, Leipzig shall—to the extent permitted by law—be the exclusive place of jurisdiction for all disputes arising from or in connection with the contractual relationship.
4. MARIAN retains the right to sue a business entity at its general place of jurisdiction as well.

§ 18 Final Provisions

1. Side agreements, additions, and amendments to the contract may be agreed upon individually in the form permitted by law. The precedence of individual agreements remains unaffected.
2. If any provision of these General Terms and Conditions is wholly or partially invalid or unenforceable, the remaining provisions shall remain valid, unless adherence to the contract would constitute an unreasonable hardship for one of the parties.
3. The invalid or unenforceable provision shall be replaced by the applicable statutory provisions.