

1. General

- 1.1** These General Terms and Conditions ("GTC") govern the provision of services by KUERT Datenrettung Deutschland GmbH, hereinafter referred to as "KUERT", with its registered office at Südring 23, 44787 Bochum, registered in the Bochum commercial register under HRB 7566.
- 1.2** KUERT's offers and services are provided exclusively under the following general terms and conditions
- 1.3** The subject matter of the contract is the service to KUERT's customers on the basis and within the scope of the respective contractual agreements made with the customer. The contract is concluded when the customer submits the analysis order/data recovery order. KUERT is entitled to refuse to accept customer orders.
- 1.4** Counter-confirmations with reference to the customer's own terms and conditions of business or purchasing are hereby expressly rejected. Special agreements can be made, but must be in writing and are only valid if they have been confirmed in writing by KUERT before the order is executed.
- 1.5** KUERT's order processing agreement, which regulates the processing of personal data as part of the provision of KUERT's service, is part of these General Terms and Conditions.
- 1.6** By agreeing to these General Terms and Conditions, the customer agrees that his data will be stored and processed as part of the business relationship. The processing of the data, including its transfer to the customer, takes place in compliance with the legal regulations, in particular the provisions on data protection and in accordance with KUERT's data protection declaration.

2. Analysis

- 2.1** KUERT carries out the analysis/examination of the data carrier in its own laboratory in Budapest - HU (EU) based on the analysis order placed in advance by the customer. Only the online analysis registration via the KUERT website or the currently valid PDF form for analysis registration can be used for this purpose. Only KUERT decides whether other forms of order placement for analysis are accepted. In this case, a written order confirmation from KUERT is required (usually by e-mail).
- 2.2** In the case of physically damaged data carriers, opening the storage medium for analysis/examination (hard drives only in the clean room) is usually unavoidable, therefore KUERT requires consent to open the data carrier. The customer acknowledges that this may invalidate (forfeit) any warranty claims of the dealer/manufacturer.
- 2.3** When registering for the analysis, KUERT is expressly requested by the customer to begin the examination immediately. According to §312g paragraph 2 BGB, the contract is therefore excluded from the right of withdrawal. By sending/submitting the data carrier, the customer confirms that his right of cancellation expires when the contract begins to be executed.
- 2.4** By registering for the analysis, the analysis order is awarded to KUERT; the customer assures that he has provided all information truthfully and that he is entitled to dispose of all registered/submitted data storage media and the data stored on them. If the client (customer) is not the owner of the data or the data medium, he assures that he has been commissioned and authorized by the owner to use the services of KUERT on his behalf.
- 2.5** After receiving the analysis registration, an order number/identification number will be assigned by KUERT and communicated to the customer in writing. For any information regarding the commissioned analysis/data recovery, the order/identification number provided by KUERT is required. The customer undertakes to treat the order/identification number confidentially and may only pass it on to third parties at his own risk. KUERT is not liable for any resulting damage, it is the sole responsibility of the customer.
- 2.6** The submission, be it by the client himself or by third parties, can only be made by stating the order/identification number. Otherwise, KUERT can refuse to accept data carriers.
- 2.7** When submitting data carriers in person, KUERT may require presentation of an identity card/passport in order to accept the order or data carrier.
- 2.8** Receipt of the data carrier accessories and target data carrier will be confirmed in writing by KUERT (receipt report will be sent by e-mail). If data media and accessories are submitted in person, a receipt (acceptance protocol) will be created and handed over to the customer.
- 2.9** For encrypted data carriers (e.g. with Bitlocker), the customer must provide the software/hardware tools and passwords required for analysis/data recovery upon KUERT's request.
- 2.10** The analysis is carried out according to the selected service level (costs according to the valid price list) and the information from the analysis order. KUERT assumes no liability for errors/damages that arise due to incorrect or insufficient information.
- 2.11** KUERT gives no guarantee that the analysis deadline will be kept. In exceptional cases, the investigation may therefore take longer.
- 2.12** The analysis/investigation is carried out regarding KUERT's data recovery possibilities.
- 2.13** During the analysis, the data carrier is examined; accessories/hardware (e.g. external cases, laptops, DVD players or others) are not checked. If KUERT determines that submitted accessories/hardware are necessary for analysis/data recovery, KUERT can also examine or use these in individual cases.

- 2.14** Data carriers should generally be submitted by the customer without accessories/hardware. If the data carrier arrives at KUERT installed in accessories/hardware (e.g. in an external housing, laptop, DVD player or something else), KUERT will decide at its own discretion whether to remove the data carrier or not and can refuse analysis/data recovery. If accessories/hardware are required for analysis/data recovery, KUERT can request them later.

3. Analysis report / offer

- 3.1** After completing the analysis, KUERT creates an analysis report and sends it to the customer by e-mail.
- 3.2** Components of the analysis report are: analysis results with diagnosis, prognosis and, if possible, an offer for data recovery.
- 3.3** The prognosis is not a guarantee that the data recovery will be successful. KUERT assumes no warranty, express or implied, for the recovery of all or part of the data. KUERT makes no further guarantees regarding the applicability or full functionality of the data.
- 3.4** KUERT can offer data recovery on a success basis. In this case, the data recovery is not guaranteed to be successful.
- 3.5** The basis for measuring success is the information provided by the customer in the analysis registration in the "important data to be saved" section or the important data communicated in writing with the analysis order. If no information has been provided regarding important data, all data on the storage medium is considered the basis for measuring success (unless otherwise agreed in writing). Complaint claims cannot be accepted without information.
- 3.6** The offer includes the binding data recovery price and other costs incurred in the event of success /non-success (e.g. spare part costs already used, processing fees). If replacement parts are required, the possible additional costs will be listed accordingly. If a spare part has been provided by the customer but was judged to be incompatible/unusable, KUERT will reject it and purchase an identical model and invoice it to the customer.
- 3.7** Unless otherwise communicated in writing by KUERT, the offer is valid for 30 days.
- 3.8** If KUERT does not offer data recovery with the analysis report, the data carrier will be returned or destroyed in accordance with data protection regulations in accordance with the information provided by the customer in the analysis registration/analysis order.
- 3.9** If the customer has not provided any explicit information in this regard or if there is no response to e-mails, KUERT will return the data carrier at the customer's expense after a period of 7 days from the dispatch of the analysis report.

4. Data recovery order

- 4.1** The customer can order the data recovery based on the KUERT analysis report or refuse the offer.
- 4.2** KUERT grants the customer a 30-day decision period and keeps the information necessary for data recovery as well as the data carrier (including the submitted hardware/accessories). If the order is not placed/rejected within these 30 days, KUERT can return the data carrier to the customer for a fee. Data recovery can then only be ordered after the data carrier in question has been analyzed again.
- 4.3** If the customer refuses the offer to recover data, the customer can then state whether he would like to receive the data carrier back or whether KUERT should dispose of it in accordance with data protection regulations (in accordance with protection class 2 (H4, S2, O3, T4, E3)) (return shipping / disposal costs according to the price list / analysis report). If no explicit information is provided in this regard when the offer is rejected, the data carrier will be returned or disposed of in accordance with data protection regulations in accordance with the information provided by the customer in the analysis registration/analysis order.
- 4.4** If the customer has not provided any explicit information in this regard or if there is no response, KUERT will return the data carrier at the customer's expense after a period of 7 days after rejection of the offer.
- 4.5** By ordering the data recovery, the parties enter into a binding contract, an essential part of which is the information contained in the analysis order placed in advance. This also applies to the indication of the most important data, which is considered the basis for success. (see point 3.5)
- 4.6** By ordering the data recovery, KUERT is expressly requested by the customer to begin executing the data recovery processes immediately. According to §312g paragraph 2 BGB, the contract is therefore excluded from the right of withdrawal. By placing the order, the customer confirms that his right of cancellation expires when the execution of the contract begins.
- 4.7** Once the order is placed, the contract can no longer be changed by the customer. In principle, the client is also the invoice recipient.
- 4.8** If the customer terminates the data recovery process prematurely, a processing fee of 20% of the stated data recovery price and any spare parts that have already been installed will be charged.

5. Data recovery

- 5.1** KUERT carries out the services with the necessary care and expertise. The appropriate treatment in individual cases is left to KUERT's professional discretion.
- 5.2** If KUERT determines during data recovery that the order cannot be carried out as agreed, KUERT can withdraw from the contract or offer the customer a possible change to the order.

- 5.3** The first step is always to create a sector-based image of the original disk. The time of the preparatory work and the creation of the copy cannot be precisely defined. The image is used to logically reconstruct the file system/data.
- 5.4** During the data recovery process, KUERT will inform the customer about the progress and the current status of the processing at its own discretion.
- 5.5** If the data recovery is successful, KUERT creates a list of the rescued data, which the customer can access via a securely generated, password-protected link. KUERT sends the customer the link to the file list with the corresponding password by e-mail.
- 5.6** The file list is used by the customer to check the rescue result. The information already provided in the analysis order applies regarding the data to be saved.
- 5.7** In certain cases, depending on the type of data recovery, KUERT may waive the creation of the file list, in which case the customer will be offered a different way of checking the recovered data.
- 5.8** Unless otherwise agreed in writing, data recovery is deemed to have been successfully completed when data can be restored in accordance with the data recovery rate stated in the offer. This quota refers to the information provided by the customer in the analysis registration in the "important data to be saved" section or the important data communicated in writing with the analysis order. If no information has been provided by the customer in this regard and has not been supplemented by the customer before the data recovery is commissioned, the data recovery rate refers to all data on the storage medium.
- 5.9** The data recovery is also deemed to have been successfully completed if the important data specified by the customer was demonstrably not on the storage medium (e.g. the customer submitting the wrong data medium) and KUERT has restored data in accordance with the data recovery rate stated in the offer.
- 5.10** The data recovery rate is proven with the file list. The file list is therefore considered proof of the service provided by KUERT.
- 5.11** If the saved data deviates from the data recovery rate stated in the offer by up to 10%, there will be no reduction in the agreed price. In the event of a greater deviation, KUERT can withdraw from the contract unless the customer agrees to a possible change to the order. If the customer rejects the change, the data recovery is considered unsuccessful and no data will be handed over.
- 5.12** KUERT only checks quantitative differences and the correctness of the file headers. The headers of the rescued files are checked using a special software procedure. For data protection and security reasons, KUERT generally neither examines content nor does KUERT need to know the personal data in order to successfully complete the data recovery. Should KUERT consider a random check of the content to be necessary in individual cases, KUERT is entitled to carry out this.
- 5.13** KUERT does not guarantee that the original, original folder/file structures will be present upon restoration. This mainly depends on whether the administration file can be repaired.
- 5.14** KUERT makes no further guarantees regarding applicability, full functionality or whether any data recovered by KUERT will be of any use to the client, even though the data seem to be 100% logically faultless after data recovery.
- 5.15** If the data recovery is successfully completed, KUERT is entitled to invoice the data recovery according to the costs stated in the offer.
- 5.16** If the customer does not raise any written objections within 14 days of receiving the file list, the order is deemed to have been fulfilled and the data recovery is therefore considered to have been successfully completed.

6. Completion, target device

- 6.1** If successful, KUERT basically gives the customer all the saved data that has been shown in the file list; there is no selection of data.
- 6.2** The recovered data will be transferred to a separate data medium for handover/delivery, never on the data medium submitted for data recovery, even if it were fully functional.
- 6.3** KUERT will offer the customer a target data carrier with sufficient capacity depending on the amount of data saved and inform them of the costs for this. Alternatively, the customer can provide a data medium within 14 days, after consultation with KUERT, if it has not already been submitted with the defective data medium. The target disk must be unencrypted and empty without exception. In the case of non-empty or encrypted data carriers, KUERT can refuse to back up to such a medium.
- 6.4** If the customer submits their own target data carrier for the transmission of rescued data, KUERT cannot guarantee that the customer will later have problem-free and trouble-free access to this target data carrier and the saved data.
- 6.5** If the target data medium submitted by the customer is judged by KUERT to be faulty/damaged, KUERT will not use it to transmit the data. KUERT is then entitled to use a target data medium of sufficient capacity instead and to charge the customer for it.
- 6.6** If possible, the target data carrier is formatted according to the customer's wishes. If not specified, the original file system from the original data carrier is usually selected. However, KUERT reserves the right to freely choose the formatting.
- 6.7** Unless otherwise agreed in writing, the target data medium is generally not a bootable medium. For system-relevant data, the customer is responsible for integrating it into the original environment.
- 6.8** The target data carriers are encrypted by KUERT before shipping/handover to the customer for data protection and security reasons.
- 6.9** KUERT reserves the right to choose the encryption software.

- 6.10 The password to decrypt the target disk will be sent to the customer in a separate e-mail.
- 6.11 At the customer's express request (requires written form), KUERT may, at its own discretion, forego encryption of the target data carrier. In this case, however, KUERT is not liable for any resulting damage; this is the sole responsibility of the customer.
- 6.12 KUERT can also offer an encrypted download of the data from its own secured server or a cloud of your choice at no additional cost. The decision as to whether the data is transmitted via download or via a target data medium remains the responsibility of the customer.

7. Payment Terms

- 7.1 If the data recovery is successfully completed, KUERT will send the corresponding invoice to the customer in electronic form (by e-mail) based on the costs stated in the analysis report. The invoice can include individual items or a flat rate.
- 7.2 Invoicing is generally made in advance - prepaid.
- 7.3 A payment term can be agreed in individual cases, but requires the explicit written consent of KUERT.
- 7.4 KUERT generally only accepts bank transfer to the account provided by KUERT with the invoice. Different payment methods require the explicit written consent of KUERT.
- 7.5 Payment has been made when the claim has been irrevocably credited to KUERT's account. Unauthorized deductions will be charged later. The assignment or pledging of claims against KUERT are excluded.
- 7.6 If payment is delayed despite multiple reminders (three written payment reminders), KUERT has the right to assign the claim to a debt collection company. The debtor bears the resulting costs.

8. Lien and retention of title

- 8.1 The devices and data remain the customer's property at all times. KUERT has no ownership, use or other rights to them (except the right to own and use your equipment and data to provide the Services).
- 8.2 KUERT has the right to retain both the data and the submitted data carriers and other devices until final payment or irrevocable credit has been made to KUERT's business account. KUERT is therefore entitled to a lien (on the data carrier) until final payment is made.
- 8.3 In the event of a legal dispute as a result of a legal dunning or legal action due to late payment, KUERT reserves the right to delete all saved data within a period of two years from the date of invoice, as well as to destroy the data storage media submitted by the customer in accordance with data protection regulations and all others dispose of submitted items. However, the claim for the service provided still remains.

9. Handover / shipping

- 9.1 Unless otherwise agreed in writing, saved data will only be handed over/sent if the invoice amount has already been paid (see point 7.5).
- 9.2 The target data carrier can be picked up in person during opening hours at KUERT customer service by prior appointment.
- 9.3 If collection is carried out by a third party, written authorization from the client is required.
- 9.4 If data carriers are picked up in person, KUERT may require the presentation of an identity card/passport in order to hand over the data carrier and otherwise refuse handover.
- 9.5 The target data carrier can be sent using a transport service provider.
- 9.6 KUERT selects the transport service provider at its own discretion.
- 9.7 KUERT is not liable for delivery delays, loss or damage during transport, even between the places of performance.
- 9.8 When the data carriers are handed over to the respective transport company, the risk is transferred to the customer. KUERT assumes responsibility for organizing the transport (both collection from the customer and return).
- 9.9 Unless otherwise agreed in writing, the original data carrier will be returned in accordance with the information in the analysis order. If the customer does not provide any information regarding the return, the data carrier will be returned at the customer's expense due to ownership rights.
- 9.10 The original data carrier, including its defective components (or read-write unit, PCB), is returned to the customer. Any spare parts generally do not remain installed in the original data carrier and will not be handed over. Unless the customer has provided it.
- 9.11 After the analysis/data recovery has been completed, submitted data carriers will not be installed back into external housings or other additionally submitted hardware/accessories (such as laptops, DVD players or others). The customer receives back all valuables handed over to KUERT.
- 9.12 If delivery of data storage media and/or other items by the courier service commissioned by KUERT is not possible (e.g. package is returned), KUERT will inform the customer of this by e-mail and grant a period of 60 days to clarify the matter. After the deadline has expired, KUERT can destroy the data carrier at the customer's expense in accordance with data protection regulations (see point 11.5), dispose of the other items and reserves the right to delete the saved data.

10. Retention / complaint period after data recovery

- 10.1 After handing over/shipping the target data carrier or submitting the access data for downloading the data, KUERT keeps a backup copy of the rescued data for 14 days. This is intended to ensure

that in the event of loss or damage during shipping, no further data recovery would have to be carried out.

- 10.2** KUERT grants the customer a complaint period of 14 days, counting from the day following the handover/shipping of the target data carrier/the access data for downloading the data. The customer must check the data provided within these 14 days.
- 10.3** Complaints regarding missing data cannot be accepted if these were not specified when placing the analysis/order. This also applies if data is mentioned that has already been shown in the file list as not functionally restored / damaged.
- 10.4** Any claims or objections must be made in writing and must be communicated to KUERT within the above-mentioned period.
- 10.5** KUERT undertakes to investigate the complaint immediately.
- 10.6** If the customer does not object within this period, later complaints are excluded.
- 10.7** After the retention period for the backup copy has expired, or after the complaint has been clarified and concluded, KUERT will irrevocably delete the backup copy of the saved data.
- 10.8** The customer can request an extension of the retention period for a fee (see price list). The extension must be in writing and must be received by KUERT within 10 days of handover/shipping of the target data carrier/the access data for downloading the data.
- 10.9** After the deadlines have expired, KUERT is not liable for any problems or damage that occur on the data, the data carrier or in connection with them.

11. Data protection

- 11.1** The customer agrees that his personal data will be stored and processed as part of the provision of the service.
- 11.2** The processing of the data, including its transfer to the customer, takes place in compliance with the legal regulations, in particular the provisions on data protection.
- 11.3** KUERT assumes full responsibility for the confidential treatment of the customer's data. All data and information received during the execution of this contract will be used by KUERT exclusively for the purpose of executing the order within the KUERT Group, which includes KUERT Datenrettung Deutschland GmbH and Kürt Information Management & Data Recovery Co. In principle, personal data will not be passed on to third parties unless this is necessary for the provision of the services (e.g. transport companies (see point 9.5) / accounting) or arises from legal obligations.
- 11.4** KUERT is entitled to transmit the data to legal and regulatory authorities to report actual or suspected violations of applicable laws or regulations.
- 11.5** The destruction of data media is carried out by an external service provider in accordance with DIN 66399 protection class 2 (H4/ S2 / O3 / T4 / E3). KUERT selects this service provider at its own discretion.

12. Disclaimer

- 12.1** KUERT assumes no liability for any loss of data or profits, including insurance or other costs, even if KUERT or an authorized dealer or agent has knowledge of the possible loss or damage.
- 12.2** KUERT assumes no responsibility for damage caused by the nature of the data medium delivered and which cannot be recognized by a simple professional inspection by KUERT, unless KUERT is at fault.
- 12.3** KUERT assumes no responsibility for any physical or other damage or destruction to the devices or other equipment that may occur or the voiding of any warranties.
- 12.4** KUERT is not liable for damage to additionally submitted hardware/accessories caused by transport, dismantling or other reasons.
- 12.5** KUERT assumes no liability for loss/damage to data media during transport, including between the places of performance.
- 12.6** KUERT is liable for lost data carriers up to a maximum of the material value of the data carrier.
- 12.7** Furthermore, KUERT assumes no liability for incorrect treatment carried out by KUERT due to incorrect or incomplete information.

13. Written form

- 13.1** All agreements must be in writing.

14. Place of performance

- 14.1** The place of performance is KUERT's headquarters in Bochum and/or the KÜRT Group's laboratories in Budapest, HU (EU).

15. Place of jurisdiction

- 15.1** The exclusive place of jurisdiction for all current and future claims arising from the business relationship with merchants, including bills of exchange and check claims, is KUERT's registered office.
- 15.2** The same place of jurisdiction applies if the customer does not have a general place of jurisdiction in Germany, moves his place of residence or usual place of abode outside of the country after the contract has been concluded, or if his place of residence or usual place of abode is not known at the time the action is filed.

16. Applicable Law

16.1 The law of the Federal Republic of Germany applies exclusively.

17. Severability clause

17.1 Should individual provisions of these General Terms and Conditions be or become void, ineffective or contestable, the remaining provisions remain unaffected..

(Stand: Februar 2024)



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