

## **1 General principles / scope of application**

- 1.1 These General Terms and Conditions ("GTC") shall apply exclusively to all legal transactions between the Customer and the Contractor. The version valid at the time of the conclusion of the contract shall be authoritative in each case.
- 1.2 These GTC shall also apply to all future contractual relationships, thus even if no express reference is made thereto in the case of additional contracts.
- 1.3 Any conflicting General Terms and Conditions of the Customer shall be invalid unless expressly acknowledged in writing by the Contractor.
- 1.4 In the event that individual provisions of these GTC should be and/or become invalid, this shall not affect the validity of the remaining provisions and the contracts concluded on the basis thereof. The invalid provision shall be replaced by a valid provision that comes as close as possible to its meaning and economic purpose.

## **2 Scope of the Consulting Order / Substitution**

- 2.1 The scope of a specific consulting assignment shall be agreed within the framework of individual call-offs.
- 2.2 The Contractor shall be entitled to have the tasks incumbent upon it performed in whole or in part by third parties. Payment of the third party shall be made exclusively by the Contractor itself. No direct contractual relationship whatsoever shall arise between the third party and the Customer.
- 2.3 The Customer undertakes not to enter into any business relationship whatsoever with persons or companies used by the Contractor for the performance of its contractual obligations during or up to one year after the termination of this contractual relationship. In particular, the Customer shall not commission these persons and companies with such or similar consulting services that the Contractor also offers. For each violation of this provision, the Principal shall be subject to a contractual penalty in the amount of two gross annual salaries of the enticed person with his employer prior to the enticement, but at least in the amount of € 100,000.00 for each individual case. If the amount of the applicable gross annual salary cannot be determined, a contractual penalty in the amount of € 120,000.00 shall apply. The assertion of further claims for damages remains unaffected.

## **3. duty of clarification of the client / declaration of completeness**

- 3.1 The Principal shall ensure that the organizational framework conditions for the fulfillment of the consulting assignment at its place of business allow the Contractor to work as undisturbed as possible in a manner conducive to the rapid progress of the consulting process.

- 3.2 The Principal shall also inform the Contractor comprehensively about previously performed and/or ongoing consultations - also in other specialist areas.

- 3.3 The Principal shall ensure that the Agent is provided with all documents necessary for the fulfillment and execution of the consulting assignment in a timely manner, even without the Agent's special request, and that the Agent is informed of all processes and circumstances that are of importance for the execution of the consulting assignment. This shall also apply to all documents, processes and circumstances which only become known during the work of the Consultant.

- 3.4 The Client shall ensure that its employees and the employee representation (works council) provided for by law and established, if any, are informed of the Contractor's activities even before they commence.

## **4. safeguarding independence**

- 4.1 The contractual partners undertake to be loyal to each other.
- 4.2 The contracting parties mutually undertake to take all precautions suitable to prevent the independence of the commissioned third parties and employees of the Contractor from being jeopardized. This shall apply in particular to offers made by the Client for employment or the acceptance of orders on its own account.

## **5 Reporting / Duty to Report**

- 5.1 The Contractor undertakes to report to the Principal on its work, that of its employees and, if applicable, that of commissioned third parties in accordance with the progress of the work.
- 5.2 The Principal shall receive the final report within a reasonable period of time, i.e. two to four weeks, depending on the type of consulting assignment after completion of the assignment.
- 5.3 The Contractor shall be free from instructions in the production of the agreed work, shall act at his own discretion and on his own responsibility. He shall not be bound to any specific place of work and any specific working hours.

## **6. protection of intellectual property**

- 6.1 The copyrights to the works created by the Contractor and its employees and commissioned third parties (in particular offers, reports, analyses, expert opinions, organizational plans, programs, performance descriptions, drafts, calculations, drawings, data carriers, etc.) shall remain with the Contractor. They may be used by the Client during and after termination of the contractual relationship exclusively for purposes covered by the contract. In this respect, the Client shall not be entitled to reproduce and/or distribute the work(s) without the Contractor's express consent. Under no

circumstances shall an unauthorized reproduction/dissemination of the Work give rise to any liability on the part of the Contractor - in particular, for example, for the correctness of the Work - vis-à-vis third parties.

6.2 The Client's violation of these provisions shall entitle the Contractor to immediately terminate the contractual relationship prematurely and to assert other statutory claims, in particular for injunctive relief and/or damages.

## **7. Warranty**

7.1 The Contractor shall be entitled and obliged, irrespective of fault, to remedy any inaccuracies and defects in its performance that become known. He shall inform the Client thereof without delay.

7.2 This claim of the Client shall expire after six months after the respective service has been rendered.

## **8 Liability / Compensation**

8.1 The Contractor shall be liable to the Customer for damages - except for personal injuries - only in case of gross negligence (intent or gross negligence). This shall also apply mutatis mutandis to damage caused by third parties engaged by the Contractor.

8.2 Claims for damages by the Customer may only be asserted in court within six months of knowledge of the damage and the damaging party, but at the latest within three years of the event giving rise to the claim.

8.3 The Customer shall in each case furnish proof that the damage is due to the fault of the Contractor.

8.4 If the Contractor performs the work with the assistance of third parties and warranty and/or liability claims arise against these third parties in this context, the Contractor shall assign these claims to the Customer. In this case, the Client shall have priority over these third parties.

## **9 Secrecy / Data Protection**

9.1 The Contractor undertakes to maintain absolute secrecy about all business matters that come to its knowledge, in particular business and trade secrets as well as any information that it receives about the nature, scope of operation and practical activities of the Client.

9.2 Furthermore, the Contractor undertakes to maintain secrecy vis-à-vis third parties about the entire content of the Work as well as all information and circumstances which it has received in connection with the creation of the Work, in particular also about the data of clients of the Principal.

9.3 The Contractor shall be released from the duty of confidentiality with respect to any assistants and substitutes of which he makes use. However, he shall fully transfer the duty of confidentiality to them and shall be liable for their breach of the duty of confidentiality as for his own breach.

9.4 The duty of confidentiality shall extend indefinitely beyond the end of this contractual relationship. Exceptions exist in the case of legally stipulated obligations to testify.

9.5 The Contractor shall be entitled to process personal data entrusted to it within the scope of the purpose of the contractual relationship. The Customer shall warrant to the Contractor that all necessary measures have been taken for this purpose, in particular those within the meaning of the Data Protection Act, such as declarations of consent by the persons concerned.

5.6 In the event of an intentional or grossly negligent violation of the above provisions by the Contractor, a contractual penalty of EUR 10,000 shall become due, excluding the continuation connection. This shall not affect the assertion of further damages and this shall also apply in cases of slight negligence.

## **10. fee**

10.1 The hourly rate due for the services of the Contractor shall be specified in the individual call-offs. The services shall be invoiced monthly in retrospect by the Contractor by means of a detailed statement of services. A properly submitted invoice shall be due for payment within 14 days.

10.2 Any cash expenses, out-of-pocket expenses, travel expenses, etc. incurred shall be reimbursed additionally by the Principal against invoicing by the Contractor.

10.3 If the agreed work is not performed due to reasons on the part of the Client or due to a justified premature termination of the contractual relationship by the Contractor, the Contractor shall retain the right to payment of the entire agreed fee less any expenses saved. In the event that an hourly fee has been agreed upon, the fee shall be paid for the number of hours that could have been expected for the entire agreed work, less the expenses saved. The expenses saved shall be agreed as a lump sum of 30 percent of the fee for those services which the Contractor has not yet performed by the date of termination of the contractual relationship.

10.4 In the event of non-payment of interim invoices, the Contractor shall be released from its obligation to provide further services. However, this shall not affect the assertion of further claims resulting from non-payment.

## **11 Electronic invoicing**

11.1 The Contractor shall be entitled to send invoices to the Customer also in electronic form. The Customer expressly agrees to the Contractor sending invoices in electronic form.

## **12 Duration of the contract**

12.1 In principle, this contract shall end upon completion of the project.

12.2 Notwithstanding the foregoing, the contract may be terminated by either party at any time for good cause without notice. Good cause shall be deemed to exist in particular

- if a contractual partner violates essential contractual obligations or
- if a contractual partner defaults on payment after insolvency proceedings have been opened.

- if there are justified doubts regarding the creditworthiness of a contractual partner in respect of whom insolvency proceedings have not been opened and the contractual partner, at the request of the Contractor, neither makes advance payments nor provides suitable security prior to performance by the Contractor and the poor financial circumstances were not known to the other contractual partner when the contract was concluded.

### **13. final provisions**

13.1 The contracting parties confirm that they have provided all information in the contract conscientiously and truthfully and undertake to notify each other immediately of any changes.

13.2 Amendments to the contract and these GTC must be made in text form, as must any waiver of this formal requirement. There shall be no verbal collateral agreements. 13.3 The Contractor shall be entitled to amend these GTC by unilateral declaration at its reasonable discretion. Intended amendments shall be notified to the Customer at least four weeks before they take effect ("Amendment Period"). In the event of changes that are not exclusively beneficial to the Client, the Client shall have an extraordinary right of termination within the Amendment Period. In the event of such extraordinary termination, these GTC shall terminate upon expiry of the Change Period.

13.4 This Agreement shall be governed by Austrian substantive law, excluding the conflict of law rules of private international law. The place of performance shall be the place of the Contractor's professional establishment. The court of St. Pölten shall have jurisdiction for disputes.