

General terms and conditions of the Reichl and Partner advertising agency Gesellschaft m.b.H.

1. Validity, conclusion of contract

- 1.1. Reichl und Partner Werbeagentur GmbH, hereinafter referred to as the Agency, provides its services exclusively on the basis of the following General Terms and Conditions (GTC). These apply to all legal relationships between the agency and the customer, even if they are not expressly referred to. The GTC are exclusively applicable to legal relationships with entrepreneurs.
- 1.2. The version valid at the time of the conclusion of the contract shall be authoritative in each case. Deviations from this as well as other supplementary agreements with the customer are only effective if they are confirmed in writing by the agency.
- 1.3. Any terms and conditions of the customer, even if known, are not accepted, unless otherwise expressly agreed in writing in individual cases. The agency expressly objects to the customer's GTC. A further objection to GTC of the customer by the agency is not required.
- 1.4. Amendments to the GTC shall be notified to the customer and shall be deemed to be agreed if the customer does not object to the amended GTC in writing within 14 days; the customer shall be expressly informed of the significance of silence in the notification.
- 1.5. Should individual provisions of these General Terms and Conditions be invalid, this shall not affect the binding nature 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 the meaning and purpose of the invalid provision.
- 1.6. The offers of the agency are subject to change and non-binding.

2. Social media channels

Before placing the order, the agency expressly points out to the customer that the providers of "social media channels" (e.g. Facebook, hereinafter referred to as "providers") reserve the right in their terms of use to reject or remove advertisements and appearances for any reason. Accordingly, the providers are not obliged to forward content and information to the users. There is therefore a risk, which the agency cannot calculate, that advertisements and appearances may be removed without cause. In the event of a complaint from another user, the providers are granted the opportunity to make a counterstatement, but in this case, too, the content is removed immediately. In this case, the restoration of the original, lawful state may take some time. The agency works on the basis of these terms of use of the providers, over which it has no influence, and also bases the order of the customer on them. By placing the order, the customer expressly acknowledges that these terms of use (also) determine the rights and obligations of any contractual relationship. The agency intends to execute the order of the customer to the best of its knowledge and belief and to observe the guidelines of "social media channels".

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to comply with. However, due to the currently valid terms of use and the simple possibility of each user to claim infringements and thus achieve a removal of the content, the agency cannot guarantee that the commissioned campaign is also retrievable at all times.

3. Concept and idea protection

If the potential client has already invited the agency to prepare a concept in advance and the agency complies with this invitation before the main contract is concluded, the following regulation shall apply:

- 3.1. Already through the invitation and the acceptance of the invitation by the agency, the potential customer and the agency enter into a contractual relationship ("pitching contract"). This contract is also based on the GTC.
- 3.2. The potential customer acknowledges that the agency already provides advance services for a fee with the concept development, although he has not yet assumed any service obligations himself.
- 3.3. The concept is protected by copyright law in its linguistic, graphic and strategic parts as far as they reach the level of a work. The potential customer is not permitted to use and edit these parts without the agency's consent on the basis of copyright law alone.
- 3.4. The concept also contains ideas relevant to advertising that do not reach the level of a work and thus do not enjoy the protection of copyright law. These ideas are at the beginning of every creative process and can be defined as the igniting spark of everything that is later brought forth and thus as the origin of marketing strategies. Therefore, those elements of the concept are protected which are peculiar and give the marketing strategy its characteristic imprint. In particular, wording, stories, distinctive PR measures, media distributors, CRM-oriented media strategies and strategic ideas, etc. are considered ideas in the sense of this agreement, even if they do not reach the level of a work.
- 3.5. The potential customer undertakes to refrain from commercially exploiting or having exploited or using or having used these creative PR ideas presented by the agency within the framework of the concept outside the corrective of a main contract to be concluded at a later date.
- 3.6. If the potential customer is of the opinion that ideas were presented to him by the agency, which he already came up with before the presentation, he must inform the agency of this within 14 days after the day of the presentation by e-mail, citing evidence that allows a temporal allocation.
- 3.7. In the opposite case, the contracting parties shall assume that the agency has presented the potential customer with an idea that is new to him. If the idea is used by the customer, it is to be assumed that the agency became meritorious in the process.
- 3.8. The potential customer may release himself from his obligations under this point by paying a reasonable compensation plus 20% VAT.

The relief shall not take effect until the Agency has received payment of the indemnity in full.

4. Scope of services, order processing and customer's duty to cooperate

- 4.1. The scope of the services to be provided results from the service description in the agency contract or any order confirmation by the agency as well as the all due briefing protocol ("offer documents") and/or interview report. Subsequent changes to the service content require written confirmation by the agency. Within the framework given by the customer, the agency has the freedom of design in the fulfillment of the order.
- 4.2. All services provided by the Agency (in particular all action plans, sketches, draft texts, scripts, individualized distribution lists and adapted CRM measures, etc.) must be reviewed by the Customer and approved by the Customer within no more than 12 working days of receipt by the Customer. After expiry of this period without feedback from the Customer, they shall be deemed to have been approved by the Customer.
- 4.3. The Customer shall make available to the Agency in a timely manner and in full all information and documents required for the performance of the service. He shall inform the Agency of all circumstances that are of importance for the execution of the order, even if these only become known during the execution of the order. The customer shall bear the expenses incurred by the fact that work has to be repeated or delayed by the agency as a result of his incorrect, incomplete or subsequently changed information.
- 4.4. Furthermore, the customer is obliged to check the documents (photos, logos, etc.) provided for the execution of the order for any copyrights, trademarks, labeling rights or other rights of third parties (rights clearing) and guarantees that the documents are free of rights of third parties and can therefore be used for the intended purpose. The Agency shall not be liable in the event of merely slight negligence or after fulfilling its duty to warn - in any case in the internal relationship with the Customer - due to an infringement of such third-party rights by documents provided. If a claim is made against the Agency by a third party due to such an infringement of rights, the Customer shall indemnify and hold the Agency harmless; the Customer shall compensate the Agency for all disadvantages incurred by the Agency due to a claim made by a third party, in particular the costs of appropriate legal representation. The customer undertakes to support the agency in the defense of any claims by third parties. The customer shall provide the agency with all documents for this purpose without being requested to do so.

5. Third-party services/commissioning of third parties

- 5.1. The Agency shall be entitled, at its own discretion, to perform the service itself, to make use of competent third parties as vicarious agents for the performance of contractual services and/or to substitute such services.
- 5.2. The commissioning of third parties within the scope of an external service shall take place either in the agency's own name or in the name of the customer. The Agency shall carefully select this third party and ensure that it has the required professional qualifications.

- 5.3. Insofar as the Agency commissions necessary or agreed third-party services, the respective contractors are not vicarious agents of the Agency.
- 5.4. In obligations to third parties that extend beyond the term of the contract, the customer. This also applies expressly in the event of termination of the agency contract for good cause.

6. Dates

- 6.1. Unless expressly agreed as binding, stated delivery or performance deadlines are only approximate and non-binding. Binding agreements on deadlines are to be recorded in writing or confirmed by the agency in writing.
- 6.2. If the Agency's delivery/service is delayed for reasons for which it is not responsible, such as events of force majeure and other unforeseeable events that cannot be averted by reasonable means, the service obligations shall be suspended for the duration and to the extent of the impediment and the deadlines shall be extended accordingly. If such delays last more than two months, the customer and the agency are entitled to withdraw from the contract.
- 6.3. If the Agency is in default, the Customer may only withdraw from the contract after he has granted the Agency a reasonable grace period of at least 14 days in writing and this has expired fruitlessly. Claims for damages by the customer due to non-fulfillment or delay are excluded, except in the case of evidence of intent or gross negligence.

7. Early dissolution

- 7.1. The agency is entitled to dissolve the contract for important reasons with immediate effect. An important reason exists in particular if
 - a) the performance of the service becomes impossible for reasons for which the customer is responsible or is further delayed despite a grace period of 14 days being set;
 - b) the customer continues, despite written warning with a grace period of 14 days, breaches material obligations under this Agreement, such as payment of an amount due or duties to cooperate.
 - c) there are justified concerns about the creditworthiness of the customer and the customer does not make advance payments at the request of the agency or provide suitable security prior to the agency's performance;
- 7.2. The customer is entitled to terminate the contract for good cause without granting a grace period. Good cause shall be deemed to exist in particular if the Agency continues to violate essential provisions of this contract despite a written warning with a reasonable grace period of at least 14 days to remedy the violation of the contract.

8. Fee

- 8.1. Unless otherwise agreed, the Agency's fee claim arises for each individual service as soon as it has been rendered. The Agency shall be entitled, in order to cover

of their expenses to demand advance payments. From an order volume with an (annual) budget of € 50,000 or those extending over a longer period of time, the Agency shall be entitled to issue interim or advance invoices or to call for payments on account.

- 8.2. The fee is to be understood as a net fee plus value added tax at the statutory rate. In the absence of an agreement in the individual case, the Agency shall be entitled to a fee for the services rendered and the transfer of the rights of use under copyright and trademark law in the amount customary in the market.
- 8.3. All services of the Agency that are not expressly covered by the agreed fee shall be remunerated separately. All cash expenses incurred by the agency are to be reimbursed by the customer.
- 8.4. The Agency's cost estimates are not binding. If it is foreseeable that the actual costs will exceed those estimated by the Agency in writing by more than 15%, the Agency shall inform the Customer of the higher costs. The cost overrun shall be deemed to have been approved by the customer if the customer does not object in writing within three working days of such notification and at the same time discloses less expensive alternatives. If the cost overrun is up to 15%, a separate notification is not required. This cost estimate overrun shall be deemed approved by the customer from the outset.
- 8.5. If the customer unilaterally changes or cancels work commissioned without involving the agency - without prejudice to the ongoing other support provided by the agency - the customer shall compensate the agency for the services provided up to that point in accordance with the fee agreement and reimburse all costs incurred. If the termination is not due to a grossly negligent or intentional breach of duty by the Agency, the Customer shall also reimburse the Agency for the entire fee agreed for this order (commission), whereby the credit compensation of § 1168 ABGB is excluded. Furthermore, the Agency shall be liable with regard to any claims of third parties, in particular of contractors of the agency, indemnify and hold harmless. With the payment of the fee, the customer does not acquire any rights of use to work already performed; concepts, drafts and other documents that have not been executed are to be returned to the agency immediately.

9. Payment, retention of title

- 9.1. The fee shall be due for payment immediately upon receipt of the invoice and without deduction, unless special payment terms are agreed in writing in individual cases. This also applies to the charging of all cash expenses and other expenditures. The goods delivered by the Agency shall remain the property of the Agency until full payment of the fee including all ancillary liabilities.
- 9.2. In the event of default in payment on the part of the customer, the statutory default interest shall apply at the rate applicable to business transactions. Furthermore, in the event of a delay in payment, the Customer undertakes to reimburse the Agency for any dunning and collection expenses incurred, insofar as they are necessary for appropriate legal action. This includes
in any case, the costs of two dunning letters in the customary amount of currently at least

€ 20.00 per reminder as well as a reminder letter from a lawyer commissioned with the collection. The assertion of further rights and claims remains unaffected.

- 9.3. In the event of the Customer's default in payment, the Agency may declare all services and partial services rendered under other contracts concluded with the Customer immediately due and payable.
- 9.4. Furthermore, the Agency shall not be obliged to provide further services until the outstanding amount has been settled (right of retention). The obligation to pay remuneration shall remain unaffected.
- 9.5. If payment in installments has been agreed upon, the Agency reserves the right to demand immediate payment of the entire outstanding debt in the event that partial amounts or ancillary claims are not paid on time (loss of term).
- 9.6. The customer is not entitled to set off his own claims against claims of the agency, unless the customer's claim has been acknowledged by the agency in writing or has been established by a court of law.

10. Property right and copyright

- 10.1. All services of the Agency, including those from presentations (e.g. suggestions, ideas, sketches, preliminary drafts, concepts, images, scripts, texts and sequences), including individual parts thereof, shall remain the property of the Agency, as shall the individual workpieces and design originals, and may be reclaimed by the Agency at any time - in particular upon termination of the contractual relationship. By paying the fee, the customer acquires the right of use for the agreed purpose. In the absence of an agreement to the contrary, however, the Customer may use the Agency's services exclusively in Austria. The acquisition of rights of use and exploitation of services of the Agency requires in any case the full payment of the fee charged by the Agency.
for the fees invoiced for this. If the customer already uses the agency's services before this point in time, this use is based on a loan relationship that can be revoked at any time.
- 10.2. Changes or adaptations of services of the Agency, such as in particular their further development by the Customer or by third parties working for the Customer, are only permitted with the express consent of the Agency and - insofar as the services are protected by copyright - of the author.
- 10.3. For the use of services of the Agency that goes beyond the originally agreed purpose and scope of use, the consent of the Agency is required - regardless of whether this service is protected by copyright. The agency and the author shall be entitled to a separate appropriate remuneration for this.
- 10.4. For the use of services of the Agency or of advertising materials for which the Agency has developed conceptual or design templates, the consent of the Agency is also required after the expiry of the Agency Agreement, irrespective of whether this service is protected by copyright or not.

- 10.5. After the end of the contract, the Agency shall be entitled to the full agency fee agreed upon in the expired contract for uses pursuant to Paragraph 4. From the 8th year after the end of the contract, no agency fee is payable.
- 10.6. The Customer shall be liable to the Agency for any unlawful use in the double amount of the fee appropriate for such use.

11. Marking

- 11.1. The Agency shall be entitled to refer to the Agency and, if applicable, to the originator on all advertising materials and in all advertising measures, without the Customer being entitled to any remuneration for this.
- 11.2. Subject to the written revocation of the Customer, which is possible at any time, the Agency shall be entitled to refer to the existing or former business relationship with the Customer on its own advertising media and in particular on its Internet website by name and company logo (reference).

12. Warranty

- 12.1. The customer shall report any defects immediately in writing, in any case within eight days after delivery/service by the agency, hidden defects within eight days after recognition of the same, describing the defect; otherwise the service shall be deemed approved. In this case, the assertion of warranty claims and claims for damages as well as the right to contest errors due to defects shall be excluded.
- 12.2. In the event of justified and timely notification of defects, the Customer shall be entitled to improvement or replacement of the delivery/service by the Agency. The Agency shall remedy the defects within a reasonable period of time, whereby the Customer shall enable the Agency to take all measures necessary for the examination and remedy of defects. The Agency shall be entitled to refuse to improve the performance if this is impossible or involves a disproportionately high effort for the Agency. In this case, the customer is entitled to the statutory conversion or reduction rights. In the case of improvement, it is the responsibility of the client to carry out the transfer of the defective (physical) item at his expense.
- 12.3. It is also the responsibility of the client to check the legal admissibility of the service, in particular with regard to competition, trademark, copyright and administrative law. The agency is only obligated to a rough check of the legal admissibility. The Agency shall not be liable for the legal admissibility of content in the event of slight negligence or after fulfillment of any duty to warn the Client, if such content was specified or approved by the Client.
- 12.4. The warranty period shall be six months from delivery/service. The right of recourse against the agency according to § 933b Abs1 ABGB expires one year after delivery/service. The customer is not entitled to withhold payments due to defects. The presumption provision of § 924 ABGB is excluded.

13. Liability and product liability

- 13.1. In cases of slight negligence, liability of the Agency and its employees, contractors or other vicarious agents ("people") for property damage or financial loss of the Customer is excluded, regardless of whether it is direct or indirect damage, loss of profit or consequential damage, damage due to delay, impossibility, positive breach of contract, culpa in contrahendo, defective or incomplete performance. The existence of gross negligence must be proven by the injured party. As far as the liability of the agency is excluded or limited, this also applies to the personal liability of its "people".
- 13.2. Any liability of the Agency for claims made against the Customer on the basis of the service rendered by the Agency (e.g. advertising measure) shall be expressly excluded if the Agency has fulfilled its duty to inform or if such a duty was not recognizable to it, whereby slight negligence shall not be detrimental. In particular, the Agency shall not be liable for legal costs, the Customer's own attorney's fees or costs of judgment publications as well as for any claims for damages or other claims of third parties; the Customer shall indemnify and hold the Agency harmless in this respect.
- 13.3. Claims for damages by the customer expire six months after knowledge of the damage; in any case, however, after three years after the agency's act of infringement. The amount of claims for damages shall be limited to the net order value.
- 13.4. Data Protection: The customer agrees that his personal data, namely (name/company, profession, date of birth, company register number, powers of representation, contact person, business address and other addresses of the customer, telephone number, fax number, e-mail address, bank details, credit card data, VAT number) may be used for the purpose of fulfilling the contract and supporting the customer as well as for own advertising purposes, The Customer agrees that electronic data (e.g. telephone number, fax number, e-mail address, bank details, credit card details, VAT number) may be collected, stored and processed for the purpose of fulfilling the contract and servicing the Customer as well as for the Customer's own advertising purposes, e.g. for sending offers, advertising brochures and newsletters (in paper and electronic form) as well as for the purpose of referring to the existing or former business relationship with the Customer (reference). The customer agrees that electronic mail may be sent to him for advertising purposes until revoked. This consent can be revoked at any time in writing by email, fax or letter to the contact details listed at the top of the GTC.

14. Applicable law

The contract and all mutual rights and obligations derived therefrom as well as claims between the Agency and the Customer shall be governed by Austrian substantive law, excluding its conflict of law rules and excluding the UN Convention on Contracts for the International Sale of Goods.

15. Place of performance and jurisdiction

- 15.1. The place of performance is the registered office of the agency. In case of shipment, the risk shall pass to the customer as soon as the agency has handed over the goods to the carrier selected by it.

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- 15.2. The court of jurisdiction for all legal disputes arising between the Agency and the Customer in connection with this contractual relationship is agreed to be the court with subject-matter jurisdiction for the Agency's registered office. Notwithstanding the above, the Agency shall be entitled to sue the Customer at the Customer's general place of jurisdiction.
- 15.3. Insofar as in this agreement terms referring to natural persons are only stated in the masculine form, they refer to women and men in the same way. When applying the designation to specific natural persons, the respective gender-specific form shall be used.

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