

## GENERAL TERMS AND CONDITIONS (GTC)

Status: July 2022

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## 1. GENERAL PRINCIPLES / SCOPE OF APPLICATION

### 1.1

All legal transactions between the client and Fantana GmbH or its acting representatives (hereinafter referred to as "the Contractor") shall be governed exclusively by these General Terms and Conditions. The version in effect at the time the contract is concluded shall apply.

### 1.2

These General Terms and Conditions also apply to all future contractual relationships, even if they are not expressly referenced in supplementary agreements.

### 1.3

Any conflicting general terms and conditions of the client shall be deemed invalid unless expressly acknowledged in writing by the Contractor.

### 1.4

Should any provision of these General Terms and Conditions be or become invalid, the validity of the remaining provisions and any contracts based on them shall remain unaffected. The invalid provision shall be replaced by a valid one that most closely reflects the intent and economic purpose of the original.

## 2. SCOPE OF THE ORDER / SUBSTITUTION / OBLIGATION TO COOPERATE / WITHDRAWAL

### 2.1

The scope of a specific order shall be contractually agreed upon on a case-by-case basis.

### 2.2

The Contractor is entitled to have its tasks performed in whole or in part by third parties. Payment to the third party shall be made exclusively by the Contractor. No direct contractual relationship of any kind shall arise between the third party and the Client.

### 2.3

The Client undertakes not to engage such or similar services from third parties commissioned by the Contractor during the term of this contract and for a period of three years after its termination, insofar as these services are also offered by the Contractor.

### 2.4

The Client is responsible for ensuring that all necessary and agreed-upon structural, technical, and legal prerequisites for the fulfillment of the service or completion of the work are met. The Contractor shall not be liable for any delay in performance resulting from the Client's failure to timely provide these prerequisites. In such cases, the Contractor assumes no responsibility for warranties, damages, or other claims.

**2.5**

The Contractor reserves the right to withdraw from the order at any time. In such cases, the Contractor waives any claim to compensation for services not yet rendered. However, the Contractor shall be entitled to appropriate compensation for all services rendered up to that point. If remuneration is based on hourly rates, all hours worked until the withdrawal shall be compensated. If a lump sum was agreed upon for a specific work or work packages, the work completed up to that point shall be compensated proportionally to the degree of completion, with a minimum of 50% of the lump sum for each work or work package that has been started.

## **3. OBLIGATION OF THE CLIENT TO PROVIDE INFORMATION / DECLARATION OF COMPLETENESS**

**3.1**

The Client shall ensure that the organizational conditions at its place of business allow for the undisturbed execution of the order and enable work to proceed efficiently, promoting the timely progress of service delivery.

**3.2**

The Client shall ensure that the Contractor is provided, in a timely manner and without the need for specific requests, with all documents and information necessary for the fulfillment and execution of the order, and shall inform the Contractor of all relevant events and circumstances. This obligation also applies to any documents, events, or circumstances that come to light only during the course of the Contractor's work.

**3.3**

The Client shall ensure that its employees and any legally required or established employee representation (e.g., works council) are informed of the Contractor's engagement before the commencement of its activities.

## **4. SAFEGUARDING INDEPENDENCE**

**4.1**

The contracting parties agree to act with mutual loyalty.

**4.2**

Both parties undertake to take all appropriate measures to safeguard the independence of third parties and employees engaged by the Contractor. This applies in particular to any offers of employment or the commissioning of services for their own account made by the Client.

**4.3**

In producing the agreed-upon work, the Contractor shall act independently, at its own discretion, and under its own responsibility. The Contractor is not bound to any specific place of work or set working hours.

## 5. REPORTING / REPORTING OBLIGATION

### 5.1

Upon request, the Contractor undertakes to provide reports on its work, the work of its employees, and, where applicable, the work of any third parties engaged, in accordance with the progress of the project.

## 6. PROTECTION OF INTELLECTUAL PROPERTY / PROPERTY RIGHTS OF THIRD PARTIES

### 6.1

The copyrights to all works created by the Contractor, its employees, and any third parties it engages (including, but not limited to, proposals, reports, analyses, expert opinions, organizational plans, programs, performance specifications, drafts, calculations, drawings, data carriers, etc.) shall remain the exclusive property of the Contractor. The Client may use these works during and after the termination of the contractual relationship solely for purposes covered by the contract. The Client is not authorized to reproduce or distribute any work(s) without the express written consent of the Contractor. Under no circumstances shall unauthorized reproduction or distribution of the work give rise to any liability on the part of the Contractor—particularly regarding the accuracy of the work—toward third parties.

### 6.2

Any violation of these provisions by the Client entitles the Contractor to terminate the contractual relationship with immediate effect and to assert other statutory claims, in particular claims for injunctive relief and/or damages.

### 6.3

For any items delivered that are produced according to documents provided by the Client (such as design specifications, drawings, models, or other technical instructions), the Client alone shall be responsible for ensuring that no third-party intellectual property rights are infringed. If such rights are nevertheless asserted by third parties, the Client agrees to fully indemnify and hold the Contractor harmless from any resulting claims or liabilities.

## 7. WARRANTY

### 7.1

The Contractor shall perform the agreed services with due diligence and in accordance with the state of the art in science and technology known to it. However, the Contractor does not guarantee that the objectives or results intended by the project will actually be achieved. Any claims for damages due to delay are expressly excluded.

### 7.2

Warranty claims may only be asserted following written notification of defects, which must be submitted within 14 days of delivery of the service or partial service and must include a detailed description of the defect. The Client bears the burden of proof that the defect existed at the time of handover. Prior to passing the service on to third parties, the Client is obligated to carefully inspect and test it for quality. The Client agrees to distribute the service to third parties only if it is free of defects. Any rights of recourse are excluded.

**7.3**

Unless otherwise agreed in writing, the date of handover shall be the date of completion, or at the latest, the date on which the Client has taken possession of the service or has refused acceptance without stating a reason. If the Contractor notifies the Client of completion, the service shall be deemed transferred to the Client's control unless acceptance is reasonably denied.

**7.4**

Regardless of fault, the Contractor is entitled and obligated to correct any known inaccuracies or defects in its services, provided the Client allows for at least two attempts at rectification. Claims for rescission or price reduction are excluded. The correction of a defect does not constitute an acknowledgment of the defect. The Client must grant the Contractor prompt access and opportunity to inspect and correct the defect.

**7.5**

Claims for remedy or supplementation of missing elements must be fulfilled within a reasonable time period, generally considered to be half the duration agreed for the original service. Claims for damages due to delay in this context are excluded.

**7.6**

The Client's right to remedy or supplementation shall expire six months after the provision of the respective service.

**7.7**

Devices, software, datasets, plans, sketches, and other materials provided by the Client are not subject to warranty, even if submitted to the Contractor with a request for review, testing, or similar evaluation.

**7.8**

If the Client's claims of defects are found to be unfounded, the Client shall reimburse the Contractor for any expenses incurred in verifying the defect-free condition or in attempting to remedy the alleged defect.

**7.9**

The Client shall not be entitled to withhold payment due to warranty claims.

## **8. HAFTUNG / SCHADENERSATZ**

**8.1**

The Contractor shall be liable to the Client for damages—excluding personal injury—only in cases of gross negligence or willful misconduct, and only up to the amount of the contract value. This applies accordingly to damages caused by third parties engaged by the Contractor or to property provided by the Client for the performance of the service.

**8.2**

The Contractor shall not be liable for any damages resulting from the Client's use of the delivered results.

**8.3**

Claims for damages by the Client must be asserted within six months from the date the Client becomes aware of the damage and the party responsible for it.

**8.4**

The Client bears the burden of proof that the damage was caused by fault on the part of the Contractor.

**8.5**

If the Contractor performs the work with the assistance of third parties and warranty and/or liability claims arise in connection with such third parties, the Contractor shall assign any such claims to the Client. In such cases, the Client shall pursue these claims primarily against the third parties.

**8.6**

The Client assumes full responsibility for any damages, liabilities, and penalties arising from the sale or resale of works created by the Contractor to third parties. As a reseller, the Client is obligated to maintain adequate product liability insurance and to fully indemnify and hold the Contractor harmless from any related claims for recourse.

**8.7**

The Contractor shall not be liable for damages caused by improper handling or storage, overloading, non-compliance with operating or installation instructions, defective assembly or commissioning, faulty maintenance or servicing by the Client or unauthorized third parties, or natural wear and tear, to the extent that such factors are causally related to the damage. Liability is also excluded for failure to carry out necessary maintenance.

**8.8**

If and to the extent that the Client is eligible to receive insurance coverage for damages for which the Contractor would otherwise be liable—whether through its own insurance or insurance taken out for its benefit (e.g., liability, comprehensive, transportation, fire, or business interruption insurance)—the Client agrees to make use of such insurance benefits. In such cases, the Contractor's liability shall be limited to any disadvantages resulting from the Client's use of insurance.

**8.9**

The Contractor shall only be responsible for product characteristics that can reasonably be expected based on applicable approval regulations, operating instructions, and other product-related documentation (including inspection and maintenance requirements) issued by the Contractor, third-party manufacturers, or importers, taking into account their respective knowledge and expertise.

## **9. CONFIDENTIALITY / DATA PROTECTION**

**9.1**

The Client and the Contractor mutually agree to maintain strict confidentiality regarding all business matters that come to their knowledge, in particular trade and business secrets as well as any information received concerning the nature, scope, and practical activities of the Client.

**9.2**

Furthermore, both parties agree to maintain confidentiality regarding the content of the work and all information and circumstances obtained in connection with the execution of the work, including but not limited to information about the Client's clients. This obligation also applies toward third parties.

**9.3**

The Contractor is released from the duty of confidentiality with respect to any assistants or agents engaged in performing the work. However, the Contractor must impose full confidentiality obligations on them and shall be liable for any breach of confidentiality by such individuals as if it were its own.

**9.4**

The obligation of confidentiality shall continue beyond the termination of the contractual relationship if and for as long as the Client has a legitimate interest in such confidentiality, but in no case for longer than one year after the end of the contractual relationship.

**9.5**

Exceptions to the confidentiality obligation exist where disclosure is required by law or if disclosure has been agreed upon in writing by the Client.

**9.6**

In the event of a breach of confidentiality, the breaching party shall pay a contractual penalty equal to the contract value, but not exceeding €5,000.

**9.7**

The Contractor is entitled to use the Client's company name and logo for its own marketing and promotional purposes.

**9.8**

The Contractor is entitled to store and process any personal data entrusted to it within the scope of the contractual relationship. The Client warrants that all necessary legal measures have been taken, particularly those required under the Data Protection Act and the EU General Data Protection Regulation (GDPR), including obtaining the necessary consent from data subjects.

**9.9**

Personal data will be stored for the legally required retention period of seven years. This period begins at the end of the calendar year in which the business relationship ends. The Contractor shall implement appropriate technical and organizational security measures to protect personal data from accidental or intentional manipulation, partial or complete loss, destruction, or unauthorized access by third parties. These security measures are continuously updated in line with technological advancements.

## **10. FEES / PRICES**

**10.1**

Upon completion of the agreed (partial) work, the Contractor shall be entitled to a fee as specified in the agreement between the Client and the Contractor. The Contractor may issue interim invoices and request progress payments corresponding to the stage of work performed. The fee shall become due upon invoicing.

**10.2**

The Contractor shall issue an invoice containing all legally required information entitling the Client to deduct input VAT.

**10.3**

Unless otherwise agreed in writing, any cash outlays, incidental expenses, travel costs, and similar

expenditures shall be reimbursed by the Client in addition to the agreed fee, upon submission of an itemized invoice.

**10.4**

If the agreed service is not performed due to reasons attributable to the Client or due to a justified early termination of the contract by the Contractor, the Contractor shall retain the right to receive the full agreed fee, minus any expenses saved. If an hourly rate was agreed upon, the Client shall pay for the number of hours that would reasonably have been expected to complete the entire project, less any saved expenses.

**10.5**

If interim invoices are not paid on time, the Contractor shall be released from the obligation to continue providing services. The right to assert further claims resulting from non-payment shall remain unaffected.

**10.6**

Unless expressly stated otherwise, all fees and prices are quoted in euros (EUR).

**10.7**

The stated fees and prices do not include value-added tax (VAT) or other applicable statutory taxes and duties, which shall be paid separately by the Client.

**10.8**

All services shall be delivered ex works. Costs for packaging, transport, loading, shipping, customs duties, and insurance shall be borne by the Client.

**10.9**

Unless explicitly agreed otherwise, payments shall be made in full without deductions within 30 days from the invoice date. In the event of late payment, interest shall accrue at a rate of 9.2% per annum above the European Central Bank (ECB) base rate, plus a late payment fee of €85 per reminder.

**10.10**

All services and deliverables remain the property of the Contractor until full payment has been received.

**10.11**

In cases of doubt, and for any services for which no hourly rate has been agreed, a standard hourly rate of €100 shall apply. This rate is based on the Consumer Price Index (CPI) 2020 published by Statistics Austria and shall be adjusted monthly according to changes in the CPI 2020. If publication of this index is discontinued, the most closely related official consumer price index shall be used in its place.

## **11. ELECTRONIC INVOICING AND COMMUNICATION**

**11.1** The Contractor is authorized to deliver invoices and related documents to the Client in electronic format. The Client hereby consents to receiving such invoices and documents electronically, including but not limited to delivery via email.

**11.2** Invoices and other documents shall be considered delivered at the moment they are sent by the Contractor.



## 12. DURATION OF THE CONTRACT

**12.1** This Agreement shall generally terminate upon the successful completion of the Project.

**12.2** Notwithstanding the foregoing, either party may terminate this Agreement at any time for good cause without prior notice. Good cause shall include, but is not limited to, the following circumstances:

- A material breach of contractual obligations by the other party;
- Payment default following the initiation of insolvency proceedings; or
- Justified concerns regarding the creditworthiness of the other party, where insolvency proceedings have not been initiated, and such party fails to provide requested advance payments or adequate security prior to the Contractor's performance, provided that these adverse financial circumstances were unknown to the terminating party at the time of contract conclusion.

## 13. FINAL PROVISIONS

**13.1** The Parties confirm that all information provided in connection with this Agreement has been given conscientiously and truthfully. Each Party agrees to promptly notify the other of any changes to such information.

**13.2** Any amendments or modifications to this Agreement, including these General Terms and Conditions, must be made in writing. This requirement for written form also applies to any waiver of this formal requirement. No verbal side agreements shall be valid.

**13.3** This Agreement shall be governed by Austrian substantive law, excluding its conflict of laws rules. The place of performance shall be the Contractor's principal place of business. Any disputes arising under or in connection with this Agreement shall be subject to the jurisdiction of the courts at the Contractor's principal place of business.

**13.4** Should disputes arise that cannot be resolved amicably, the Parties agree to first seek out-of-court settlement through registered mediators (ZivMediatG) specializing in business mediation from the Ministry of Justice's approved list. If the Parties cannot agree on the selection of a mediator or on the terms of the mediation, legal proceedings may be initiated no earlier than one month after the last attempt to negotiate.

**13.5** If mediation fails or is terminated, Austrian law shall apply to any subsequent court proceedings. All reasonable expenses incurred during mediation, including legal advisor fees, may be claimed in court or arbitration as pre-litigation costs.

**13.6** Should any provision of this Agreement be or become invalid or unenforceable, the validity of the remaining provisions shall not be affected. The Parties undertake to replace the invalid provision with a valid provision that most closely reflects the economic intent of the original provision.

Vienna, July 2022