

hmmh multimediahaus AG

General Terms and Conditions of Business

– Swiss legal area –

I. Scope of the general terms and conditions

1. The terms and conditions of hmmh multimediahaus AG (hereinafter: Contractor), Am Weser-Terminal 1, 28217 Bremen, shall only apply within the scope of all services provided by the Contractor to other companies within the meaning of § 14 BGB (German Civil Code) (hereinafter: CLIENT). Any deviating terms and conditions of the CLIENT are hereby expressly rejected.

2. Amendments and additions to these terms and conditions must be recorded or confirmed in writing for evidence purposes. The authority to issue guarantees and warranties is limited to managing directors, authorized signatories and authorized representatives of the Contractor.

II. Offers, conclusion of a contract

1. The Contractor's offers are subject to change. Cost estimates or budget plans prepared by the contractor are non-binding.

2. A contract shall not be concluded until the CLIENT has ordered the offer at least in text form, the Contractor has sent a written confirmation of the order or the Contractor has started to perform at the instigation of the CLIENT.

3. Ideas, concepts, strategies, design proposals, etc. presented by the contractor to the CLIENT are non-binding and are subject to verification of feasibility.

4. Offers addressed to the Contractor may be accepted by the Contractor within 14 days.

5. Subsequent amendments and additions to contractual agreements must be recorded or confirmed in writing to be effective.

III. Cooperation / Duties of the CLIENT to cooperate

1. The Parties shall cooperate on the basis of trust, and the CLIENT undertakes to perform all acts of cooperation and services necessary for the implementation of the project in a timely manner and to support the Contractor to a reasonable extent in the performance of the contract.

2. These duties to cooperate include in particular:

2.1 The immediate notification of the Contractor in case of deviation from the agreed project procedure;

2.2 The timely provision of contractually owed information, data material as well as hardware and software requested or obviously required by the Contractor;

2.3 The free provision of premises and / or access to systems necessary for the performance of the service;

2.4 Resource planning, which ensures that a sufficient number of suitable contact persons with decision-making authority and the necessary specialist knowledge are available on the part of the CLIENT;

2.5 The cooperation in technical tests, trial runs, partial acceptances and acceptances is obligatory;

2.6 The CLIENT shall ensure that the Services can be delivered at the agreed time.

3. If a breach of the duty to cooperate results in the fact that a utilization of the material and personnel resources calculated by the Contractor is not given and cannot be produced in any other way, or if advance costs are not covered, the costs and damages resulting therefrom shall be borne by the CLIENT. The CLIENT reserves the right to prove lower costs and damages.

IV. Change Requests

1. Requests by the CLIENT for changes or additions to the contractually defined

scope of the services to be provided must be made in writing. If it is foreseeable that the completion date will be postponed or the costs, in particular the remuneration claim, will increase as a result of the change or supplement requests, the Contractor shall inform the CLIENT accordingly. The CLIENT then has the choice of declaring his fundamental agreement to the postponement of the performance times and increase in remuneration, or to withdraw the change request.

2. If the CLIENT adheres to its change requests, the Contractor shall examine the feasibility and inform the CLIENT of the concrete effects of the change request on the agreements made (deadlines and remuneration). The statement shall contain either a proposal for the implementation of the change request or information as to why the change request cannot be implemented.

3. A written supplementary agreement shall be concluded on the implementation of the CLIENT's requests for changes or additions. If no agreement is reached, the original scope of services shall remain unchanged.

4. Dates and deadlines affected by the amendment procedure shall be postponed as necessary, taking into account the duration of the review and vote on the amendment proposal and, if applicable, the duration of implementation plus a reasonable start-up period.

5. The CLIENT shall bear the expenses incurred by the change request, in particular the examination of the change request, the preparation of a change proposal and any downtimes, even if an agreement within the meaning of paragraph 3 is not reached.

V. Dates, delay in delivery

1. Fixed dates are only those that are mutually agreed in writing between the parties and expressly designated as fixed dates.

2. In the event of subsequent changes to the contract which involve additional expenditure, agreed dates shall lose their validity and a new delivery date shall be agreed. If a new delivery date is not agreed, the delivery date shall be postponed by a reasonable period of time.

3. The Contractor shall not be responsible for delays resulting from an action outside the Contractor's sphere of control. This explicitly includes delays in deadlines resulting from a breach of duty by the CLIENT. In the event of such a delay, the deadline shall be postponed at least by the duration of the hindrance.

4. The Contractor shall not be responsible for delays in performance due to force majeure (general disruption of telecommunications, strike, pandemic, etc.) or circumstances for which the CLIENT is responsible. They entitle the Contractor to postpone the provision of the affected service by the duration of the hindrance. The same shall apply in the event of non-performance or poor performance of contracts concluded in due time with third parties. If a binding delivery date is exceeded by more than twelve weeks for the aforementioned reasons, each party shall have a right of termination.

5. For compliance with delivery dates and the transfer of risk, the time at which the software is made available for retrieval on the network and this is communicated to the CLIENT shall apply.

VI. Obligations to examine and give notice of defects, acceptance

1. The CLIENT is obliged to inspect and check the service provided by the Contractor immediately after notification of completion and / or provision or delivery.

2. Obvious defects are to be reported immediately, at the latest five working days after provision. Defects that could not be detected despite careful inspection shall be reported immediately after their occurrence.

3. The Contractor shall be entitled to demand partial acceptance if the partial services are self-contained.

4. Partial acceptances in agile projects:

4.1 An authorized and responsible person of the CLIENT shall perform an interim acceptance after each Sprint, during which this person shall verify the functionality of the Product Increments on the basis of the Product Backlog items. The CLIENT shall report any defects or deviations in writing immediately after the verification. The form can be agreed between the parties. If there is no agreement, the documentation shall be made in the respective ticket system used.

4.2 The Contractor shall rectify the identified errors as agreed within the framework of sprint planning during the further course of the project, but at the latest by the time of final acceptance.

4.3 If, after renewed testing, the CLIENT determines that errors have not been eliminated, it shall escalate this to the existing or newly formed steering committee. For this purpose, the CLIENT shall provide the Contractor with any error descriptions and test protocols.

5. Final acceptance for agile projects:

After interim acceptance of the last Sprint and notification of completion by the CLIENT, the authorized and responsible person of the CLIENT performs and documents the final acceptance. The final acceptance concerns all increments still to be checked from the interim acceptances as well as the integrative parts of the product, i.e. functions that can only be checked through the overall integration, as well as its performance. Interim acceptances that have already taken place are not affected by this. The CLIENT shall report possible defects or deviations in writing immediately after the inspection. The form can be agreed between the parties. If there is no agreement, the documentation shall be made in the respective ticket system used. The rectification of defects shall take place without delay.

6. Acceptance shall be made at least in text form and may not be refused on the basis of insignificant defects.

7. If the CLIENT allows a reasonable deadline set by the Contractor for acceptance to expire, the performance shall be deemed to have been accepted upon expiry of this deadline. The service shall also be deemed to have been accepted without setting a deadline if the CLIENT uses the service without having given notice of significant defects.

VII. Warranty, reduction, cancellation

1. A notice of defect shall only be taken into account by the Contractor if the defect is notified at least in text form immediately after it becomes known. In the event of a defect, the Contractor shall provide subsequent performance at its own discretion either by remedying the defect, bypassing it or delivering a new product.

2. Claims for defects shall not exist in the case of only insignificant deviation from the agreed quality or in the case of only insignificant impairment of the usability, or if the defect cannot be reproduced or determined.

3. The CLIENT shall not be entitled to warranty claims if it has itself or through third parties made changes to the Contractor's services or if these are not used in the agreed system environment (release status at the time of delivery), unless the CLIENT proves that this use is not the cause of the reported defect.

4. If the rectification of defects fails after the 3rd attempt, the CLIENT shall be entitled to demand a reduction in price or, if the defects are substantial, to withdraw from the contract, at his discretion.

5. The assignment of warranty claims is excluded.

6. The warranty period is 12 months, unless otherwise agreed.

VIII. Liability

1. Declarations concerning the quality of the Contractor's performance shall only constitute a guarantee if the Contractor expressly designates them as such. The Contractor shall not assume any liability for statements made by third parties regarding their products.

2. Recommendations on the part of the Contractor which are not the subject of an order for which remuneration is due shall be made without obligation.

3. The Contractor shall only be liable for simple negligence, except in the case of injury to life, body or health, if essential contractual obligations (cardinal obligations) are violated. In this case, liability shall be limited to the foreseeable damage typical for the contract.

4. Liability for indirect and unforeseeable damages, loss of production and use, loss of profit, loss of savings and financial losses due to claims by third parties, is excluded in the case of simple negligence, except in the case of injury to life, limb or health.

5. Any further liability than regulated in these terms and conditions shall be excluded. However, the above limitations or exclusions of liability shall not apply to liability that is mandatory under statutory law (e.g., pursuant to the Product Liability Act).

6. Liability for third-party components, in particular open-source components, is limited to negligence in selection and the violation of inspection obligations.

7. Insofar as liability is excluded or limited in accordance with Sections VIII.3 and VIII.4, this shall also apply to the personal liability of the Contractor's employees, representatives, bodies and vicarious agents.

8. If defects or other poor performance on the part of the Contractor occur as a result of incorrect information provided by the CLIENT, the Contractor's liability for this shall be excluded.

IX. Rights

1. Irrespective of the type of service provided, the Contractor shall be the author and owner of all property rights, rights of use and rights of exploitation of the service provided. If, in exceptional cases, employees or auxiliary persons of the client become co-authors, the contractor alone decides on the use of the works and is the sole owner of the rights of use. The following rules on the transfer of rights of use to the client remain reserved. The client declares on behalf of its employees and auxiliary persons that it waives the exercise of moral rights.

2. Until the remuneration has been paid in full, the CLIENT is only permitted to use the service provided on a revocable basis.

3. The CLIENT shall revocable receive a non-exclusive, non-transferable right of use to the extent necessary to achieve the purpose pursued by the respective contract for the Contractor's services until all claims arising from the business relationship have been paid in full. Any further use, in particular imitation, duplication except for backup purposes, leasing and further licensing and processing is not permitted and rights to this are excluded from the transfer. There is no right to transfer of the source code.

4. If the Contractor supplies the CLIENT with software created or distributed by third parties, the CLIENT shall in principle be granted rights of use of the type and to the extent corresponding to the licence terms and conditions of use of the third parties. The rights to system components provided shall be governed by the manufacturer's specifications.

5. Open source software and other third-party components shall be used in the status they have at the time of performance. The Contractor shall not be obliged to adapt services rendered and/or the components used to subsequent changes or releases of the components used.

6. At the time of payment, the Contractor shall grant the CLIENT the exclusive and irrevocable right to all known types of use, unlimited in terms of space, time and content, to services individually created for the CLIENT. In the case of acceptance of use of unknown types of use, a remuneration appropriate for the type of use and scope of use shall be due.

In particular, the CLIENT shall be entitled without restriction to reproduce the work results, to process them (also to combine software with other programs, to redesign them, to convert them into other programming languages and for other operating systems), to transfer them into other forms of presentation and to change, continue and supplement them in any other way, to distribute them in unchanged and changed form, to reproduce them publicly by wire and wirelessly. The rights to grant sublicenses as well as to transfer all rights of use granted within the scope of this agreement against payment and free of charge are granted to companies affiliated with the CLIENT.

7. The Contractor shall be entitled to include and use in its own software component library services created within the scope of an order that represent modifications or extensions of the standard software or newly created individual software.

X. Remuneration, late payment, travel expenses

1. The services shall be rendered in return for a fee in Swiss francs; the rates of remuneration shall generally be net prices plus statutory value-added tax. If no agreement has been made on the amount of remuneration, the current rates of remuneration at the time the service is provided shall apply.

2. Generally, the Contractor's services shall be invoiced on the basis of time spent and on a monthly basis according to the progress of the project. Other agreements must be made in writing.

3. The Contractor's invoices are due for payment immediately upon receipt. If payment is not made after 30 days at the latest, the CLIENT shall be in default without reminder. The default interest rate is 9% plus the key interest rate of the Swiss National Bank applicable on the due date. Furthermore, the Contractor shall be entitled to take back services and to revoke rights of use granted.

4. The Contractor shall be entitled to assign, pledge or use as security payment claims against the CLIENT to third parties in the ordinary course of business.

5. The Contractor shall be entitled to invoice the CLIENT in advance for the services of third parties to be procured for it, and shall make the procurement dependent on receipt of payment.

6. The Contractor may charge a handling fee of 20 % for the processing of orders with third parties, whose costs are charged directly to the CLIENT.

7. For services which the Contractor does not provide at its headquarters (Bremen), in particular for services provided at the CLIENT's premises, the Contractor shall be invoiced separately for travel expenses, in particular travel times, expenses, out-of-pocket expenses and, if applicable, accommodation costs. Travel expenses are all additional expenses directly caused by a business trip. These include travel expenses, additional subsistence expenses, overnight expenses and proven or credibly claimed incidental expenses (e.g. transport and storage of luggage, airport charges and telephone calls). Travel expenses will be charged as follows: Economy class flight; 2nd class train; mileage allowance CHF 0.4/km; hotel at cost, max. 4 stars; public transportation: at cost; cab and parking fees: at cost; flat rate for meals CHF 40 (for absence from the head office from 8 hours) or CHF 60 per day (for absence from the head office from 24 hours). Travelling time is charged at 50 % of the hourly rate incurred.

XI. Offsetting, right of retention

1. The CLIENT may only offset claims of the Contractor against undisputed or legally binding counterclaims.

2. The CLIENT shall not be entitled to assert rights of retention or rights to refuse performance within the meaning of Art. 82 OR.

XII. Confidentiality, data protection provisions

1. The parties mutually undertake to treat all confidential information, business or trade secrets obtained in the course of the business relationship as confidential, and in particular not to pass them on to third parties or to use them other than for contractual purposes. Third parties are not companies affiliated with the Contractor within the meaning of Art. 963 OR.

2. The Contractor shall ensure that all persons entrusted by the Contractor with the performance of the contract comply with the statutory provisions on data protection. The Contractor shall collect, store, use and process personal data only to the extent necessary for the performance of the contract.

3. The CLIENT is informed that it is obliged to conclude a written commissioned data processing agreement (DPA) with the Contractor if it commissions the Contractor to process personal data.

4. Ideas, concepts, strategies, slogans and texts, graphics and other visual design elements developed by the contractor for the CLIENT and presented to him, which are not subject to copyright or any other property right, are presented to the CLIENT confidentially and may only be used by the CLIENT if the contractor receives the order and / or the services are remunerated.

If the Contractor's services are used contrary to this provision, the Client shall be obliged to pay a contractual penalty of CHF 100,000, which may be subject to judicial review by the Client in the event of a dispute.

5. The Contractor is entitled to use the contractual relationship as well as the work developed for the CLIENT to the usual extent for the Contractor's own advertising

and for submission to creative competitions free of charge, unless the CLIENT objects in writing in individual cases.

XIII. Final provisions

1. The place of performance for all claims arising from the contracts concluded with the Contractor, including the Client's payment obligations, shall be one of the Contractor's locations. This shall be determined by mutual agreement between the parties at the beginning of the contract.

2. The substantive law of Switzerland shall apply, to the exclusion of the conflict of laws provisions and the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

3. The exclusive place of jurisdiction for all legal disputes arising from or in connection with these regulations is Zurich.

4. Should one of the provisions of these General Terms and Conditions be or become invalid, this shall not affect the validity of the remaining provisions. In their place, the provisions intended by the parties shall apply, otherwise the statutory provisions shall apply. In the event of a loophole in the contract, the provision to be agreed shall be that which corresponds to what would have been agreed in accordance with the meaning and purpose of the contract existing between the Contractor and the CLIENT if the parties had recognized and considered the loophole when the contract was concluded. In no case shall the relevant provision in these General Terms and Conditions be replaced by the terms and conditions of the CLIENT.

5. Insofar as the written form is required in these terms and conditions, this shall be ensured by using at least an advanced electronic signature within the meaning of Art. 2 lit. b of the Federal Act on the Electronic Signature (ZertES).

6. In the case of doubt or uncertainty, the German version of this Term and Conditions shall prevail.