



GENERAL TERMS AND CONDITIONS

for Professional Services

August 2022

Upiquity GmbH

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Court: Wiener Neustadt

FBN: 576961y

UID: ATU77922624

1 GENERAL PRINCIPLES / SCOPE OF APPLICATION

- 1.1 For all legal transactions between the Customer and Upiquity GmbH - hereinafter referred to as the Contractor - these General Terms and Conditions shall apply exclusively. The version valid at the time of the conclusion of the contract shall be authoritative.
- 1.2 These General Terms and Conditions shall also apply to all future contractual relationships, thus even if no express reference is made to them in the case of additional contracts.
- 1.3 Conflicting general terms and conditions of the Client shall be invalid unless they are expressly accepted by the Contractor in writing.
- 1.4 In the event that individual provisions of these General Terms and Conditions 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 ADVISORY MANDATE / DEPUTISATION

- 2.1 The scope of a specific consulting assignment shall be contractually agreed on a case-by-case basis.
- 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 Client.

3 OBLIGATION OF THE CLIENT TO PROVIDE INFORMATION / DECLARATION OF COMPLETENESS

- 3.1 The Client shall ensure that the organisational framework conditions at its place of business allow for undisturbed work conducive to the rapid progress of the consulting process.
- 3.2 The Client shall also inform the Contractor comprehensively about previously carried out and/or ongoing consultations - also in other specialist areas.
- 3.3 The Principal shall ensure that all documents required for the fulfilment and execution of the consulting assignment are submitted to the Agent in a timely manner, even without the Agent's specific 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 Contractor's activities.
- 3.4 The Client shall ensure that his/her employees and the employee representation (works council) provided for by law and established, if applicable, are informed by the Contractor prior to the commencement of the Contractor's activities.

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4 SAFEGUARDING INDEPENDENCE

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

5 REPORTING / REPORTING OBLIGATION

- 5.1 The Contractor undertakes to report to the Client on his/her work, that of his/her employees and, if applicable, that of commissioned third parties in accordance with the progress of the work.
- 5.2 The Client shall receive the final report within a reasonable period of time, i.e. two to four weeks, depending on the type and scope of the consulting assignment after completion of the assignment.
- 5.3 The Contractor shall be free from instructions in the production of the agreed work and shall act at its own discretion and on its own responsibility. The Contractor shall not be bound to any particular place of work and no particular 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, organisational plans, programmes, performance specifications, 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. The Client is not entitled to reproduce and/or distribute the work(s) without the express consent of the Contractor. Under no circumstances shall an unauthorised reproduction/dissemination of the work give rise to any liability on the part of the Contractor - in particular for the correctness of the work - vis-à-vis third parties.
- 6.2 Violation of these provisions by the Client(s) shall entitle the Contractor to immediately terminate the contractual relationship prematurely and to assert other legal 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 his/her performance that become known within the scope of the statutory warranty. He/she shall inform the Client thereof without delay.
- 7.2 This claim of the client expires after six months after the respective service has been rendered.

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8 8 LIABILITY / COMPENSATION

- 8.1 The Contractor shall only be liable to the Client for damages - with the exception of personal injuries - in the event 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 client 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 provide evidence that the damage is attributable 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 Client. In this case, the Client shall give priority to these third parties.

9 SECRECY / DATA PROTECTION

- 9.1 The Contractor undertakes to maintain absolute silence about all business matters that come to his/her knowledge, in particular business and trade secrets as well as any information that he/she receives about the nature, scope of operation and practical activities of the Client.
- 9.2 Furthermore, the Contractor undertakes to maintain confidentiality vis-à-vis third parties regarding the entire content of the Work as well as all information and circumstances that he/she has received in connection with the creation of the Work, in particular also regarding the data of clients of the Client.
- 9.3 The Contractor shall be released from the duty of confidentiality vis-à-vis any assistants and deputies he/she uses. However, he/she shall fully transfer the duty of confidentiality to them and shall be liable for their breach of the duty of confidentiality as for his/her 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 is entitled to process personal data entrusted to him/her within the scope of the purpose of the contractual relationship. The Client shall guarantee 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.

10 FEE

- 10.1 After completion of the agreed work, the contractor shall receive a fee in accordance with the agreement between the client and the contractor. The Contractor shall be entitled to issue interim invoices in accordance with the progress of the work and to

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- demand payment on account in accordance with the respective progress. The fee shall be due in each case upon invoicing by the Contractor.
- 10.2 The Contractor shall issue an invoice entitling to input tax deduction with all legally required features.
- 10.3 Any cash outlays, expenses, travel costs, etc. incurred shall be reimbursed additionally by the Client against invoicing by the Contractor.
- 10.4 If the agreed work is not carried out 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 saved expenses. In the event that an hourly fee has been agreed, 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 saved expenses are 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.
- 10.5 In the event of non-payment of interim invoices, the Contractor shall be released from his/her 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 Client in electronic form. The Client expressly agrees to the Contractor sending invoices in electronic form.

12 DURATION OF THE CONTRACT

- 12.1 This contract ends in principle with the completion of the project and the corresponding accounting.
- 12.2 Notwithstanding the foregoing, the contract may be terminated by either party at any time for good cause without notice. Good cause shall in particular be deemed to be,
- if one of the contracting parties breaches essential contractual obligations, or
 - if a contracting party defaults on payment after insolvency proceedings have been opened, or
 - if there are justified doubts regarding the creditworthiness of a contracting party in respect of which no insolvency proceedings have been opened and the contracting party, at the request of the Contractor, neither makes advance payments nor provides suitable security prior to the Contractor's performance and the poor financial circumstances of the other contracting party were not known at the time the contract was concluded.

13 MEDIATION CLAUSE

- 13.1 In the event of disputes arising from this Agreement which cannot be settled by mutual agreement, the Contracting Parties mutually agree to call in registered

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mediators (ZivMediatG) specialising in commercial mediation from the list of the Ministry of Justice for the out-of-court settlement of the conflict. If no agreement can be reached on the selection of business mediators or on the content of the mediation, legal action shall be called in at the earliest one month after the failure of the negotiations.

- 13.2 In the event of a mediation that has not been concluded or has been terminated, Austrian law shall apply in any court proceedings that may be instituted.
- 13.3 All necessary expenses incurred as a result of prior mediation, in particular those for legal counsel, may be claimed as "pre-litigation costs" in court or arbitration proceedings, as agreed.

14 FINAL PROVISIONS

- 14.1 The contracting parties confirm that they have provided all the information in the contract conscientiously and truthfully and undertake to notify each other immediately of any changes.
- 14.2 Amendments to the contract and these GTC must be made in writing; likewise any waiver of this formal requirement. Verbal collateral agreements do not exist.
- 14.3 This contract shall be governed by Austrian substantive law, excluding the conflict of laws rules of private international law and the UN Convention on Contracts for the International Sale of Goods. The place of performance shall be the place of the Contractor's place of business. The court at the Contractor's place of business shall be responsible for disputes.

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