

GENERAL TERMS AND CONDITIONS (GTC)

1. Applicability; Contractual Agreement

1.1. Chapter Four Communications Consulting GmbH (hereinafter referred to as the "Agency") exclusively provides its services based on the stipulations outlined in the following General Terms and Conditions (GTC). These conditions govern all legal relationships between the Agency and its clientele, regardless of whether expressly mentioned or not. It is imperative to underscore that these terms strictly apply to transactions conducted with entrepreneurs, denoting business-to-business (B2B) transactions.

1.2. The version of these General Terms and Conditions effective at the time of contract conclusion holds paramount significance. Any deviations from these terms or additional agreements necessitate explicit written confirmation from the Agency to be deemed valid.

1.3. The Agency explicitly rejects the acceptance of any terms and conditions put forth by the Customer unless specifically agreed upon in writing. Any divergence from this stance will require documented agreement.

1.4. Amendments to the GTC will be communicated to the Customer, with the presumption of agreement unless the Customer voices objections in writing within a stipulated 14-day period. This notification will expressly detail the ramifications of non-response from the Customer.

1.5. In the event of any provision within these General Terms and Conditions being deemed ineffective, the enforceability of the remaining clauses and contracts formed under the same remains unaffected. Any ineffective clause will be substituted with a valid provision aligning closely with the intended purpose.

1.6. It is noteworthy that Agency offers are subject to modification without prior notice and are non-binding in nature.

2. Social Media Channels

Prior to initiating an order, the Agency explicitly notifies the Customer regarding the prerogatives held by "social media channels" providers (e.g., Facebook, hereinafter referred to as Providers) in their terms and conditions of use. These Providers reserve the authority to reject or remove advertisements or promotional content at their discretion. It is imperative for the Customer to comprehend the inherent risks associated with content removal, a factor beyond the Agency's control.

3. Protection of Concepts and Ideas

Should a potential Customer extend an invitation to the Agency to conceptualize a project, and should the Agency accept this invitation prior to formal contract conclusion, the following terms shall apply:

3.1. Through the act of invitation and subsequent acceptance by the Agency, a contractual relationship, herein termed as a "pitching contract," is established between the potential Customer and the Agency, governed by the GTC.

3.2. The potential Customer acknowledges that the development of a concept by the Agency entails substantial costs, even in the absence of explicit performance obligations on the Customer's part.

3.3. It is underscored that the linguistic and graphic components of the concept, meeting the requisite originality threshold for copyright protection, are safeguarded by the Austrian Copyright Act [Urheberrechtsgesetz]. Any utilization or alteration of these components without the Agency's consent contravenes the provisions of the Austrian Copyright Act.

3.4. Additionally, the concept encapsulates ideas pertinent to advertising that may not meet the threshold for copyright protection. These foundational ideas serve as the genesis of the subsequent marketing strategy and are safeguarded to preserve their uniqueness. For the purposes of this agreement, ideas encompass advertising slogans, texts, graphics, illustrations, and other promotional materials, irrespective of their eligibility for copyright protection.

3.5. The potential Customer is expressly barred from commercially exploiting or utilizing the creative advertising ideas presented by the Agency beyond the confines of a subsequent principal contract.

3.6. In the event of the potential Customer asserting prior ownership of the presented ideas, prompt notification to the Agency, accompanied by corroborative evidence facilitating chronological verification, is mandated within a 14-day timeframe from the presentation date.

3.7. Absent such notification, it shall be construed that the Agency presented novel ideas to the potential Customer, and any subsequent utilization thereof by the Customer shall warrant remuneration to the Agency.

3.8. Exemption from the obligations outlined in this Clause may be granted to the potential Customer upon payment of reasonable compensation plus applicable value-added tax (VAT), effective upon receipt of full compensation by the Agency.

4. Scope of Services; Order Processing; Customer's Cooperative Obligations

4.1. The extent of services rendered shall be delineated by the specifications outlined in the Agency Agreement or order acknowledgement, supplemented by the briefing report if provided ("Offer Documents"). Any subsequent modifications to the services necessitate written confirmation from the Agency. Within the framework established by the Customer, the Agency retains discretionary authority during service execution.

4.2. All deliverables furnished by the Agency, inclusive of preliminary designs, sketches, final drawings, proofs, and electronic files, must be promptly reviewed and endorsed by the Customer within three working days of receipt. Failure to adhere to this timeline deems the deliverables approved by the Customer.

4.3. The Customer is obligated to furnish the Agency with all requisite information and documents essential for service provision in a timely manner. Additionally, any circumstances pertinent to order execution, even if arising subsequent to order placement, must be promptly communicated to the Agency. The Customer bears financial responsibility for any duplicative work or delays attributable to incorrect, incomplete, or modified specifications.

4.4. Furthermore, the Customer assumes responsibility for clearing documents furnished for order execution (e.g., photos, logos) of any potential copyright, trademark, or other third-party rights (rights clearance). The Agency, in instances of slight negligence or after fulfilling its duty to caution the Customer, bears no liability in the event of third-party rights infringement. In cases where the Agency is held liable for such infringement, the Customer undertakes to indemnify the Agency and compensate for any ensuing losses, inclusive of reasonable legal representation costs. The Customer is further obligated to extend cooperation to the Agency in defending against any third-party claims.

5. External Services; Engagement of Third Parties

5.1. The Agency retains discretion to either render services independently, engage expert third parties as agents, or commission third parties for service provision ("External Service"). Such third-party engagements, when relevant, shall be conducted either in the Agency's name or on behalf of the Customer. The Agency commits to selecting third parties judiciously, ensuring their competence for the task at hand.

5.2. The Customer assumes responsibility for obligations vis-à-vis third parties post-contract termination. This obligation persists even in instances of agency contract termination due to justifiable causes.

6. Deadlines

6.1. Unless expressly designated as binding, delivery or service timelines are approximate and non-binding. Definitive agreements on deadlines necessitate written documentation or confirmation from the Agency.

6.2. In cases where Agency service delivery is delayed due to circumstances beyond its control (e.g., force majeure), the Agency's service obligations shall be temporarily suspended, with corresponding deadline extensions. Should such delays persist for over two months, both the Customer and the Agency reserve the right to terminate the contract.

6.3. Customer contract termination due to Agency default requires prior issuance of a written warning and a grace period of at least 14 days. Claims for damages arising from non-performance or default are precluded unless substantiated instances of intent or gross negligence are proven.

7. Early Termination

7.1. The Agency reserves the right to terminate contracts for cause with immediate effect under specific circumstances, including instances where service provision becomes impracticable due to Customer negligence or persistent breach of material obligations.

7.2. Conversely, the Customer retains the prerogative to terminate contracts for cause without a grace period. Instances warranting such action include recurrent Agency violations of contractual provisions despite prior warning and grace period allowance.

8. Fees

8.1. Unless otherwise stipulated, Agency fees become due upon service delivery. The Agency reserves the right to request advances to cover expenses. For contracts exceeding an annual budget of EUR 10,000 or spanning extended durations, the Agency may issue interim invoices or demand advance payments.

8.2. Fee structures comprise net fees plus applicable statutory value-added tax (VAT). In the absence of an explicit fee agreement, the Agency reserves the right to bill services rendered at prevailing market rates.

8.3. Ancillary services not covered by agreed fees shall be billed separately, with all Agency-incurred cash expenses reimbursed by the Customer.

8.4. Agency-provided cost estimates are non-binding. In instances where actual costs exceed the estimated figure by more than 20%, the Customer will be duly notified. Failure to contest the cost increase within three working days constitutes acceptance thereof.

8.5. Unilateral modification or cancellation of contracted work by the Customer mandates payment for services rendered and reimbursement of all associated costs. Unless work cessation stems from gross negligence or willful Agency misconduct, the Customer is liable to remunerate the Agency as per the contract terms.

9. Payment and Retention of Title

9.1. Fee payments become immediately due upon receipt of the invoice, sans deductions, unless otherwise agreed upon in writing. This stipulation extends to all expenses incurred by the Agency. The Agency retains title to delivered goods until full fee payment, including ancillary liabilities, is settled.

9.2. In cases of payment default, the Customer is liable for statutory default interest. The Customer further undertakes to reimburse the Agency for any dunning and collection charges incurred in pursuing overdue payments.

9.3. In instances of payment default, the Agency reserves the right to demand immediate settlement of outstanding services or partial services rendered under distinct contracts with the Customer.

9.4. The Agency may withhold additional services until full payment of outstanding amounts is received, without prejudice to the obligation to pay accrued fees.

9.5. Payment by instalments permits the Agency to demand full outstanding payment if instalments or ancillary claims remain outstanding beyond specified timelines (acceleration clause).

9.6. Customer offsetting of Agency claims against their own is prohibited unless expressly acknowledged by the Agency in writing or determined by a court.

10. Title and Copyright

10.1. All Agency services, including presentations and their components, remain the property of the Agency until full payment is received. The Customer's payment grants usage rights for agreed-upon purposes, typically restricted to Austria. Usage and exploitation rights are contingent upon full fee payment.

10.2. Modifications or adaptations to Agency services require express consent, particularly when copyright-protected elements are involved.

10.3. Expanding service usage beyond agreed purposes necessitates Agency approval, entailing an additional reasonable fee.

10.4. Post-contract expiration, continued service usage requires Agency consent, with fees outlined in subsequent years.

10.5. In the event of unlawful usage, the Customer is liable for twice the reasonable fee.

11. Identification Marks

11.1. The Agency retains the right to feature its name and, where applicable, the author's name on all advertising materials, without remuneration owed to the Customer.

11.2. The Agency may reference current or past business relationships with the Customer on its promotional platforms, subject to written revocation by the Customer.

12. Warranty

12.1. Prompt notification of defects is imperative, with an eight-day window following delivery/service provision for visible defects and hidden defects discovered within eight days of identification. Failure to notify within this timeframe implies acceptance of services rendered, barring subsequent warranty claims.

12.2. Justifiable and timely defect notifications entitle the Customer to service rectification or replacement by the Agency within a reasonable timeframe. The Agency reserves the right to refuse rectification if it deems it unfeasible or cost-prohibitive. In such cases, the Customer may opt for contract termination or fee reduction as per legal provisions.

12.3. The Customer bears responsibility for verifying service legality, including compliance with copyright, trademark, and administrative regulations. The Agency's liability is limited, with no liability for lawful advice or accepted content.

12.4. Warranty claims expire six months post-delivery/service, with the right to recourse forfeited after one year. Payment withholding due to complaints is prohibited, and the presumption rule does not apply.

13. Liability and Product Liability

13.1. The Agency and its affiliates are not liable for property damage or financial loss resulting from slight negligence, save for proven instances of gross negligence. This limitation extends to indirect or direct damages, lost profits, or consequential losses.

13.2. Agency liability for Customer claims arising from services rendered is explicitly excluded, provided the Agency fulfilled its duty to inform or was unable to discern such duty, even in cases of slight negligence.

13.3. Claims for damages must be filed within six months of damage awareness and three years of the Agency's infringement, with damages capped at the net contract value.

14. Applicable Law

The Agreement and all associated rights and obligations shall be governed by Austrian substantive law, with UN Sales Law and conflicts of law rules excluded.

15. Place of Performance and Jurisdiction

15.1. The Agency's registered office serves as the place of performance. Risk transfer for shipped goods occurs upon delivery to the Agency's chosen carrier.

15.2. Legal disputes arising from the contractual relationship shall be adjudicated in the court with jurisdiction over the subject matter and the Agency's registered office. The Agency reserves the right to sue the Customer at their general place of jurisdiction.

15.3. Gender-specific references herein apply equally to all genders, and specific gender pronouns denote all applicable genders.

DATA PROTECTION

Data Protection Consent Form

By consenting, the Customer acknowledges the processing of their personal data, including but not limited to name/business name, occupation, date of birth, commercial register number, contact details, bank, and credit card information, for the purpose of customer care and internal advertising. This includes sending promotional materials such as offers, leaflets, and newsletters via both paper and electronic means. The Customer also agrees to receive promotional emails until further notice.

This consent is subject to withdrawal at any time in writing, either via email or letter to the contact details provided by Chapter Four Communications Consulting GmbH.

Data Protection Declaration (Articles 13 and 14 GDPR)

We process personal data voluntarily provided by the Customer, encompassing various categories such as name, job title, contact information, and financial details. This processing is based on the Customer's consent for purposes including customer support and internal advertising, as well as referencing existing or former business relationships.

Revocation of consent means cessation of data processing for the stated purposes. For withdrawal, contact us at office@chapter4.eu.

Data provided by the Customer are necessary to **fulfill contractual** obligations and pre-contractual measures. Without this data, a contract conclusion is not feasible.

Data are retained for the contract duration and one year thereafter. We engage contract processors for data processing.

Legal Recourse

Customers retain rights including information, correction, deletion, restriction, data portability, and objection. If data processing violates regulations or individual rights, complaints can be lodged with the responsible supervisory authority.

For inquiries or complaints regarding data protection, contact our data protection officer:

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Vienna, Austria