

## General Terms and Conditions GTC

### 1. Scope

These General Terms and Conditions (“GTC”) govern relations between you as our Customer (“Customer”) and us as the Agency (“Agency”) (the Agency and the Customer will be referred to hereinafter jointly as the “Parties”).

The services provided by the Agency and their extent (“Order”) shall be agreed upon with the Customer and documented within an individual quotation, an agreement or an order confirmation. These GTC constitute an integral part of the Order.

Any general terms and conditions of the Customer shall only be incorporated into the contract as an integral part with the express, written approval of the Agency.

In the event of any discrepancy between these GTC and any part of the Order, the individual Order shall prevail as regards the contradictory provision. The creation of an exception to any individual provisions of these GTC by a contrary stipulation within the Order shall not have any impact on the validity of the remaining GTC.

### 2. Placing of an Order

An Order shall be deemed to have been placed with legal effect in the event that the Customer instructs the Agency (as a general rule with reference to the quotation) to provide certain services and the Customer confirms its agreement (order confirmation, generally provided in writing). In the event that an Order is confirmed orally, electronically or implicitly by virtue of the actions of the Customer, the Agency shall as a general rule issue an order confirmation to the Customer. If under exceptional circumstances an order confirmation is not issued by the Agency, an Order shall be deemed to have been placed once the Agency starts to provide its services, unless the Customer objects to this.

### 3. Subject matter of the Order

The services that are to be provided by the Agency shall be regulated in an individual Order. The Order shall be comprised of a quotation, an agreement and/or an offer alongside the signed order confirmation by the Customer. In the event that an agreement is reached orally, electronically or implicitly by virtue of the actions of the Customer, the order confirmation shall constitute the Order.

A quotation sets out a non-binding estimate for the services requested by the Customer to the best of the Agency’s knowledge and belief. If the scope of the service has not been sufficiently clarified at the time the quotation is issued, the Agency shall support the Customer in substantiating it in greater detail. An Order shall be deemed to have been placed in respect of the respective support and advisory services, which shall be remunerated in addition on a time and materials basis in accordance with the conditions applicable at the time the service is provided, unless agreed otherwise before these services are provided. The quotation shall remain valid for 3 months after the date on which it

was initially issued. The prices indicated are liable to change during the intervening period, although advance notice shall be provided to the Customer concerning any such changes.

In placing the Order the Customer shall be deemed to have accepted these General Terms and Conditions (“GTC”). These GTC constitute an integral part, as an Annex, of the Order placed with the Agency by the Customer.

## **4. Customer relationship**

The Order shall apply exclusively between the Customer and the Agency. Rights and obligations shall arise under the Order exclusively between the Customer and the Agency. Obligations shall only arise for the Agency under the Order towards the Customer. Only the Customer may avail itself of the advice of the Agency and enforce the terms of the Order.

## **5. Third parties**

The Agency may involve third parties (media, suppliers, freelancers, marketers etc.), which shall work as sub-contractors in relation to the Order. The Agency may also instruct third parties on behalf of the Customer.

The Agency shall reach agreement with the Customer before any instruction is issued to a third party on behalf of the Customer that will give rise to significant costs. As a general rule, an order shall be deemed to have been placed directly by the Customer with the third party.

Unless agreed otherwise, invoices issued by any sub-contractor third parties shall be passed on directly to the Customer in order for payment to be made, and the Customer shall be obliged to pay them. Under exceptional circumstances, third party costs may be settled by the Agency and subsequently charged to the Customer. The Agency will charge a processing fee of 7 percent on any such invoices.

Unless required otherwise by law, the Agency shall not incur any liability towards the Customer for any errors or omissions by sub-contractor third parties.

## **6. Instructions / changes to the Order**

Any instructions required within the context of the implementation of the Order (including changes to the Order) may be issued by the Customer in writing, electronically or orally. If any oral instructions are issued, the Customer is obliged to confirm them in writing without undue delay.

The Customer acknowledges and accepts that any instructions that result in any change in the agreement may result in changes in prices and/or deadlines.

Should the Customer wish to limit to specific individuals the class of people who are authorised to issue instructions, it must inform the Agency concerning this in writing. Otherwise, the Agency shall be entitled to assume that all persons working for the Customer (including any auxiliary agents of the Customer) have authority to issue instructions.

## **7. Fees**

The services of the Agency and the payment terms shall be specified in the Order. As a general rule, an initial advance payment of 30 percent shall be payable at the time the Order is placed. Quotations

are based on figures obtained from past experience. In the event that lump-sum figures or cost ceilings are specified, the Customer must accept a deviation of +/- 10%. Billable hours shall be charged for at the hourly rates indicated in the Order.

For the sake of administrative simplicity, any expenses incurred in the interest of the Customer shall be charged for as a lump sum. The lump-sum expenses charge shall amount to 5 percent of the net fee and shall cover all costs relating to IT infrastructure, telephone calls, copying, postage/courier charges and domestic travel. The lump-sum expenses charge shall not include bulk copying and dispatch, the cost of meals in Switzerland as well as the costs of travel, meals and accommodation abroad.

Value added tax shall be charged at the rate specified by law on all services provided by the Agency.

Payments shall be made within 30 days without any discount. In the event of non-payment the Agency shall be entitled to claim default interest at 5 percent and to charge reminder fees.

## **8. Usage of the results of work**

Unless specified otherwise in the agreement, subject to the payment in full of the fee, the Agency grants the Customer a non-exclusive, non-transferable and non-sub-licensable right limited to Switzerland for the term of the agreement to use any results of work created by the Agency or by any third party for the purpose of implementation of the Order (communication campaigns, communication concepts, advertising materials, designs, graphic drafts and sketches, text, images, photographs, footage, analyses, software applications, sounds, animations etc., hereinafter the "Results of Work"). In substantive terms, this right of usage shall be limited to the scope of the agreement or to the fulfilment of the scope of the agreement. Unless specified otherwise in the agreement, the Customer shall be entitled to process or alter the Results of Work.

Any Results of Work that have been brought to the attention of the (potential) Customer within the context of presentations (e.g. pitches, requests for offers) may only be used with the prior, written approval of the Agency.

It shall be for the Customer to remunerate any third party rights over the Results of Work (e.g. rights of third parties over photographic material used). The Agency may charge the Customer for any amounts paid by it in this respect.

## **9. Usage of references**

The Customer shall not have any right to use any of the Agency's business names, logos or trade marks or to refer to them without the prior approval of the Agency.

Subject to prior consultation with the Customer, the Agency may publish current or previous projects as reference examples.

Any public affairs mandates will as a general rule be published by the Agency (publication of the Customer's name on the Agency website and on other media). This shall occur in consultation with the Customer.

## **10. Liability and warranty**

The Agency shall only incur liability towards the Customer for defects covered by warranty that have been withheld in bad faith. Aside from defects covered by warranty, the Agency shall only incur liability towards the Customer for wilful wrongdoing or gross negligence. Liability in respect of sub-contractor third parties shall be governed by clause 5 GTC.

## **11. Prohibition on solicitation**

The Customer shall refrain from any solicitation of persons who have been deployed by the Agency in order to work on the Order. The Customer shall refrain from availing itself of the services of any such persons, save through the Agency.

## **12. Confidentiality**

Both Parties undertake to treat as confidential all business processes and information relating to the other Party that come to their attention within the ambit of cooperation. This duty of confidentiality shall continue to apply after completion of this Order. However, this duty of confidentiality shall not apply to any Results of Work that the Agency and/or the Customer is allowed to use in accordance with clause 8. In addition, any information that is in the public domain, that was already available to the other Party before the Order was placed or before negotiations relating to the Order commenced as well as any information lawfully received by the other Party from a third party other than in relation to the Order is not covered by the duty of confidentiality.

Any non-use and non-disclosure agreement (“NDA”) concluded before the Order was placed shall constitute an integral part of the Order.

## **13. Data protection**

The manner in which the Agency collects and processes personal data is described in the Privacy Policy. The Privacy Policy may be downloaded at [www.furrerhugi.ch/de-ch/etc/datenschutzerklärung](http://www.furrerhugi.ch/de-ch/etc/datenschutzerklärung).

## **14. Data and registration**

Upon request by the Customer, the Agency is obliged to hand over to the Customer all Results of Work created in relation to the Order in reproducible formats (to be agreed upon), if and insofar as the Customer has acquired intellectual property rights over the said Results of Work or a corresponding right to use the Results of Work and has paid the compensation due in this respect.

If the Agency has registered any trade marks, designs, domain names or social media accounts in its own name for the purpose of implementation of the Order, the Agency shall be obliged upon request to arrange for the registration to be transferred to the Customer.

## **15. Retention and destruction of documents**

The Agency shall ensure that data contained in drafts (and other data of the Customer) remain available until completion of the Order or conclusion of the project. Unless specified otherwise in the agreement, and without prejudice to any statutory retention obligations, the Agency shall not be obliged to retain and archive the Customer’s data after completion of the Order or conclusion of the respective project.

The Agency may destroy the data (whether held in analogue or digital form) of the Customer (including communications with the Customer) upon expiry of the applicable statutory and/or contractual retention obligations. In addition, the Agency is not under any obligation to retain its internal memoranda and documents.

## **16. Contractual term, reduction, cancellation and termination**

The Order shall have the duration specified in the agreement or the order confirmation. Unless specified otherwise, the agreement may be terminated in writing at any time in accordance with a notice period of 3 months.

The foregoing shall be without prejudice to the right of termination at any time due to compelling reasons beyond the control of the terminating Party.

In the event that an Order placed, on which work has already begun, is reduced or cancelled, the Agency shall be entitled to 50 percent of the agreed fee. If the service has already been provided in full, the Agency shall be entitled to the full amount agreed upon. In addition, the Customer shall bear in full any expenses arising or any third party input services.

## **17. Assignment**

The Customer may not assign the agreement or any claims, rights or obligations arising under it without the prior, written approval of the Agency.

## **18. Severability clause**

Should any provision or provisions of these GTC be or become invalid either entirely or in part, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a provision that comes as close as is lawfully possible to the economic purpose of the invalid provision.

## **19. Jurisdiction and applicable law**

The agreement and the order confirmation (including these GTC) shall be governed exclusively by Swiss law and shall be construed and interpreted in accordance with Swiss law. The provisions of Swiss and international private law and the United Nations Convention of 11 April 1980 on Contracts for the International Sale of Goods shall not be applicable.

Any disputes arising out of or in relation to these GTC or the agreement concluded between the Agency and the Customer shall fall under the exclusive jurisdiction of the courts at the registered office of the Agency.

Bern, January 2024