

BARTENBACH AG
General Terms of Business for Services to the Requestor

1. Application of the GTBs

- 1.1 The General Terms of Business below apply exclusively to all services and deliveries from the Agency to its Requestor, acting as a Contractor as defined in § 14 BGB (Bürgerliches Gesetzbuch - the German Civil Code). Contradictory GTBs defined by the Requestor shall not become contractual terms.
- 1.2 If the Contractual Partner defines specific provisions that differ from the GTBs, then these provisions shall take precedence over the provisions of the GTBs in a particular Order or other agreements or contracts.
- 1.3 The GTBs also apply to all subsequent Orders awarded to the Agency by the Requestor after the first application of these GTBs, even if no specific mention of the application of the GTBs is made in the case of these Orders.

2. Order Processing

- 2.1 The Requestor has up three weeks after receipt to accept quotes from the Agency that contain prices. After this period has elapsed, the Agency is no longer obliged to accept quotes. If the Agency only creates a cost estimate, this shall simply be treated as a request for the Requestor to make an offer to the Agency, which the Agency must accept.
- 2.2 The scope of services shall be derived each time from the description of delivery and services provided when the order is placed. Additional and/or subsequent changes to the description of delivery and services must be made in writing.
- 2.3 Minutes of meetings produced by the Agency and sent to the Requestor shall be regarded as commercial written confirmations by the contractual partners. If the Requestor does not object in writing within three working days, the agreements, instructions, order placements and other declarations contained in the minutes shall be binding in accordance with commercial law.
- 2.4 Any templates, files and other working materials such as negatives, models, original illustrations and similar, that the Agency creates or arranges for other parties to create, in order to meet the terms of the Contract, remain the property of the Agency. There is no obligation to surrender possession of these items. In the case of software creation, this also applies to the source code and the corresponding documentation.

3. Commissioning Third Parties

- 3.1 The Agency is entitled to perform the work assigned to it itself, or to commission assistants (persons employed in performing an obligation, 278 BGB) or subcontractors to do so on its own behalf.
- 3.2 The Agency is entitled to award orders for the production of advertising materials, in the completion of which the Agency has been contractually involved, in the name of and on behalf of the Requestor, provided that the Agency gives the Requestor the name and address of the third party involved and the Requestor does not disagree in writing within a period of one week.
- 3.3 The Agency awards Orders involving advertising media on its own behalf and at its own cost. If quantity discounts or frequency discounts are applied, the Requestor shall be sent an adjustment charge, which shall be due for immediate payment, if it fails to meet the discount and scale requirements. The Requestor shall release the medium to the Agency immediately, upon request.
- 3.4 The Requestor has up three weeks after receipt to accept quotes from the Agency that contain prices. After this period has elapsed, the Agency is no longer obliged to accept quotes. If the Agency only creates a cost estimate, this shall not be treated as a binding quote yet.

4. Remuneration for Agency Services

- 4.1 Unless otherwise agreed in an individual order, the services provided by the Agency shall be paid for on an hourly fee basis according to time spent and the current hourly rates for the Agency employees involved. Technical costs will be charged for in accordance with the Agency's current technical cost rates. Remuneration for use rights is regulated in points 6.6 to 6.8 below.
- 4.2 Unless otherwise agreed, the Agency is entitled to invoice for its services at the end of each month.
- 4.3 The Agency shall charge a service fee of 15 percent of the net amount charged in the third party's invoice for services provided by a third party, provided that those services have been legitimately required by the Agency, to fulfil a Contract/Order.
- 4.4 The Agency shall charge the Requestor for internal costs of materials that the Agency has to pay for in order to fulfil a Contract (for example, communication costs, postage and duplication costs or travel costs), at the actual cost price.
- 4.5 If the Requestor is late in making payments, the Agency can request advance payments for other services that are to be provided in future.

5. Payment Terms

- 5.1 The agreed prices are nett prices to which the value-added tax that is applicable at the time shall be added, each time. Charges such as the "Künstlersozialabgabe" (German artist social insurance fee), GEMA (German Performing Rights Society) fees or those from other copyright collectives, customs etc. shall be passed to the Requestor, as will other expenditures that arise at a later date.
- 5.2 The Agency's invoices are due for payment within 10 days of the invoice date, with no deduction. From the due date, the Agency is entitled to charge delay interest at 8 percent over the basic interest rate.
- 5.3 The Requestor is only entitled to withhold payments or offset payments against counter-claims to the extent that such counter-claims involve sums due from the Agency, which the Agency has agreed to, or have been identified with legal effect. This does not apply if the Requestor is not a Company/Contractor in the terms defined in § 14 BGB.
- 5.4 The Agency shall retain ownership of all services and rights until complete payment of all invoices relating to the Order. This applies in particular to copyright-related use rights and the ownership of transferred files, documents and objects.

6. Use Rights: Scope and Remuneration

- 6.1 All copyright-related and other rights to use the work produced by the Agency, released for use as advertising and paid for by the Requestor, shall be transferred to the Requestor to the extent required by the purpose of the particular Order. The Agency shall fulfil its obligations by granting exclusive use rights in the contract territory for the media to be used by the contractual partners in the advertising campaign, and for the duration of the advertising campaign, as specified in a specific Order. The transferred use rights shall include permission to process the results of work performed and/or combine those results with other work. The Requestor is entitled to entirely or partially transfer the use rights to subsidiaries or associated companies within a group. Any use that goes beyond this regulation requires separate agreement from the Agency.
- 6.2 If the Agency involves third parties, to fulfil the contract, it must acquire the use rights for their services to the extent specified in regulation 6.1 above and transfer them to the Requestor accordingly. If these rights are not available to that extent, in individual cases, or if acquiring them would involve excessive costs, the Agency must inform the Requestor of these facts and proceed as the Requestor then instructs. The Requestor shall meet any additional costs that may arise as a result.

- 6.3 Even in the case of the transfer of exclusive use rights to the Requestor, the Agency is entitled to use the work produced and the customer name for advertising its own services free of charge, in all media including the Internet and for tendering and presentations, even after the contract ends.
- 6.4 If the Agency creates electronic programs or program modules in the framework of its contractual services, there is no requirement to grant use rights to the Requestor for the particular source code and corresponding documentation.
- 6.5 There is also no requirement to grant use rights to the Requestor for services (concepts, ideas, drafts etc.) provided by the Agency, which the Requestor has rejected, cancelled or not made use of within six months after transfer to the Requestor. The Agency shall retain these use rights, and the related property rights.
- 6.6 The use rights identified in 6.1. and 6.2. above shall be satisfied on payment of the remuneration agreed in the Order. The Agency shall receive a usage fee for the duration of a maximum of three years if use is extended beyond the end of the advertising campaign specified in the Order and/or beyond the contract territory and/or for use in media/advertising media that differ from those specified in the Order. This usage fee shall be at the following rate:
- for the 1st year, 10 percent,
 - for the 2nd year, 7 percent, and
 - for the 3rd year, 5 percent

of the particular customer net audience size. On payment of this remuneration, the Agency shall be considered to have given its agreement in accordance with point 6.1 above.

If the rights of third parties commissioned by the Agency, to fulfil the contract, are affected by the extension of use, the regulation in point 6.2 above is to be applied accordingly.

- 6.7 The Requestor shall pay the Agency a service fee of 10 percent of the net usage fee charged by a particular third party. This fee shall be in recompense for the Agency's efforts in negotiating buy-outs for the use of work produced by a third party.
- 6.8 The Agency shall accept no liability for legal claims made by copyright holders for increased fees at a later date, in accordance with § 32 and 32a UrhG (German Copyright Law). The Requestor shall release the Agency from such claims immediately, when requested to do so.

7. Warranty

- 7.1 The Requestor must check the work and services provided by the Agency without delay, after receipt, before using them in any way, and to raise complaints about defects without delay, if they are discovered. If the checks are not made, or complaints are not made, in a timely fashion, the Requestor has no right to make warranty claims relating to obvious or subsequently discovered defects.
- 7.2 If a defect is present, for which the Agency is liable, the Agency can either choose to remedy the defect or provide a replacement. If the Agency decides to provide a replacement, it has the right to make two attempts to do so, within a reasonable time period. Otherwise, the legal regulations defined in commercial law in BGB apply.
- 7.3 The Agency's warranty obligation expires one year after the Requestor receives the delivery/performance of the service from the Agency.

8. Liability Limitation

- 8.1 Claims for damages, for no matter what reason, for negligence on the part of the Agency, its legal representatives or assistants (persons employed in performing an obligation, Sec. 278 BGB) are limited to the typical damage that can be anticipated on conclusion of a contract. In the case of slight negligence, no claims can be made for damages unless the negligence involved impacts an obligation that is so fundamental that the achieving of the purpose of the contract is endangered (a so-called cardinal obligation). This liability limitation and the specified exclusion of liability shall not apply in the case of wilful acts on the part of the Agency, claims against a warranty, the loss of life, physical injury or damage to health, or claims under the Produkthaftungsgesetz (German Product Liability Act).

- 8.2 In the case of advertising campaigns, the Agency is not liable for inadequate performance by the media (advertising media). However, in cases of inadequate performance of this kind, the Agency shall transfer its rights to claim compensation or make claims under warranty to the Requestor.
- 8.3 Claims for damages against the Agency shall expire one year after the statutory start of the limitation period without prejudice to the regulation defined in § 202 BGB.

9. Confidentiality Obligation

The Agency and Requestor hereby oblige themselves to keep confidential all information and documents made available or transferred to them by the other party, relating to the conclusion of the contract, that have been marked as confidential or that can be identified as being commercially or operationally confidential in the particular circumstances, and to neither record nor store them, nor transfer them to third parties, unless required, to fulfil the contract. Nor shall they use them for their own purposes or make them accessible to unauthorised users. This also applies to ideas, concepts or drafts in text and/or image form revealed in any presentation given by the Agency, to the extent that the Requestor has not ordered such services and paid for them.

10. Data Protection/Data Backup

- 10.1 The Requestor confirms that the personal data that it, or third parties acting on its behalf, transfer to the Agency will be stored and processed in accordance with the relevant terms of data protection regulations, especially the Bundesdatenschutzgesetz (German Data Protection Act), that any necessary approvals have been gathered from persons involved and that the use of the data by the Agency in the context of the order awarded neither infringes any of these terms nor exceeds any of the approvals made.
- 10.2 The Requestor therefore agrees that personal data and other information such as the time, number and duration of connections, access passwords, uploads and downloads, involving the Agency during this Contract/Order can be stored, to the extent that this required, to fulfil the Contract.
- 10.3 The Requestor shall back up data and programs every time, before transferring them to the Agency, to enable them to be restored if the data is lost.

11. Written Form

If these GTBs or the Order/Contract or other contractual documents require notification etc. "in writing", electronic text as defined in § 126 b BGB (e-mail, SMS, fax) is also acceptable.

12. Place of Performance

- 12.1 The place of performance is the Agency headquarters. The place of jurisdiction for all disputes arising from the Contract and relating to the business relationship is the Agency headquarters.
- 12.2 The law of the Federal Republic of Germany applies.

Mainz, Germany, 21st October, 2013
Bartenbach AG
An der Fahrt 8, 55124 Mainz, Germany
Amtsgericht Mainz, HRB 40267