

General Terms and Conditions

1. Scope

1.1. The following General Terms and Conditions (hereinafter "GTC") shall apply to all deliveries and services of Grabarz & Partner Werbeagentur GmbH, Grabarz XCT GmbH, and Grabarz Finanz & Service Holding GmbH & Co. KG (hereinafter respectively referred to as "G&P"), in particular for advisory, creation and implementation services in the field of advertising and brand communication.

1.2. The purchase of goods and services by G&P is not subject to these GTC; insofar G&P's General Terms and Conditions for Purchase, which are available in their respective valid version at <http://grabarzundpartner.de/tcp/tcp.pdf> shall apply exclusively.

1.3. These GTC shall – in accordance with Sec. 310 para. 1 of the German Civil Code (Bürgerliches Gesetzbuch – BGB) – only apply towards entrepreneurs within the meaning of Sec. 14 BGB, legal entities under public law as well as special funds under public law. They shall be incorporated in every contract concluded between G&P and its respective contract partner (hereinafter referred to as the "Client"), unless, and except to the extent, expressly agreed otherwise in the individual case. These GTC shall also and in particular apply to any future business relations with the Client, even if reference to these GTC is not expressly made.

1.4. Deviating, conflicting, or supplementing terms and conditions of the Client shall only become binding if and to the extent that G&P has accepted their application in writing. An explicit objection to the Client's terms and conditions shall not be necessary. Any terms and conditions of the Client contrary to or deviating from these GTC shall not be applicable even if G&P has rendered the contractual services without reservation.

2. Conclusion of Contract

2.1. Offers by G&P shall, in principle, be non-binding and subject to change, unless explicitly stated otherwise in the offer itself or apparent from the circumstances. In particular, mere cost estimates prepared by G&P for the Client, shall be considered as an invitation to the Client to submit an offer, which requires acceptance by G&P.

2.2. The respective offer shall only be binding for G&P for the duration of the time period stated therein. Otherwise, Sec. 147 para. 2 BGB shall apply.

2.3. Offers shall be deemed to be accepted if the Client returns the countersigned offer to G&P in due time (also via fax or e-mail) or otherwise indicates acceptance of the offer.

3. Scope of Services, Terms of Delivery

3.1. Within the agreed contractual framework, G&P shall be free to decide how to fulfill its contractual obligations.

3.2. If the scope of services includes programming services, the source code and the documentation shall – unless explicitly agreed otherwise in writing – remain with G&P and shall not be subject to the granting of rights to the Client in accordance with Section 13 below.

3.3. With respect to image processing only the final version of the image accepted by the Client shall be delivered. No paths shall be disclosed.

3.4. Subsequent changes of the ordered services shall – subject to Section 4 below – require a supplementary written agreement.

3.5. Any stated terms of delivery as well as milestones and timelines shall serve as guidelines only and shall be non-binding, unless G&P has expressly confirmed them in writing as binding dates. In the case of force majeure and other unforeseeable circumstances that cannot be averted by reasonable means, G&P shall be exempt from adhering to the deadline until the impediment has been removed.

4. Briefing

4.1. The basis for any and all of G&P's services shall be the Client's requirements as well as the outcome and understandings of the meetings with the Client (hereinafter referred to as "Briefing"), by which the agreed upon services shall be put in concrete and precise terms.

4.2. If the Briefing is given verbally, G&P shall prepare the minutes within three business days after the meeting. The minutes shall be deemed as a commercial letter of confirmation (Kaufmännisches Bestätigungsschreiben), whose content shall become binding upon the parties, unless the Client objects within three business days following receipt of such letter.

5. Presentations

5.1. In case no order has been placed by the Client after a presentation, all services rendered by G&P (particularly the presented drafts, works, ideas and concepts) remains the sole property of G&P. In such case, the Client shall be obliged to promptly return to G&P all documents and material it received on the occasion of, or for purposes of, the presentation. The Client shall not be entitled to use or adapt such documents, material and/or other services rendered by G&P, regardless of their type, or to use them as the basis for the creation of own material. G&P shall – subject to adherence of existing confidentiality obligations – be free to use the presented work results for other projects and other clients.

5.2. If the Client or any third party acting with the Client's consent uses the work results provided by G&P for the presentation, e.g. by publishing and/or duplicating them, the Client shall be obliged to pay the remuneration agreed in the respective offer or, in the absence of such offer, the Client shall be obliged to pay the fair market remuneration customary for such services.

6. Cost Estimates

6.1. G&P shall be entitled to remuneration even if the services rendered have not been estimated in advance by means of a cost estimate or cost calculation.

6.2. The cost estimates and cost calculations of G&P's shall be non-binding, unless explicitly provided for otherwise therein.

6.3. An exceedance of up to 10 % of the cost estimate on which the offer is based shall already be

deemed approved by the Client. If a preliminary cost calculation or cost estimate is exceeded by more than 10 %, the Client shall be notified by G&P.

6.4. Cost estimates for any services by third parties who are not vicarious agents (Erfüllungsgehilfen) of G&P shall be passed on to the Client by G&P solely in its capacity as intermediary without G&P assuming any content-related liability in this regard.

6.5. G&P reserves the right to demand reimbursement of expenses for its own cost estimates, particularly in cases in which no order has been placed.

7. Cooperation Obligations of the Client

7.1. The Client shall be obliged to fulfil all cooperation and support obligations necessary for the performance of the contract and to support G&P in a cooperative manner during the execution of the contract.

7.2. In addition, the Client shall be obliged to promptly notify G&P of all circumstances essential for the rendering of services by G&P, even and in particular, if such circumstances first become known during the course of performance.

7.3. If G&P has to redo work, or if the completion of the order is delayed due to any incorrect, incomplete, untimely, or subsequently changed information by the Client, any additional expenses resulting therefrom shall be borne by the Client.

7.4. The Client represents and warrants that any documents and material provided to G&P for the performance of the order have been reviewed with respect to any copyrights, trademark or other business designation rights, or any other rights of third parties and that the Client and respectively G&P is entitled to use them. G&P's liability for any infringement of such rights shall be excluded. If any claims are asserted against G&P on the grounds of an infringement of such third-party rights, the Client undertakes to comprehensively indemnify and hold harmless G&P from all damages, expenditures, and other costs resulting therefrom, including the costs of necessary legal defense.

7.5. G&P shall be entitled to terminate the contract after having set a reasonable time limit, if the Client is in default with respect to cooperation and support obligations or with respect to the acceptance of the services offered by G&P. Any claims for damages and/or reimbursement of additional expenditures resulting therefrom shall remain unaffected.

8. Commissioning of Third Parties

8.1. Unless agreed otherwise in the individual case, G&P shall be entitled to render the contractual services either by itself or through third parties acting as vicarious agents.

8.2. To the extent any third-party services are necessary for the production of the advertising material, those third-party services shall regularly be assigned directly by the Client. If, in exceptional cases, the respective third-party

services are not directly assigned by the Client, G&P shall, upon prior written consultation with the Client and to the exclusion of its own liability, commission such third-party services in the name and for the account of the Client with the care and diligence of a prudent advertising merchant. G&P will validate third party invoices for the services commissioned in the name of the Client with regard to content and accuracy.

8.3. In the case G&P commissions third-party services for the Client outside the scope of its own contractual obligations towards the Client, the respective contractors shall not be considered as vicarious agents of G&P.

8.4. G&P shall be entitled to a handling fee of 10% of the contract value for the selection, assignment, instruction, and monitoring of third parties who are not vicarious agents of G&P.

9. Remuneration

9.1. The Client is obliged to pay the agreed remuneration for the contractual services.

9.2. Unless expressly agreed otherwise, remuneration shall be paid according to the hours actually accrued to render the contractual services on the basis of G&P's hourly rates and price applicable at the time of the conclusion of the contract.

9.3. In the event G&P creates concepts and presentations for pitches, such concepts and presentations are subject to remuneration.

9.4. All services not expressly included in the agreed scope of services shall be remunerated separately.

9.5. Additional costs resulting from subsequent change requests by the Client shall, unless such changes are just specifications set forth in the course of the Briefing according to Section 4 above, be borne by the Client. These additional costs shall likewise be charged to the Client in accordance with Section 9.2 above.

9.6. If the Client prematurely terminates the contractual relationship (after the order has been placed) before the completion of the respective project, the Client shall be obliged to pay the agreed remuneration. The remuneration, however, shall be reduced by expenses that G&P saves as a result of the cancellation of the project; Section 648 sentence 2 of the German Civil Code shall apply accordingly.

10. Reimbursement of Costs

10.1. Costs for third-party services and ancillary expenses, as well as other expenditures and costs incurred by G&P which are necessary for the performance of the contract, shall be reimbursed to G&P by the Client. This shall include in particular communication costs, shipping costs, travel costs, accommodation costs, and taxi costs, outlaid costs for third parties' services, as well as other outlays (e.g., GEMA – Society for Musical Performing and Mechanical Reproduction Rights – fees, artists' social insurance fees, customs costs, etc.).

10.2. If G&P in the name of the Client assigns services to third parties, who are not vicarious agents of G&P (e.g., photographers, producers,

models, etc.), such assignment shall always be for the account of the Client. If G&P has paid for the services of third parties in advance, the Client shall be obliged to promptly reimburse G&P for the outlaid costs upon G&P's request.

10.3. If, at the Client's request, the cooperation is prematurely terminated or if services requested are subsequently cancelled by the Client, all expenses actually incurred by G&P up to that time (work time, travel costs, expenditures, costs of the procurement of information, etc.) shall be invoiced to the Client.

11. Prices, Payment Terms and Conditions

11.1. Unless expressly stated otherwise, the agreed remuneration shall be net, plus value-added tax (VAT) at the statutory rate in effect at the time of the rendering of service.

11.2. Invoices issued by G&P shall be due and payable without any deduction within 14 days after receipt of the invoice.

11.3. Unless agreed otherwise, G&P shall be entitled to bill the services rendered at the end of each month.

11.4. In the case of comprehensive projects (longer than six weeks), G&P shall be entitled to bill the Client for partial services that have already been rendered; whereas it is not required that such partial services are available to the Client in a useable form.

11.5. If the Client is in default of payment, G&P shall, after a written reminder, be entitled to suspend further performance of the contract until the outstanding amount is paid.

11.6. A right to offset or a right of retention on the part of the Client shall be excluded, unless the counterclaim is either undisputed or has been finally adjudicated.

12. Termination/Withdrawal

12.1. G&P shall be entitled to terminate the contract for good cause prior to the completion of the order. Good cause shall in particular be deemed to exist, if

a) performance of the contract has become impossible for reasons for which the Client is responsible,

b) the Client is in breach of material obligations under the contract, particularly payment obligations and obligations of cooperation, and continues to do so in spite of a written reminder by G&P setting a grace period of 14 days,

c) justified concerns exist with respect to the Client's solvency and the Client despite G&P's request does not make advance payments or furnishes security in a timely manner,

d) the Client stops his payments, a petition for an insolvency proceeding over the Client's assets is filed, or the opening of such proceedings is denied due to lack of assets.

12.2. All termination notices must be in writing.

13. Granting of Rights

13.1. All work results created by G&P (e.g., drafts, drawings, printing templates, concepts, ideas, etc.) may only be used, adapted, or changed with the consent of G&P. Any imitation

of work results or parts thereof is prohibited.

13.2. All rights pertaining to the work results created by G&P, including the preliminary work and intermediate stages, particularly ownership rights, copyrights and ancillary copyrights, usage rights as well as trademark rights, company name rights and other business designation rights, shall – even after the delivery to the Client – remain exclusively vested in G&P, unless they have been expressly transferred to the Client in writing and provided the Client has paid the respective remuneration in full.

13.3. The granting of rights to the Client shall, in terms of time, content and territory, primarily be subject to the respective contractual agreement.

13.4. In the absence of an explicit contractual agreement, the scope of the grant of rights to the Client shall be in accordance with the purpose of the respective contract; i.e. the rights shall be granted to the Client to the extent necessary for the proper performance of the contract in accordance with Sec. 31 para. 5 of the German Copyright Act (Urheberrechtsgesetz).

13.5. In any case ownership rights and rights of use to the work results created by G&P shall not be transferred to the Client – regardless of the scope of the grant of rights – until payment has been made in full for the entire order.

13.6. The Client is obliged to only use the services rendered by G&P to the extent the Client is entitled to in accordance with Sections 13.1 to 13.5 above and in connection with the respective contractual agreement, regardless whether the services rendered by G&P are subject to legal protection in the individual case, e.g. under the German Copyright Act or other protective laws.

13.7. The transfer of granted rights of use to third parties and/or multiple use of work results, as well as the granting of sublicenses, shall, unless agreed otherwise in the contract, be subject to remuneration and requires the prior written consent of G&P in each individual case.

13.8. If and to the extent any third-party rights are required for the creation and/or implementation of advertising/communication services by G&P (e.g. photographers, directors, models, illustrators etc.) G&P will be responsible for obtaining these rights for the account of the Client. The Client will instruct G&P beforehand in writing regarding the scope of the rights that are to be obtained. If the Client despite G&P's request does not instruct G&P within reasonable time, G&P shall obtain the third-party rights to the extent necessary for the performance of the contract.

13.9. G&P assumes no liability for statutory claims by authors for additional subsequent remuneration pursuant to Sections 32, 32a of the German Copyright Act. The Client shall indemnify and hold harmless G&P from such subsequent remuneration claims upon G&P's first demand.

13.10. G&P shall be entitled to demand information from the Client about any work results of G&P being used by the Client, including but not limited to the scope of use and the type of use.

13.11. G&P shall have the right to sign the advertising materials developed in customary manner and is entitled to use the work results created for the Client for an unlimited period of time for reference and self-promotion purposes, in particular on the G&P homepage, its Facebooksite, the G&P YouTube Channel, as well as for presentations and competitions. Furthermore, G&P shall be entitled to name the Client as a reference and to use the Client's company logo in this regard.

14. Storage

14.1. After the delivery date, work results created by G&P, as well as documents, material, and data provided by the Client shall only be stored pursuant to any prior agreement and shall be subject to additional remuneration. With regard to any items stored for the Client, G&P shall only be liable for willful intent and gross negligence.

14.2. If not agreed otherwise, G&P shall be entitled to dispose any documents, material, and data provided by the Client four weeks after a respective notification has been given to the Client.

14.3. Any insurance of the items named in Section 14.1 above is in the sole responsibility of the Client.

14.4. Any originals rendered for the contractual services shall remain property of G&P and may – without further review – be disposed six months after the delivery date.

15. Warranty for Defects

15.1. In case of material defects and defects of title, the statutory provisions shall apply.

15.2. The Client shall examine the services rendered by G&P promptly upon receipt, in any case before using them for the first time and shall notify G&P of any defects without undue delay, otherwise any warranty claims of the Client with respect to obvious or known defects including any subsequent damage caused by the defect shall be excluded.

15.3. If the Client modifies G&P's work results without authorization, any warranty claims of the Client shall be excluded, unless the Client proves that the modification had no influence on the defect. Translation into a different programming language shall also be regarded as modification.

15.4. G&P's warranty obligations shall expire one (1) year after receipt of performance or delivery by the Client.

16. Liability

16.1. In the event of willful intent or gross negligence, G&P shall be liable to the Client – for any legal reason whatsoever – without limitation according to the statutory provisions. In case of simple negligence (einfache Fahrlässigkeit) G&P shall only be liable for

a) damages resulting from injury to life, body or health,

b) damages resulting from breach of fundamental contractual obligations (i.e. contractual obligations which enable the fulfillment of the orderly performance of the contract in the first place, and in the compliance of which the con-

tracting party can and will regularly rely on); in which case G&P's liability shall be limited to the foreseeable, typically occurring damage.

16.2. The limitations of liability as per Sec. 16.1 above shall also apply to any representatives, employees and vicarious agents of G&P for which G&P is liable. They shall, however, not apply if and to the extent G&P has fraudulently concealed a defect or assumed a guarantee for the condition its goods and services as well as for any claims of the Client under the Product Liability Act (Produkthaftungsgesetz).

16.3. G&P shall draw the Client's attention to material risks identifiable for it applying the care and diligence of a prudent advertising merchant. With respect to its own contractual services, G&P warrants that the Client is granted the rights pertaining thereto in the scope as agreed upon in the contract or, in the absence of such agreement, to the extent necessary to the performance of the contract. In all other respects, the Client shall be solely responsible for the legal permissibility of the content and design of the respective advertising measures, in particular for any factual statements contained therein relating to the Client's products and services.

16.4. G&P's liability for any claims asserted against the Client in connection with the services rendered by G&P shall be excluded, provided that G&P has made the Client aware of any possible legal or other liability risks, or said risks were not discernible by G&P, whereupon slight negligence is not deemed harmful.

16.5. Should the Client despite the expressed concerns of G&P's nevertheless insist on the implementation of a specific advertising measure or instruct G&P in writing to do so, the Client shall indemnify and hold G&P harmless from all damages, losses, expenditures, costs and detriments arising therefrom, including reasonable costs for the legal defense.

16.6. Damage claims of the Client, irrespective of their legal grounds, shall become time-barred twelve (12) months after the Client obtained knowledge of the circumstances giving rise to the claim, or would have obtained such knowledge absent gross negligence, but in any case, not later than three years after the breach of duty. This shall not apply if the relevant claim is based on willful intent on the part of G&P or to claims resulting from injury to life, body or health.

17. Collecting Societies and Artists' Social Security Contribution

The Client shall be obligated to fulfil any existing claims of collecting societies (Verwertungsgesellschaften). In case G&P fulfils such claims for the Client, G&P shall be reimbursed for the outlaid payments by the Client (see Section 10.1, above). The Client acknowledges and agrees that artists' social security contribution must be paid in every case artistic or conceptual services or advertising advisory services are assigned to a natural person. Such contributions and fees must not be deducted from G&P's invoice.

18. Assignment, Assumption of Contract

18.1. The Client shall not be entitled to assign its rights under the contract in whole or in part to any third parties. Section 354a of the German Commercial Code (Handelsgesetzbuch) remains unaffected.

18.2. G&P shall have the right to transfer any and all rights and obligations under the contract to its following affiliates by way of an assumption of contract (Vertragsübernahme):

Grabarz & Partner Werbeagentur GmbH,
Schaartor 1, 20459 Hamburg, Germany

Grabarz XCT GmbH,
Schaartor 1, 20459 Hamburg, Germany

Grabarz Finanz & Service Holding GmbH & Co. KG,
Schaartor 1, 20459 Hamburg, Germany

19. Confidentiality

19.1. The parties are mutually obliged to keep all information, data, and documents of which they become aware of in connection with the contractual relationship, particularly information, data, and documents expressly designated as confidential or which according to the circumstances constitute trade secrets within the meaning of Sec. 2 no. 1 of the German Trade Secrets Act (Geschäftsgeheimnisgesetz) in strict confidence for a period of two years following the termination of the cooperation and shall not reveal any of this information to any third parties. This shall also apply if the relevant order has not been executed.

19.2. Section 19.1 above shall not affect any rights and obligations of the parties pursuant to any confidentiality agreement separately entered into by the parties.

20. Data Protection

20.1. The Client warrants that any personal data which has been transmitted to G&P by the Client or by third parties on behalf of the Client has been collected and processed in accordance with applicable data protection law, in particular the provisions of the General Data Protection Regulation (GDPR) and the Federal Data Protection Act (Bundesdatenschutzgesetz) and that all necessary consents (if applicable) have been obtained, and that the use of the transmitted data by G&P in accordance with the contract does not violate any provisions of applicable data protection law or exceeds the scope of any given consents.

20.2. If the scope of G&P's contractual services also comprises the commissioned processing of personal data on behalf of the Client, the parties will enter into a separate agreement on commissioned data processing in accordance with Art. 28 para. (3) GDPR, if so required by applicable law.

20.3. The Client hereby consents that personal and other data is saved by G&P for the duration of the contract if and to the extent this is necessary or practical with respect to the performance of the contract.

21. Final Provisions

21.1. The place of performance for delivery and payment shall be Hamburg.

21.2. The place of jurisdiction for all disputes between the parties shall be Hamburg. However, G&P shall be entitled to file suit also at the Client's general place of jurisdiction or at the place of jurisdiction which is competent for his place of business.

21.3. The law of the Federal Republic of Germany shall apply exclusively, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

21.4. If any provision of these General Terms and Conditions is or becomes invalid or unenforceable, the validity of the remaining provisions shall not be affected. Any invalid or unenforceable provision shall be replaced by a provision whose economic purpose comes as close as possible to that of the invalid or unenforceable provision.

Date of issue: October 2024