

1. Validity

11. H&H Agency Brand & Strategy OG – hereinafter referred to as ‘the Agency’ – provides its services exclusively on the basis of these General Terms and Conditions (GTC). These also apply to future business relationships, even if they are not expressly referred to again.

12. Any side agreements, reservations, changes, or additions to these General Terms and Conditions must be in writing to be valid. This also applies to any deviation from the written form requirement itself.

13. Deviating terms and conditions of contractual partners shall only apply if they are expressly recognised by the agency in writing.

14. Should individual provisions of these General Terms and Conditions be invalid, the validity of the remaining provisions shall remain unaffected. The invalid provision shall be replaced by one that comes closest to the economic purpose.

15. The contracting parties confirm that all information provided in the contract is true and accurate and undertake to notify each other immediately of any changes.

16. The contract is based on the respective offer made by the agency or the order placed by the customer, which specifies the scope of services and remuneration. Offers made by the agency are subject to change and non-binding.

17. The contract is concluded upon acceptance of the order by the agency. Acceptance shall be made in writing (e.g. by order confirmation) or by clear action.

18. The subject matter of the contract is all services in the field of strategy consulting, brand management and brand management, unless expressly agreed otherwise in writing.

2. Scope of services, order processing and obligations to cooperate

2.1. The scope of the services to be provided is specified in the order or the service description. Changes must be made in writing. The agency has creative freedom within the agreed framework.

2.2. All services must be checked and approved by the customer within three working days. If no feedback is received within this period, the services shall be deemed to have been approved.

2.3. Errors in the materials provided shall be corrected to the best of our knowledge, without liability on the part of the agency. Proofs must be checked and approved in writing.

2.4. Clients shall provide all information and documents necessary for the execution of the order in a timely manner and inform the agency of any relevant changes. Delays or additional expenses resulting from incomplete information shall be borne by the client.

2.5. Customers must ensure that any materials provided (e.g. logos, photos) are free of third-party rights. In the event of legal violations due to content provided, the customer shall be solely liable and shall indemnify and hold the agency harmless.

2.6. Extensions, changes or delays that go beyond the original briefing will increase the fee. Additional services will be charged at an hourly rate of £120 (excluding VAT).

2.7. Ancillary costs such as material, technology, transport, travel or external service costs are not included in the fee and will be charged separately.

2.8. If an order is not executed for reasons for which the agency is not responsible, a flat-rate cancellation fee of 10% of the agreed fee may be charged.

3. External services / commissioning third parties

3.1. The Agency is entitled to provide services itself or to commission third parties to do so (external services).

3.2. Assignments are carried out either in its own name or in the name of the customer, but in any case on behalf of the customer. The terms and conditions of the respective suppliers apply. The agency will carefully select third-party providers and ensure that they have the necessary professional qualifications.

4. Deadlines

4.1. Deadlines and appointments must be recorded or confirmed in writing. Failure to meet deadlines entitles the customer to assert their legal rights only if they have granted the agency a reasonable grace period of at least 14 days. This period begins with the receipt of a reminder letter by the agency. If the agency realises that it cannot meet the agreed deadlines and/or dates, it is obliged to inform the customer immediately in writing, stating the reasons and the expected duration of the delay.

4.2. If the service is not provided on time after the grace period has been set, the customer shall be entitled to withdraw from the contract. The agency shall only be obliged to pay damages for delay in the event of intent or gross negligence on its part.

4.3. Unavoidable or unforeseeable events release the Agency from its obligation to meet the agreed delivery date. The same applies if the customer is in default with its obligations necessary for the execution of the order (e.g. provision of documents or information). In this case, the agreed date shall be postponed at least to the extent of the delay.

4.4. Unless otherwise stated in the offer, a feedback loop is agreed for all services provided by the agency. Feedback after approval by the customer involves additional work and may lead to a delay in the project.

5. Withdrawal from the contract

5.1. The Agency may withdraw from the contract with immediate effect for good cause. Good cause shall be deemed to exist in particular if the performance of the service becomes impossible for reasons for which the customer is responsible or is further delayed despite the setting of a grace period of 14 days.

5.2. Withdrawal is possible if the customer continues to violate essential obligations under this contract, such as payment of an amount due or obligations to cooperate. Or if there are justified concerns about the customer's creditworthiness and the customer does not make advance payments or provide suitable security.

5.3. If bankruptcy or composition proceedings are opened against the customer's assets, or if an application to open such proceedings is rejected due to a lack of assets to cover costs, or if the customer suspends payments, withdrawal is also possible.

6. Fees

6.1. Unless otherwise agreed, the fee shall be payable after the service has been provided. The Agency shall be entitled to demand advance payments to cover its expenses. All amounts are exclusive of VAT.

6.2. All services provided by the Agency that are not expressly covered by the agreed fee shall be remunerated separately. All cash expenses shall be reimbursed by the customer.

6.3. Cost estimates provided by the Agency are generally non-binding. If the actual costs exceed the estimate by more than 20%, the Agency shall inform the customer. The cost overrun shall be deemed approved if the customer does not object in writing within three days of receiving this notification.

6.4. The Agency shall be entitled to reasonable remuneration for all work performed by the Agency that is not carried out for any reason whatsoever. Payment of this remuneration does not entitle the customer to any rights to this work; rather, any concepts, drafts and other documents that are not carried out must be returned to the Agency immediately.

7. Payment and retention of title

7.1. The fee is due for payment immediately upon receipt of the invoice and without deduction, unless special payment terms have been agreed in writing in individual cases. This also applies to the recharging of all cash expenses and other expenses. The delivered goods remain the property of the agency until full payment has been received.

7.2. In the event of late payment, statutory default interest shall apply. Furthermore, the customer undertakes to reimburse all costs and expenses associated with the collection of the claim.

7.3. In the event of late payment, the agency is entitled to demand immediate payment for all services and partial services provided within the scope of other contracts concluded with the customer and to suspend further services. If payment in instalments has been agreed, the Agency reserves the right to demand immediate payment of the entire outstanding debt in the event of late payment of instalments or ancillary claims.

7.4. Customers are not entitled to offset their own claims against claims of the Agency, unless the customer's claim has been recognised in writing by the Agency or established by a court of law. A right of retention on the part of the customer is excluded.

7.5. The agency is entitled to send invoices to customers in electronic form. Customers expressly agree to the sending of invoices in electronic form.

8. Presentations

8.1. The Agency shall be entitled to a reasonable fee for participating in presentations, which, in the absence of an agreement, shall at least cover the Agency's total personnel and material expenses for the presentation as well as the costs of all external services.

8.2. If the Agency does not receive an order after the presentation, all services provided by the Agency, in particular the presentation documents and their contents, shall remain the property of the Agency; the customer is not entitled to continue using them; rather, the documents must be returned to the agency immediately. The transfer of presentation documents to third parties as well as their publication, reproduction, distribution or other use is not permitted without the express consent of the agency.

8.3. Customers are also prohibited from further using the ideas and concepts presented during the presentation, regardless of whether the ideas and concepts are protected by copyright. Payment of the presentation fee does not entitle customers to any exploitation or usage rights to the services presented.

8.4. If the ideas and concepts presented in the course of a presentation for the solution of communication tasks are not used in advertising materials designed by the agency, the agency is entitled to use the presented ideas and concepts elsewhere.

9. Property rights and copyrights

9.1. All services provided by the Agency, including those from presentations (e.g. suggestions, ideas, sketches/mood boards, preliminary drafts, scribbles, concepts), as well as individual parts thereof, remain the property of the Agency, as do the individual workpieces and original designs, and may be reclaimed by the Agency at any time, in particular upon termination of the contractual relationship. By paying the fee, the customer only acquires the right to use the services for the agreed purpose and to the agreed extent. Unless otherwise agreed with the agency, the customer may only use the agency's services themselves in their home market for a period of 5 years. The acquisition of rights of use and exploitation of the agency's services requires in all cases the full payment of the fees invoiced by the agency for this purpose.

9.2. Changes or editing of the Agency's services, in particular their further development by the Customer or by third parties acting on behalf of the Customer, are only permitted with the express consent of the Agency and upon payment of the fee for a total buy-out as specified in the offer and – insofar as the services are protected by copyright – of the copyright holders. Under no circumstances shall the Agency be liable to third parties for any unauthorised reproduction/distribution of the work.

9.3. The use of the Agency's services beyond the originally agreed purpose, scope and period of use requires the Agency's consent, regardless of whether these services are protected by copyright. The Agency and the author are entitled to separate, appropriate remuneration for this.

9.4. All property rights and copyrights to the original work remain with the creators. The creators are the sole owners of all copyrights to the work. The client is granted copyrights exclusively for the contractually agreed purpose.

9.5. Without the express written consent of the creators, these rights of use may not be transferred to third parties, either in whole or in part, unless this has been expressly permitted in the offer. In particular, the clients do not acquire ownership of the work submitted, unless the creators sell the work to them for an additional sales fee.

9.6. Any violation of these provisions by the client entitles the agency to immediately terminate the contractual relationship and to assert other legal claims, in particular for injunctive relief and/or damages.

10. Labelling

10.1. The Agency is entitled to refer to itself and, where applicable, the authors in relation to work results.

10.2. The Agency is entitled to refer to the existing business relationship on its own advertising media and, in particular, on its website, using its name and company logo. The Agency may refer to the cooperation in an appropriate form in analogue and digital publications, at events and in its own printed materials. In this context, the Agency may reproduce all work it has carried out and publish it as a reference.

11. Warranty

11.1. Customers must report any defects immediately, but in any case within eight days of delivery or performance by the agency, and hidden defects within eight days of their discovery, in writing, describing the defect. Otherwise, the service shall be deemed to have been approved. In this case, both the assertion of warranty and damage claims and the right to contest errors due to defects shall be excluded.

11.2. In the event of a justified and timely complaint, customers shall be entitled to have the delivery or service complained about improved or replaced by the agency. The agency shall remedy any defects identified within a reasonable period of time, provided that customers enable all necessary measures for investigation and rectification of defects. The Agency is entitled to refuse to remedy the defect if this is impossible or only possible with disproportionate effort. In this case, customers are entitled to the statutory rights of withdrawal (rescission) or price reduction.

11.3. It is the responsibility of the customer to check the delivered services for their legal admissibility, in particular with regard to competition, trademark, copyright and administrative law. The agency is not liable for the accuracy of the content if this content has been specified or approved by the customer.

11.4. The warranty period is six months from delivery or performance. The right of recourse against the agency pursuant to Section 933b (1) of the Austrian Civil Code (ABGB) expires one year after delivery or performance. A right of retention due to alleged defects is excluded. The presumption rule of Section 924 ABGB is expressly waived.

12. Liability

12.1. The Agency undertakes to perform the tasks assigned to it with professional and legal diligence in accordance with generally accepted legal principles and to inform customers in good time of any identifiable risks. Any liability on the part of the Agency for claims asserted against customers on the basis of advertising measures (e.g. through the use of a specific label) is excluded, provided that the Agency has fulfilled its duty to inform. In particular, this does not include liability for legal costs, customers' legal fees, costs of publishing judgements or other claims for damages by third parties.

12.2. Within the scope of the statutory provisions, the Agency shall only be liable for damages if intent or gross negligence on its part can be proven. Liability for slight negligence is excluded. The burden of proof for gross negligence lies with the injured party.

12.3. Claims for damages by customers shall become time-barred within six months of becoming aware of the damage and the person responsible for it, but in any case three years after the damaging act. The amount of any claims for damages shall be limited to the net order value.

12.4 In the event of a demonstrably defective service or delivery, the agency shall, at its discretion, either repair or replace the item. Customers must grant the agency the necessary time and opportunity to do so. Only if the rectification or replacement is not carried out within a reasonable period of time or ultimately fails – generally after the second attempt – due to the agency's fault, are customers entitled to withdraw from the contract, reduce the price or claim damages or reimbursement for expenses incurred in accordance with the statutory requirements. In this case, too, the limitation of liability pursuant to Section 12.3 applies. The warranty shall expire if customers or third parties make unauthorised changes to the work.

13. Data protection

13.1 Customers expressly agree that the Agency may automatically collect, store and process the personal data they provide (e.g. name, address, email address, payment details) for the purposes of contract fulfilment, customer service and its own advertising purposes. Customers agree to receive electronic messages from the Agency for advertising purposes until further notice.

14. Applicable law

14.1 Austrian substantive law applies exclusively to the contract and all mutual rights, obligations and claims between the Agency and customers arising from it, excluding conflict of law rules and the UN Convention on Contracts for the International Sale of Goods.

15. Place of performance and jurisdiction

15.1 The place of performance is the registered office of the Agency.

15.2 The competent court at the registered office of the Agency is agreed as the place of jurisdiction for all disputes arising in connection with this contractual relationship. The Agency is also entitled to sue customers at their general place of jurisdiction.