

**General Terms and Conditions (GTC)  
of h + p hachmeister + partner GmbH & Co. KG ("h+p")**

**§1 Inclusion of the GTC**

- 1.1** The GTC of h+p shall apply exclusively. h+p does not accept any terms and conditions of customer that contradict or deviate from the GTC of h+p, unless h+p has expressly agreed to their validity in text form ("Textform"). The GTC of h+p shall also apply if h+p performs its services for customer without reservation in the knowledge of terms and conditions of customer which are contradictory to or deviate from the GTC of h+p.
- 1.2** The GTC of h+p shall only apply vis-à-vis entrepreneurs ("Unternehmer") within the meaning of § 310 (1) of the German Civil Code (BGB).
- 1.3** The GTC of h+p shall apply to future contracts even if they are not included again separately.

**§2 Offer and offer documents**

- 2.1** If the order is to be qualified as an offer according to § 145 of the German Civil (BGB), h+p shall be entitled to accept this offer within a period of two weeks.
- 2.2** h+p reserves all property rights and copyrights to presentations, illustrations, calculations and other offer documents. Customer is required to obtain the express consent of h+p in text form ("Textform") before passing such offer documents on to third parties.

**§3 Obligations ("Obliegenheiten") of customer to cooperate, minutes of meetings**

- 3.1** To provide h+p with a clear understanding of the initial situation and objectives of customer, which is essential for the professional performance of the services of h+p, customer will answer all respective questions of h+p, which h+p needs to be answered in order to perform its services, about the company, its legal relationships, structures, employees, client relationships and the competitive situation, as timely, completely and accurately as possible. The h+p consultants will only ask questions if the answers are of relevance for the project.
- 3.2** In this context, customer shall also inform h+p, without being asked, about such circumstances which, according to the understanding of customer, may be of importance for the performance of the services. Customer will do everything necessary to enable h+p to work successfully; in particular, customer will provide h+p with all information and documents necessary to fulfil the contract.
- 3.3** Any interim results and interim reports provided by h+p will be reviewed by customer immediately to determine whether the information contained therein regarding customer or its business is accurate; h+p will be notified immediately in text form ("Textform") of any necessary corrections and also of any requests for changes.
- 3.4** h+p will prepare minutes of meetings between customer and h+p and send them to customer in text form ("Textform"). The content of the minutes of meetings is binding if and insofar as customer does not contradict them in text form ("Textform") within 2 weeks after receipt.

**§4 Consultancy fee and ancillary expenses, remuneration**

- 4.1** If a fee has not been expressly agreed, h+p shall be entitled to the usual daily rates otherwise applied by h+p.
- 4.2** Ancillary expenses have to be paid separately by customer in accordance with the agreement. If a specific amount for ancillary expenses has not been expressly agreed, customer shall pay ancillary expenses in the amount of 20% of the agreed fee for the use of the h+p research department and h+p offices, for travel, visits and documentations.
- 4.3** The statutory value added tax is not included in the fee agreed; it shall be stated separately in the invoice at the statutory rate on the date of the invoicing and shall be additionally owed by customer.
- 4.4** The invoices of h+p are due for payment within 10 days after the invoice date without deductions. The statutory provisions concerning the consequences of default in payment shall apply.
- 4.5** If an invoice has not been paid within 30 days after the invoice date, h+p is entitled to stop the continuation of the contract without the claims of h+p for remuneration being affected. § 615 of the German Civil Code (BGB) shall apply mutatis mutandis.
- 4.6** Offsetting with counterclaims of customer or the retention of payments due to such claims is only permissible if the counterclaims are undisputed or have been assessed in a legally binding judgement.

**§5 Time of performance**

- 5.1** The commencement of the time of performance stated by h+p shall be subject to the clarification of all preliminary issues relevant for the performance of the services by h+p pursuant to § 3.1 to 3.2.
- 5.2** Compliance with the obligation of h+p is further subject to the timely and proper fulfilment of the obligations of customer. The defence of unperformed contract remains reserved.
- 5.3** Should customer be in default in acceptance or in culpable breach of other obligations to cooperate, h+p is entitled to claim any resulting damages including any additional expenses. Further claims remain reserved.

**§6 Force majeure, obstacles to performance**

Obstacles to performance due to force majeure that make it temporarily or permanently impossible or unreasonably difficult for h+p to fulfil its obligations under the contract shall release h+p from this obligation for the duration and to the extent of the obstacle as well as for the subsequent period required to remove the obstacle. Force majeure includes, in particular, strikes and lockouts (including internal and lawful ones), technical breakdowns at other operators of telecommunication systems, telecommunication transmission paths or telecommunication networks, power supply breakdowns, plagues (including epidemics and pandemics), fire, natural disasters, war and warlike events, terrorist attacks, blockades, acts of violence by third parties, the misuse of services of h+p, the unauthorized access of third parties to the software or hardware of h+p ("hacking"), the occurrence of computer viruses, administrative orders and directives, and the sudden death or sudden serious illness of employees of h+p to the extent that they cannot be replaced by a third party in a timely manner from an objective point of view. h+p is entitled to withdraw from the contract or - in the case of a continuing obligation - to terminate the contract for good cause if the force majeure lasts longer than 4 weeks, without customer being entitled to claims for damages or to other claims for this reason.

**§7 Warranty ("Gewährleistung") for defects**

- 7.1** h+p will perform the contract diligently and professionally with the diligence of a prudent businessman. h+p shall not be liable to customer for a specific economic or operational success or for the achievement of specific company objectives, as for example for specific profit or turnover objectives, or for the prevention or limitation of losses.
- 7.2** Complaints regarding the services of h+p have to be made in text form ("Textform") immediately, at the latest within 8 days after receipt. In the event of justified complaints, e.g. inaccurate documentation, errors in calculation or planning, h+p is entitled at its own option and at its own expense to remedy the complaint or to repeat the service. In all other respects the statutory warranty regulations ("Gewährleistungsregelungen") shall apply. For claims for damages due to defects, § 8 shall apply additionally.

**§8 Exclusions and limitations of liability**

- 8.1** A liability of h+p for damages based on fault, regardless of the legal basis, is limited in accordance with this § 8.
- 8.2** h+p is not liable in the event of simple negligence on part of the organs, legal representatives, employees or other vicarious agents („Erfüllungsgehilfen“) of h+p, as far as no violation of essential contractual obligations is involved. Essential is a contractual obligation, the fulfilment of which enables the proper performance of the contract in the first place and on the compliance with which customer regularly relies and may rely.
- 8.3** As far as h+p is liable for damages on the merits according to § 8.2, this liability is limited to the foreseeable damage typical for the contract. Insofar, the liability is limited to a maximum amount of 1.000.000,00 € per claim.
- 8.4** The exclusions and limitations of liability of this § 8 apply to the same extent mutatis mutandis in favour of the organs, legal representatives, employees and other vicarious agents („Erfüllungsgehilfen“) of h+p.
- 8.5** The exclusions and limitations of liability of this § 8 do not apply,

- if customer asserts claims for damages based on intent or gross negligence on part of the organs, legal representatives, employees or other vicarious agents ("Erfüllungsgehilfen") of h+p;
- if customer asserts claims for damages based on a culpable injury to life, body or health or
- if customer asserts claims for damages based on mandatory liability under the German Product Liability Act or a guarantee given by h+p.

**§9 Headhunting**

**9.1** During the performance of the contract and for a period of two years after its completion, customer and h+p mutually agree not to employ, not to let be employed by third parties, not to solicit for employment and not to let be solicited for employment, any employee, member of corporate management or shareholder of the other party. This obligation also applies to an employment as freelancer or any other form of provision of services as well as to contracts aimed at the provision of services.

**9.2** For each case of culpable violation of this obligation, the violating party shall be obliged to pay the other party a contractual penalty in the amount of 100.000,00 €. Further rights e.g. to injunction, information, damages or the like, shall remain unaffected.

**§10 Use of Calculation Models**

**10.1** If h+p develops calculation models within the scope of the contract, in particular on the basis of software programmes which can be purchased on the market (Excel etc.), e.g. to support planning or controlling or other processes, these calculation models will be made available to customer for its own use and a suitable data carrier will be handed over.

**10.2** Customer may use the calculation models in his business operations. Duplication is only permitted insofar as this is necessary for the use of the calculation models or is required for backup purposes.

**10.3** Customer is obliged to prevent unauthorised access to the calculation models by third parties and to take appropriate precautions for this purpose. The sale and transfer in any form to third parties is prohibited.

**10.4** Notwithstanding the grant of use according to § 10.1 to 10.2 h+p retains all rights to the calculation models. Customer acknowledges the intellectual property and know-how of h+p with regard to the calculation models.

**10.5** With the completion of the project the contract is fulfilled. Customer has no right or claim to support for and updates of these calculation models.

**§11 Confidentiality**

**11.1** h+p will treat all information received from customer within the scope of the performance of the contract about the company, its client relationships and its employees as strictly confidential.

**11.2** Customer is only permitted to use the work results developed by h+p within the scope of the performance of the contract for its own, internal operations. Any transfer, assignment, transmission or disclosure of the work results to third parties, in whatever form, is prohibited and customer undertakes to prevent inspection and access by third parties.

**11.3** Customer and h+p will treat the content of the contract and in particular the fee agreed between customer and h+p for the services of h+p as strictly confidential vis-à-vis third parties. This shall also apply with regard to any future modifications of the contractual agreements and the fee.

**11.4** The aforementioned confidentiality obligations shall survive the termination of the contract.

**11.5** The aforementioned confidentiality obligations do not apply to information,

- which was demonstrably already known to the receiving party prior to disclosure by the disclosing party;
- which the receiving party demonstrably receives lawfully from third parties without the imposition of a confidentiality obligation;
- which is commonly known or becomes commonly known without breach of the aforementioned confidentiality obligations;
- which the receiving party has demonstrably developed/created independently or
- which the receiving party has to disclose by law, court order or administrative order.

**§12 Final Provisions**

**12.1** The contractual relationship and its performance shall be governed exclusively by the laws of the Federal Republic of Germany, excluding German private international law and excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

**12.2** Place of performance for services and payments shall be Bielefeld.

**12.3** If customer is a merchant ("Kaufmann") within the meaning of § 38 (1) of the German Code of Civil Procedure (ZPO) or has no general place of jurisdiction in the Federal Republic of Germany, the exclusive place of jurisdiction for all possible disputes arising out of or in connection with the contractual relationship and its performance shall be Bielefeld, Germany. However, h+p is also entitled to bring an action against customer at the court having jurisdiction over the place of business of customer.

**12.4** This English translation of the GTC of h+p is for the convenience of customer only. Only the German version of the GTC of h+p is legally binding.

As of July 2021