



## **GENERAL TERMS AND CONDITIONS VON HELDEN UND GESTALTEN GMBH**

These General Terms and Conditions (hereinafter referred to as "GTC") govern all contractual relationships between VON HELDEN UND GESTALTEN GmbH (hereinafter "VHUG") and its Clients, unless otherwise expressly agreed in writing. They apply to all contracts for work, contracts for the supply of work and services, and service agreements with entrepreneurs within the meaning of Section 14 of the German Civil Code (\*Bürgerliches Gesetzbuch\* – BGB).

### **1. Scope of Application of the General Terms and Conditions, Subject Matter of the Contract**

- 1.1 These GTC apply to all business transactions between VHUG and the Client concerning contracts for work, contracts for the delivery of work and services, and service agreements, provided the Client is an entrepreneur within the meaning of Section 14 BGB.
- 1.2 These GTC form an integral part of every contract concluded between VHUG and the Client, unless otherwise expressly agreed in writing in an individual case.
- 1.3 Our GTC apply exclusively to the entire legal relationship with the Client concerning the subject matter of the contract. Any conflicting or deviating general terms and conditions of the Client shall not become part of the contract, unless VHUG has expressly agreed to their inclusion in writing. This also applies if the Client's general terms and conditions have been agreed in the context of a previous contract, or if, during the execution of an order, reference is made to the Client's terms and conditions and VHUG does not expressly object again to their inclusion.

### **2. Conclusion of the Contract**

- 2.1 Quotations and cost estimates provided by VHUG are non-binding and without obligation. A contract is concluded when VHUG accepts an offer submitted by the Client on the basis of such a cost estimate. The offer shall be binding for a period of fourteen (14) calendar days from receipt by the Client. Acceptance by VHUG must be made in text form (letter, fax, or e-mail).
- 2.2 If VHUG accepts the Client's offer only in an amended form, this shall constitute a new offer by VHUG to conclude a contract on the amended terms. The Client shall have a period of fourteen (14) calendar days to accept this amended offer.
- 2.3 If delivery or performance to a third party is agreed, the contractual partner shall nevertheless remain the Client.

- 2.4 VHUG is entitled to procure necessary third-party services in the name and for the account of the Client. The corresponding power of attorney shall be deemed granted upon placing the order. VHUG shall charge a handling fee of fifteen percent (15%) of the respective net order value for the supervision and execution of third-party work.

### **3. Subject Matter of the Contract and Change Requests**

The specific subject matter of the contract shall be determined by the respective offer, order confirmation, or written agreement between VHUG and the Client.

- 3.2 The scope of services shall be based on the performance specifications set out therein. Any side agreements, amendments, or additions to the agreed scope of services must be made in writing to be valid.
- 3.3 Unless otherwise expressly agreed in writing, VHUG shall not be responsible for the legal admissibility of the work or services provided, in particular with regard to competition law, trademark law, copyright law, or personal rights.
- 3.4 Any changes or additions to the contractually agreed services after commencement of the project require the prior written consent of both parties. Such changes shall result in an adjustment of the agreed timelines and remuneration. The Client shall review and confirm or reject change requests in text form within five (5) business days of receipt. Failure to respond within this period shall be deemed acceptance of the change request. Delays caused by late responses will result in a corresponding extension of the agreed timelines and may lead to additional costs, which will be invoiced at the agreed hourly rates. Execution of the changed services shall only commence after the Client's written approval of the adjusted offer, and VHUG may make execution conditional upon prior written commissioning.

### **4. Client's Duty to Cooperate and Delay in Cooperation**

- 4.1 The Client shall provide VHUG, in a timely manner and in the agreed form, with all information, data, and documents necessary for the execution of the order.
- 4.2 If the Client fails to fulfil its duty to cooperate, fails to do so on time, or fails to do so in the agreed form, any agreed deadlines shall be extended accordingly.
- 4.3 Any additional work resulting from such delay will be charged separately at the agreed hourly rates.
- 4.4 VHUG may additionally claim compensation for idle time and downtime at the agreed hourly rates. The Client shall confirm all cooperation actions and the provision of documents in text form to ensure proper documentation of cooperation obligations. The Client bears the burden of proof for the timely and proper fulfilment of its cooperation obligations. If cooperation is not provided on time or in the agreed form, it shall be rebuttably presumed that any delay is due to such failure to cooperate.

### **5. Prices and Payment Terms**

- 5.1 Unless otherwise agreed in writing, all prices are net prices in euros plus the statutory value-added tax (VAT) applicable at the time of invoicing.
- 5.2 Invoices shall be payable without deduction immediately upon receipt. A payment shall be deemed to have been made on time if the amount is credited to VHUG's

account by the due date.

- 5.3 If the Client is in default of payment, VHUG shall be entitled to charge default interest at a rate of nine (9) percentage points above the applicable base interest rate, without prejudice to further claims for damages due to default.
- 5.4 VHUG reserves the right to request advance payments or partial payments in line with project progress.
- 5.5 The Client may only offset claims or exercise a right of retention if the counterclaims are undisputed, have been established by a final court judgment, or have been acknowledged in writing by VHUG.

## **6. Retention of Title**

- 6.1 VHUG retains title to all goods delivered and rights granted until full payment of all claims arising from the contractual relationship with the Client.
- 6.2 Until ownership has passed to the Client, the goods may not be pledged or assigned as security to third parties.
- 6.3 In the event of seizure or other interventions by third parties, the Client must inform VHUG in writing without undue delay to enable VHUG to take legal action.

## **7. Payment Default and Termination**

- 7.1 If the Client defaults on payment, VHUG may demand immediate payment of all outstanding amounts, including those not yet due, and may suspend further work until full payment has been received.
- 7.2 Stop-Work Clause. If the Client is in arrears with a payment for more than fourteen (14) calendar days despite a reminder, VHUG may suspend all work until full payment has been made. Any agreed deadlines shall be extended by the duration of the suspension. VHUG shall not be liable for delays caused by such suspension.
- 7.3 Termination before Completion. If the Client terminates the contract before completion of the agreed services without VHUG being responsible for the termination, the Client shall pay fifty percent (50%) of the agreed total remuneration as liquidated damages. The Client may prove that no damage or a lesser damage has occurred; VHUG may prove that greater damage has occurred.

## **8. Delivery, Performance Periods, and Deadlines**

- 8.1 Delivery dates and performance deadlines shall only be binding if expressly confirmed in writing by VHUG.
- 8.2 Meeting deadlines is subject to the timely fulfilment of the Client's cooperation obligations.
- 8.3 If delays are caused by force majeure (including strikes, lockouts, official orders, pandemics, or other events beyond VHUG's control), performance deadlines shall be extended accordingly.
- 8.4 If delays are attributable to the Client's sphere of responsibility, VHUG may claim compensation for any resulting damages and additional expenses incurred.

## **9. Acceptance and Approval**

- 9.1 Unless otherwise agreed, VHUG shall present the work results for acceptance upon completion.
- 9.2 If the Client does not declare acceptance within seven (7) calendar days of presentation and does not raise specific written objections, the work shall be deemed accepted.
- 9.3 Commercial use of the work by the Client shall be deemed acceptance.
- 9.4 Minor defects shall not entitle the Client to refuse acceptance.
- 9.5 Defects that do not substantially impair the usability of the work shall not justify withholding acceptance.
- 9.6 Requests for changes after acceptance shall be treated as change requests under § 3.4.
- 9.7 VHUG does not warrant specific marketing success, search engine rankings, or commercial outcomes unless expressly agreed in writing.
- 9.8 If the Client fails to respond to a request for acceptance within the acceptance period, the work shall be deemed accepted.
- 9.9 Technical Acceptance Clause. For websites, software, or digital applications, acceptance shall be deemed to have occurred no later than upon go-live or productive use. Go-live or productive use constitutes tacit acceptance unless written notice of defects is given within seven (7) calendar days thereafter.

## **10. Warranty**

- 10.1 The statutory warranty provisions apply unless otherwise provided in these GTC.
- 10.2 The warranty period is twelve (12) months from acceptance, unless mandatory statutory provisions stipulate a longer period.
- 10.3 The Client must notify VHUG of defects in writing without undue delay.
- 10.4 VHUG may remedy defects at its discretion by repair or replacement.

## **11. Liability**

- 11.1 VHUG is liable for damages – irrespective of the legal basis – only in cases of intent or gross negligence.
- 11.2 In cases of simple negligence, VHUG is liable only for damages resulting from the breach of a material contractual obligation (an obligation whose fulfilment is essential for the proper performance of the contract and on which the Client may regularly rely). In such cases, liability is limited to the foreseeable damage typical for this type of contract.
- 11.3 VHUG is not liable for indirect damages, consequential damages, or loss of profit.

- 11.4 The above limitations do not apply to injury to life, body, or health, or in cases of mandatory liability under the German Product Liability Act.

## **12. Rights of Use and Copyrights**

- 12.1 VHUG grants the Client rights of use to work results only upon full payment of the agreed remuneration.
- 12.2 Unless otherwise agreed in writing, VHUG grants the Client only simple, non-exclusive rights of use for the agreed purpose.
- 12.3 Any further use, in particular transfer to third parties, requires VHUG's prior written consent.

## **13. Confidentiality, Pitch Protection, and Duty to Mitigate Damages**

- 13.1 Confidentiality. Both parties shall treat all confidential information obtained in the course of the contractual relationship as strictly confidential and use it solely for the purposes of the contract.
- 13.2 Pitch / Work Sample Protection. Ideas, concepts, drafts, and designs presented by VHUG during pitches or as work samples are protected by copyright. Unauthorized use or disclosure obliges the Client to pay an appropriate contractual penalty, to be determined by VHUG at its reasonable discretion and subject to judicial review in case of dispute.
- 13.3 Duty to Mitigate Damages. The Client is obliged to take all reasonable measures to mitigate damages in the event of defects, delays, or other disruptions.

## **14. Final Provisions**

- 14.1 The place of performance for all obligations arising from the contractual relationship is VHUG's registered office, unless otherwise agreed in writing.
- 14.2 The place of jurisdiction for all disputes arising from the contractual relationship shall be Stuttgart, Germany, provided the Client is a merchant (\*Kaufmann\*), a legal entity under public law, or a special fund under public law. VHUG may also bring an action at the Client's general place of jurisdiction.
- 14.3 The law of the Federal Republic of Germany applies exclusively, excluding the UN Convention on Contracts for the International Sale of Goods (CISG).
- 14.4 If any provision of these GTC is or becomes invalid, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced by a valid one that most closely reflects the economic intent of the original provision.
- 14.5 Amendments and supplements to these GTC, including this written form clause, must be made in writing to be valid.