

General Terms and Conditions

The following General Terms and Conditions have been translated automatically. In case of doubt, the [original version in German](#) applies.

1. Scope of application

- a) MYTY Group Switzerland AG unites under its umbrella various companies active in the fields of advertising, media and communication (hereinafter referred to individually as the **Agency**).
- b) These General Terms and Conditions (the **GTC**) apply to all relationships (offers, contract negotiations, contracts) between the respective agency and its business customers (the **customer**).
- c) The agency's services are agreed individually with the customer, whether in a separate signed contract, in an offer accepted by the customer or similar (each an **individual contract**). These GTC apply in addition to and subsidiary to each individual contract.
- d) General terms and conditions or similar documents of the client are hereby explicitly excluded. These GTC shall also apply exclusively and integrally if the customer refers to the validity of its general terms and conditions in its orders, confirmations or other communication and the agency provides the services without reservation.

2. Conclusion of individual contracts

- a) All offers, price lists, product descriptions, brochures, (media) plans and similar documents of the agency are non-binding and can be changed or revoked at any time, unless explicitly stated otherwise in the relevant document.
- b) Unless explicitly stated otherwise in the offer, invitation to tender, registration form, etc., an individual contract with the agency shall only come into effect on the date of approval by the agency. Consent shall be given by means of a written order confirmation (declaration of acceptance by the agency), the signing of a written contract or the execution of the order or provision of the service by the agency.
- c) Orders outside of an individual contract that has already been concluded, requests for changes or other inquiries from the customer shall be deemed to be an offer to the agency to conclude a contract. The agency is free to accept or reject the order without giving reasons.

3. Provision of services by the agency

- a) The agency fulfills the agreed obligations carefully, but assumes no responsibility for results (e.g. it cannot guarantee that an advertising campaign will actually have the desired effect on the target audience). In particular, any material or legal warranty or liability for material or legal defects in sales contracts (Art. 184 ff. of the Swiss Code of Obligations [CO]) and contracts for work and services (Art. 363 ff. CO) are hereby excluded to the extent permitted by law.
- b) As part of the contractual relationship, the Agency shall submit plans, concepts, graphic or textual representations or similar (including specifications, costs, placements, etc.) to the Client for approval. Once approval has been granted for such documents (whether verbal or in writing), the client shall be bound by this approval and a cancellation shall only be possible under the conditions of Clause 10 possible.
- c) Unless otherwise agreed, the agency is free to select its employees for the respective project. If the agency has guaranteed that certain persons will provide the services, the agency is entitled to substitute these persons for important reasons, for example in the event of illness or other unforeseeable staff shortages.
- d) The agency is entitled to have its contractual obligations fulfilled in whole or in part by third parties (e.g. freelancers).
- e) The agency may provide partial services, insofar as this is reasonable for the customer.
- f) The agency has the right to suspend the entire provision of services for an indefinite period if the customer does not fulfill his contractual obligations, in particular if he does not make payments or partial payments as agreed or does not fulfill his obligations to cooperate.

4. Prices and invoicing

- a) Unless otherwise agreed, the client agrees that the agency shall invoice its services according to the time spent, at the applicable hourly rates.
- b) The client shall reimburse the agency for all necessary or useful expenses incurred by the agency in the course of providing the service (e.g. travel expenses) on presentation of the relevant receipts or invoices.
- c) All prices are net, in CHF, plus the applicable statutory VAT.
- d) Unless expressly agreed otherwise in writing, any quotation, estimate or indication of the expected costs shall only constitute a non-binding estimate.
- e) Meetings and preliminary services (e.g. presentations) that go beyond the mere preparation of an offer are subject to compensation.
- f) The agency may, at its own discretion, demand advance payment, including advance payment for anticipated third-party costs (e.g. advance payment of placement costs in accordance with the media plan approved by the client).
- g) Unless otherwise stated on the invoice, these are due within 10 days of the invoice date and must be paid by bank transfer to the bank account designated by the agency. Deductions from invoice amounts (discounts, rebates, etc.) may not be made unless explicitly agreed otherwise in writing. Offsetting against counterclaims is not permitted.
- h) If invoices are not paid within the agreed payment period, the agency shall send the customer a reminder. If the customer still fails to pay, he shall automatically be in default upon expiry of the deadline set in the reminder.

5. Deadlines and dates

- a) The agency always endeavors to meet deadlines and dates. However, the agency cannot guarantee that they will be met. Unless explicitly agreed otherwise, agreed deadlines and dates are non-binding.
- b) If a binding date has been explicitly agreed, the following applies:
 - i. In the event of a delay on the part of the agency, the client must set a reasonable grace period. If the client wishes to refuse to accept services after the grace period has expired, he must inform the agency in writing in advance. The Agency's performance shall be deemed to have been fulfilled for partial services already rendered.
 - ii. The delivery deadlines shall be extended appropriately if the customer subsequently expands or changes the scope of work, requests other changes to what has been agreed or does not fulfill its obligations to cooperate, or does so late or inadequately. The same applies to missed deadlines by third-party suppliers and the like, which lead to delays in the completion of the order by the agency.

6. Third-party services

- a) The agency may purchase services or products from third parties (third-party services) (e.g. electronic advertising space, advertising space in print media, printing, photo and film production, hosting, etc.) as part of the fulfillment of its contractual obligations and sell these on to the customer.
- b) The agency carefully selects the providers of third-party services, but assumes no liability or warranty for such third-party services. In particular, any warranty of quality or title or liability for defects in quality or title for third-party services is hereby excluded to the extent permitted by law. The customer must assert any claims directly against the third-party provider. The Agency shall support the Customer in this respect to a reasonable extent and shall assign to the Customer any claims that the Agency may have against the third-party provider.



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7. Communication with the customer

- a) The agency may assume that all employees and other auxiliary persons of the customer are authorized to communicate with the agency in a legally binding manner.
- b) The client acknowledges that the implementation of its instructions may, under certain circumstances, result in a change to the agreed remuneration, deadlines/deadlines or other provisions of the individual contract. As soon as the agency recognizes that such an adjustment to the individual contract is necessary, it shall inform the client of the necessary adjustments.

8. Advertising material and other information from the customer

- a) The client is responsible for ensuring that the information and advertising material or other image, sound or text elements provided to the agency by the client are correct and complete, that they themselves and their use by the client or the agency within the scope of the fulfillment of the individual contract do not violate the law or industry regulations and do not infringe any third-party rights. The agency is not obliged to check the information and advertising material in this respect. The same applies to content that is linked to the advertising material provided by the customer or to which links or references are made in the advertising material (e.g. websites, forms, videos, etc.).
- b) The Agency shall not be liable for damages incurred by the Client which originate from erroneous, misleading, incorrect, inaccurate, unlawful or infringing third-party rights information, instructions, advertising material or other content provided by the Client. Should the Agency suffer damage in this respect, the Client shall indemnify the Agency regardless of fault, including reasonable legal fees.

9. Obligation of the customer to cooperate and provide information

- a) In order to fulfill its contractual obligations, the agency is dependent on the cooperation of the customer in various respects.
- b) The client must therefore carry out all preparatory and support activities so that the agency can optimally fulfill its contractual obligations (e.g. prompt response to questions, consolidated feedback, review and approval of media plans, "good to print", access to premises, data or interfaces, etc.).
- c) Furthermore, the customer shall provide the agency at any time with all information of its own accord that is essential for the provision of services by the agency or the contractual relationship in general.
- d) If the customer fails to comply with the obligations to cooperate and provide information in accordance with this Section 9 he shall bear all associated consequences, in particular a possible delay in services (cf. clause 5 lit. b)ii). The customer shall bear any additional costs (including third-party costs).
- e) The costs incurred by the customer in fulfilling his obligations to cooperate and provide information shall be borne by the customer himself.

10. Termination

- a) Both the agency and the customer are bound by concluded contracts, approved plans, etc. Unless special cancellation conditions have been agreed between the parties, the following shall apply:
- b) If the customer withdraws from an individual contract (including in part, for example by waiving a partial service that has already been ordered) without the requirements of clause 10 lit. c) or d) are fulfilled, the agency shall be entitled to the full agreed remuneration as stipulated in the individual contract, irrespective of the time of withdrawal. The agency shall only be entitled to offset the expenses saved as a result of the withdrawal.
- c) For recurring services on a monthly basis (e.g. support, consulting, optimization, reporting, etc.), unless otherwise agreed in the individual contract, the contract is concluded for an indefinite period and can be terminated by the customer or the agency with a notice period of 3 months to the end of each month.
- d) Both the agency and the customer may terminate the individual contract for good cause with immediate effect. Important reasons include in particular:
 - i. breach of material contractual obligations which is not remedied within a reasonable period set in writing by the terminating party;

- ii. Deterioration in the financial situation of the other party, in particular imminent insolvency, debt restructuring moratorium or (imminent) declaration of bankruptcy;
 - iii. unreasonableness of the continuation of the contract, for example due to reputational risks or serious disruption of the relationship of trust between the parties; and
 - iv. Termination by the agency: in the event of late payment by the customer if the customer fails to pay even after a grace period of 7 days set by the agency.
- e) The mutual obligations shall expire upon termination of an individual contract. Provisions of an individual contract or these GTC that are explicitly or by their nature intended to survive the termination of an individual contract shall not be affected by the termination.

11. Intellectual property rights

- a) The client acknowledges the intellectual property of the agency, in particular the copyright, to all works created by the agency within the scope of an individual contract (concepts, sketches, drafts, designs, codes, logos, texts, etc.), which shall remain fully with the agency. All (intellectual) property rights to offers, presented proposals and preliminary studies or parts thereof shall remain in full with the agency. The client shall be liable for damages if it uses quotations, proposals, preliminary studies and preliminary services (in particular presentation proposals) of the agency for utilization with a third party or passes on detailed service specifications in order to obtain a competitor's quotation.
- b) The Agency shall grant the Client the rights of use to the works created by the Agency within the scope of the individual contract, limited to the use agreed within the scope of the individual contract. Any further use shall require the Agency's prior written consent and additional compensation to be agreed by the parties. The rights granted do not apply to any third-party rights. These shall be regulated with the third parties concerned and shall be settled separately.
- c) The customer is not entitled to make changes to the works in question without the prior written consent of the agency.

12. Secrecy

- a) The agency and the customer undertake to keep confidential information of which they have become aware in the course of their business relationship (in particular agreed contractual conditions) secret and to use it only for the purpose of the contract.
- b) Confidential information is all information that is confidential by nature, with the exception of information that was disclosed prior to the time of disclosure:
 - i. were already known to the receiving party or the public without any wrongful act by the receiving party, or
 - ii. were created by the receiving party independently of the individual contract.
- c) The Client acknowledges and agrees that the Agency may disclose confidential information to third parties (including affiliated companies) engaged by the Agency for the performance of the contract, provided that the third parties require the confidential information for the provision of their services and have been informed by the Agency of the confidential nature of the information. At the Client's request, the Agency shall contractually ensure that the third party is subject to confidentiality obligations that are essentially identical to the obligations under this clause a) correspond.
- d) Upon termination of an individual contract, either party may request the other party to destroy or delete all confidential information, with the exception of information contained in automated backups or subject to statutory retention obligations.
- e) The confidentiality obligations under this clause 12 shall survive the termination of an individual contract for a period of 5 years from the termination of the individual contract.

13. Non-solicitation clause

- a) During the term of an individual contract and within 12 months of its termination, the customer undertakes not to entice away any employees of the agency or third-party service providers used by the agency who have worked in connection with the execution of an individual contract.
- b) For each violation of this non-solicitation clause by the client, the client shall pay the agency a no-fault contractual penalty of CHF 50,000. Payment of the contractual penalty shall not release the client from compliance with the non-solicitation clause. The right



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to assert further claims for damages or injunctive relief remains reserved.

14. Advertising and communication

- a) Advertising, references, press releases, information and similar public statements in which one party refers to the other party are only permitted with the prior written consent of the other party.
- b) Notwithstanding the above, the Agency may mention the name or company (including brands and logos) of the Customer in advertising materials/media (e.g. website, brochures, catalogs, presentations, social media, etc.) as a reference customer and reproduce and disseminate the services provided as part of its own advertising and publicly reproduce and refer to them for demonstration purposes, unless the Customer can assert a conflicting legitimate interest.

15. Data protection

- a) The agency's handling of the customer's data is set out in its respective privacy policy. This can be found on the website of the respective agency.
- b) The customer is responsible for ensuring that data transmitted by him to the agency (e.g. in advertising material) has been obtained and processed in accordance with the applicable data protection law and that this data may be used by the agency for the purpose agreed in the individual contract or for the purpose intended in good faith.

16. Liability

- a) The agency shall only be liable to the customer in the event of gross negligence, intent, physical injury or product liability. Any further liability is hereby excluded.
- b) Under no circumstances shall the Agency be liable if the damage is connected with incorrect instructions, acts of cooperation or information, advertising material or other content provided by the Client; the Agency shall not be obliged to check these for defects. Furthermore, the agency shall not be liable if the damage is connected with breaches of contract, legal violations or other breaches of due diligence by the customer (including its employees and auxiliary persons) or third parties.
- c) The Agency shall not be liable for the acts or omissions of auxiliary persons, including third-party service providers used by the Agency.

17. Indemnification

- a) The customer undertakes to indemnify the agency, regardless of fault, against all third-party claims (including court costs and reasonable legal fees) in connection with:
 - i. incorrect, incomplete or misleading instructions, plans or directions from the customer;
 - ii. (alleged) infringements of third party intellectual property rights in information, images, logos, material, plans, phrases provided by the customer; or
 - iii. breaches of contract, law, industry regulations or duty of care by the customer or auxiliary persons of the customer.

18. Force Majeure

- a) The agency shall not be liable to the customer for the breach of contractual obligations if the breach is due to force majeure. Force majeure" is understood to mean an unexpected external event that cannot be averted with reasonable measures and that prevents the agency from fulfilling its contractual obligations. This includes, for example, wars, civil wars, armed conflicts, natural disasters, acts of terrorism, epidemics and pandemics, quarantine, government measures, fire, prolonged power failures, etc.
- b) In this case, the agency shall be released from the fulfillment of the contractual obligations concerned for the duration of the hindrance and any deadlines shall be automatically extended by the duration of the hindrance.
- c) If the hindrance lasts for more than 30 days after notification by the agency, both parties are entitled to withdraw from the contract by written notification, provided they declare this within 14 days of the expiry of the 30-day period. In this case, claims for damages are excluded on both sides.

19. Special conditions for seminars

- a) These special terms and conditions apply in addition to the other provisions in these GTC for seminars, lectures, workshops, courses and similar events (hereinafter collectively referred to as

seminars). In the event of a conflict with other clauses of these GTC, these special terms and conditions shall take precedence.

- b) The agency reserves the right to cancel seminars due to an insufficient number of participants up to 7 days in advance at the latest. The customer will be refunded the participation fee, but has no further claims against the agency, in particular not for travel and accommodation costs or loss of working hours.
- c) The customer may cancel a seminar in writing at the following cost:
 - i. Up to 30 days before the start of the seminar: free of charge
 - ii. 29-11 days before the start of the seminar: 50 % of the participation fee
 - iii. 10 or fewer days before the start of the seminar or no-show: 100 % of the participation fee
- d) Rebooking (nomination of a replacement participant) is possible free of charge up to 7 days before the start of the seminar. Later rebookings are no longer possible.
- e) If the customer is unable to attend the booked seminar due to illness, a new date on the same seminar topic will be agreed free of charge after a medical certificate has been sent (if such a seminar is already planned).
- f) If the seminar is canceled by the agency due to force majeure, the inability of a speaker to attend (illness, accident, traffic obstructions, etc.), disruptions at the venue or other circumstances for which the agency is not responsible, the customer will be informed immediately by the agency and an alternative date will be set. Any liability on the part of the agency is excluded; in particular, the agency shall not provide compensation for travel and accommodation costs or loss of working hours.
- g) The agency reserves the right to replace announced speakers with others in exceptional cases or to make other necessary changes to the event program (content, date, venue) while maintaining the overall character of the seminar. In this case, the customer has no claims against the agency.

20. Special conditions for consulting packages

- a) These special conditions apply in addition to the other provisions in these GTC for consulting packages (i.e. only if the services are explicitly designated as such by the agency). In the event of a conflict with other clauses of these GTC, these special terms and conditions shall take precedence.
- b) The consulting package can be used for advice on Facebook, Instagram, LinkedIn, Pinterest, Google, YouTube, TikTok and similar digital marketing topics.
- c) The customer may request consulting services for advice and support either (i) by telephone, e-mail or video telephony, (ii) on site at the agency, or (iii) at the customer's registered office.
- d) The consulting services do not include seminars and workshops with several participants.
- e) Hours from the consulting package must be used within 6 months of the contract being concluded. Unused hours from the consulting package expire after 6 months.



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21. Special conditions for the creation of digital presences

- a) These special terms and conditions apply in addition to the other provisions in these GTC for the creation of websites, applications, landing pages or similar work products (hereinafter all together the Digital Presence) by the Agency. In the event of a conflict with other clauses of these GTC, these special terms and conditions shall take precedence.
- b) Digital presences are optimized for the desktop browser versions of Chrome, Safari, and Firefox on Mac OS and Windows that are current at the time the contract is concluded. iOS and Android are supported with the iOS and Android versions that are current at the time of the offer and are delivered as standard and their associated standard web browsers, as well as on [Iphones] or [Samsung Galaxy cell phones] that are not older than [5] years.
- c) Due to the sometimes frequent and unpredictable adjustments to third-party platforms (e.g. Facebook, AppStore guidelines, hardware changes, etc.), it cannot be ruled out that the applications implemented by the agency may no longer function as desired. The agency assumes no guarantee for future compatibility with third-party platforms after going live and testing within the agreed releases / platform adaptations. Such functional updates / visual adjustments to developments caused by third parties but necessary to maintain functionality are expressly not included in the agreed price and must be agreed and compensated separately.

22. Miscellaneous

- a) The assignment of rights and obligations under an individual contract is only possible with the prior written consent of the other party. As an exception to this, the agency may assign rights and obligations to an affiliated company (company that is under the control or under the same control as the agency) at any time.
- b) Declarations in text form that are transmitted or recorded by electronic media (e-mail, SMS and the like) shall be deemed to be written declarations by a party. The sender is responsible for proving that such declarations have been received and retrieved by the recipient.
- c) Should a provision of these GTC or an individual contract be or become invalid or ineffective, the remaining part of the document shall not be affected. In the event that a provision is invalid or ineffective, it shall be replaced by a provision that comes closest to the economic purpose of the invalid or ineffective provision. The same procedure shall apply if a loophole becomes apparent.
- d) The agency is entitled to amend these GTC during ongoing contractual relationships. The client shall be notified of any amendments in advance. In the absence of a written objection within 30 days of notification, the amendments shall be deemed to have been accepted by the customer. In the event of an objection, the customer is free to terminate the business relationship with immediate effect.

23. Applicable law and place of jurisdiction

- a) The place of jurisdiction is the registered office of the agency. However, the Agency shall also have the right to sue the Client at the competent court at the Client's registered office or place of business or at any other competent court.
- b) The legal relationship between the Customer and the Agency shall be governed exclusively by substantive Swiss law, excluding its conflict of law rules and excluding the UN Convention on Contracts for the International Sale of Goods (CISG).