

General Terms and Conditions Hutter Consult AG (EU)

1. Scope and period of validity

- 1.1 The General Terms and Conditions (hereinafter referred to as "GTC") apply to all offers of Hutter Consult AG (hereinafter referred to as "Hutter Consult") and to all service contracts as well as seminars of the same with its customer (hereinafter referred to as "contractual partner"), regardless of content and legal nature of the offered or assumed consulting, seminar and/or services.
- 1.2 The services and offers of Hutter Consult are based exclusively on these GTC. If consulting offers or service contracts of Hutter Consult contain additional or replacing written provisions that deviate partially or completely from the following GTC, the individually offered provisions shall prevail over these terms and conditions. Deviating or additional conditions on the part of the contractual partner are only effective if they have been confirmed in writing by Hutter Consult.
- 1.3 If the contractual partner makes use of the services of third parties through Hutter Consult or without the cooperation of third parties, the contractual partner itself is responsible for compliance with these terms of use by the third party provider and can be held directly liable in the event of damage, improper, or misappropriated use.
- 1.4 The validity of these GTC shall also remain valid for future service contracts. There is a valid version of the current GTC on the company homepage as well as attached to the contractual documents.
- 1.5 Any changes to the existing GTC will be communicated to the contractual partner in writing to the e-mail address provided in the contract. The changes shall be deemed approved unless the contractual partner notifies his objection in writing within a period of 10 working days after dispatch.

2. Duty of care, cooperation of the contractual partner, secrecy and exclusivity

- 2.1 Hutter Consult undertakes to provide its services with the utmost care. Nevertheless, Hutter Consult reserves the right, even after conclusion of a contract, to adapt or deviate from the services discussed in so far as the changes or deviations are customary or insignificant and do not affect or impede any guaranteed quality.
- 2.2 The contractual partner undertakes to cooperate by carrying out all participatory actions necessary for the implementation of the agreement and to fully support Hutter Consult within the framework of the agreement, in particular to make data, documents and the working environment available and to assess the concepts, publications and other measures submitted and to approve them within a reasonable period of time. The contractual partner shall designate one or more persons who are authorized to make decisions regarding the subject matter of the contract. All costs arising from the participatory actions by the contractual partner shall be borne by the contractual partner alone. If Hutter Consult incurs additional costs because the contractual partner has not fulfilled its obligation to cooperate or has only partially fulfilled its obligation, Hutter Consult will additionally charge the contractual partner with these costs.
- 2.3 In the event of a particular urgency, Hutter Consult shall be entitled to set a reasonable, useful deadline within which approval must be obtained, notifying the contractual partner of this beforehand. If the contractual partner does not react within the set period, the contents to be checked shall be deemed to have been approved.
- 2.4 The contractual partner undertakes to inform Hutter Consult at an early stage and comprehensively of any circumstances which may arise and which could be of significance for the completion of the contractual services.
- 2.5 In the event of non-fulfilment or breach of the duty to cooperate, Hutter Consult shall no longer be obliged to provide additional services. Any liability is excluded as far as possible.
- 2.6 Both Hutter Consult and the contractual partner undertake to keep the information and documents confidential, to not disseminate them, to not pass them on to third parties, and to – neither in part nor in full – make them accessible to third parties or to use them for third parties. Involved employees and third parties must be informed of their obligation to confidentiality. The obligation to maintain confidentiality begins with the first contact and continues beyond the duration of any cooperation. The means of communication created by Hutter Consult and released for use in public spaces shall not be considered secret. The same applies to concepts which have been developed as an idea for the contractual partner but which have not been used.
- 2.7 Unless otherwise agreed in writing, Hutter Consult is entitled at any time to work for more than one contractual partner in the same industry, or field of interest, without prioritizing interests or priorities of one partner over another.

3. Proposal and Conclusion of Contract

- 3.1 The preparation of a quotation takes place after a detailed initial discussion which serves to determine customer needs and the scope of work.
- 3.2 The preparation of these detailed quotations, as well as first drafts, shall be entitled to payment based on the hourly rates stated in the quotation.
- 3.3 Tailor-made concept quotations are invoiced on a time and material basis: the rates specified under 6.1 apply. Concept quotations will not be invoiced if they are the result of an order placement and implementation.
- 3.4 Hutter Consult does not participate in free competitive presentations. For pitches (draft or concept presentations), Hutter Consult is entitled to a commensurate fee (guidance: 10% of the expected order volume, or at least CHF 2,000), which covers at least personnel and material expenses for the presentation as well as the costs of all external services.
- 3.5 The documents transmitted by Hutter Consult, both in paper and electronic form, offers, drafts and concept proposals remain the intellectual property of Hutter Consult and are protected by copyright. Any use is not permitted. The passing on to third parties as well as the publication, duplication, distribution or other use is not permitted without the specific consent of Hutter Consult.
- 3.6 In the event that the order is not fulfilled, all documents mentioned in 3.5 must be returned to Hutter Consult via postal service or the transmitted electronic data destroyed. If the ideas and concepts submitted in the course of a presentation are not used for the solution of communication tasks, Hutter Consult shall be entitled to use the presented ideas and concepts for other purposes.
- 3.7 Service contracts between Hutter Consult and the contractual partner shall only come into effect upon written confirmation or direct execution of the order by Hutter Consult in accordance with the existing agreement.
- 3.8 Hutter Consult shall remain free of any additional contractual performance until the legally valid written conclusion of the contract.
- 3.9 Unless otherwise agreed, the order shall be placed in writing and shall include the approval of the present offer (services and prices) and the GTC.
- 3.10 Hutter Consult reserves the right to withdraw from the contract within 7 working days of the order being executed.
- 3.11 Hutter Consult explicitly addresses all offers in its product range only to commercial customers, freelancers, corporations under public law as well as foundations and associations. Should Hutter Consult become aware after the conclusion of the contract that the contractual partner is not or does not represent any of the listed corporations, Hutter Consult may withdraw from the contract within a reasonable period of time.

4. Subject matter of the contract, copyright and rights of use

- 4.1 Unless an order contract (consulting services) within the meaning of Art. 394 et seq. of the Swiss Code of Obligations has been concluded, the order placed with Hutter Consult, in particular in the case of the provision of online services of any kind, falls under the legal applicability of a contract for work and services within the meaning of Art. 10 Para. 1 et seq. of the Swiss Code of Obligations. The following paragraphs refer to contracts for work and services.
- 4.2 The subject matter of the contract for work and services is the creation of work and the granting of related rights of use in the sense of a license. The subject matter of the contract is not the review of the admissibility of the work of Hutter Consult under competition law. Hutter Consult is not obliged to check the registrability or usability under trademark or other protective rights. The contractual partner is responsible for the research and examination of the intellectual property rights.
- 4.3 Every work created by Hutter Consult is protected by copyright, regardless of whether it is recorded on a medium or not.
- 4.4 All work, drafts and proposals are subject to the Swiss Copyright Act. The parties agree to the application of the provisions of the Copyright Act, to the extent permissible, even in the event that the necessary protection requirements are not met in the individual case. In addition, the parties shall be entitled to claim damages under copyright law.
- 4.5 Upon full payment of remuneration, Hutter Consult assigns to the contractual partner the right to use the work, unrestricted in terms of time, space and content (user license).
- 4.6 The transfer of the rights of use or the granting of sub-licenses to third parties requires the written consent of Hutter Consult.
- 4.7 The contracts may not be changed without the explicit consent of Hutter Consult.
- 4.8 Hutter Consult is as per agreement between the contractual partner to be mentioned as the unique author in the event of duplication, distribution or other publication of the work.

- 4.9 The intentional omission of information about the source and author, as well as unauthorized duplication or publication of the work is illegal. Any violation of the copyright of Hutter Consult will be legally prosecuted and liable for damages against Hutter Consult. Unless an out-of-court agreement between the parties could be reached, the amount of the compensation shall be determined by the judge of the court at the place of jurisdiction of Hutter Consult.
- 4.10 Without the explicit consent of Hutter Consult, the contractual partner is not entitled to use the work or parts thereof as a trademark or other industrial property right.

5. Services, acceptance of services, scope of delivery and delivery dates

- 5.1 Unless otherwise agreed, delivery of services must be made electronically, for example by accessing a server or other data sharing tools.
- 5.2 Services and work results carried out and completed by Hutter Consult and delivered to the contractual partner must be looked into by the contractual partner. Without written objection by the contractual partner within 5 working days, the services provided shall be deemed to have been accepted, even if the contractual partner has failed to carry out the inspection. Acceptance may not be revoked by the contractual partner. In the specific case of providing services and work results in online advertising, a "step by step" check is assumed: online advertising dates are considered as last possible date for the check by the contractual partner: if there is no objection up to the time of online advertising, these are deemed accepted, even if the contractual partner has omitted the check.
- 5.3 Hutter Consult is only obliged to provide the source code for online services if this has been explicitly agreed upon in the contract. If the source code is handed over, this is done without further documentation. Documentation or further training can be arranged. Additional fees will apply.
- 5.4 If not explicitly agreed on in written format, information regarding delivery time and performance period are non-binding.
- 5.5 If Hutter Consult is being hindered involuntarily to fully execute or perform the appointed service caused by hidden or unexpected additional overhead, official intervention, non-delivery by suppliers and third parties, employee illness, force majeure or other events, the delivery or service deadline shall be extended by the duration of the impediment that has occurred in addition to a suitable period for resumption after termination of the impediment. In particular, if Hutter Consult is waiting for information or necessary involvement from the contractual partner.

6. Remuneration and expense regulation

- 6.1 The agency fees shall be based on the price agreed with the contractual partner. In the absence of such an agreement, the following rates shall be deemed agreed.

	Hourly Rate	Daily Rate
Consultant	200 EUR	1'600 EUR
Ads Specialist	200 EUR	1'600 EUR
Senior Consultant	250 EUR	2'000 EUR
Senior Ads Specialist	250 EUR	2'000 EUR
Project lead	200 EUR	1'600 EUR

- 6.1 All services provided by Hutter Consult which are not explicitly covered by the agreed fee shall be remunerated separately by the contractual partner. This applies in particular to all additional services provided by Hutter Consult.
- 6.2 Unless agreed otherwise travel expenses will be charged to the contractual partner at cost. Expenses shall always be calculated from the office location of Hutter Consult to the location of the contractual partner.
- 6.3 The hourly rate of CHF 100 applies for travel times. If the journey is made by vehicle, an additional charge of Euro 0.80 per kilometer will be added. If the journey is made by public transport, the customer will be charged the effective expenses for the tickets according to the following table:

	Switzerland	Europe	Other countries
Airplane	Economy	Economy	Business
Train	Class	1. Class	

- 6.1 Expenses for motorway tolls, taxis, hotel accommodation (3 and more stars), meals, parking fees, etc. will be charged at cost. Expenses which may arise due to postponements or cancellations, e.g. cancellation costs for flights, hotel accommodation, etc., will be charged to the contractual partner.
- 6.1 If third-party software or licenses are necessary for the provision of the service, these must be provided by the contractual partner. If these licenses are not available, Hutter Consult shall be entitled to invoice the contractual partner for the license costs and additional expenses.
- 6.2 Unless agreed otherwise payment shall be made in two instalments. The first payment, amounting to 50% of the order value, shall be made after the order has been placed, the remaining payment after the work has been handed over or the order has been processed. Hutter Consult is entitled to suspend work on the product or service as long as the contractual partner is in delay with a partial payment.
- 6.3 Invoice amounts in favour of Hutter Consult are due within 10 working days after receipt of the invoice without any deduction, unless agreed otherwise. After expiry of this period the contractual partner shall be in default of payment.
- 6.4 In the case of advertising services to third parties, Hutter Consult is entitled to invoice the customer for third-party costs plus a processing fee of 3% for the advertising services. Further the Hutter Consult is entitled to make the booking with the corresponding media only after complete receipt of payment. Hutter Consult shall not be liable for a possible non-compliance with a switching date due to a delayed receipt of payment. The contractual partner shall not be entitled to claim damages from Hutter Consult. In the case of advertisements in foreign currencies, the contractual partner is liable for any currency losses. Hutter Consult is entitled to invoice the contractual partner for any currency losses after the fact.
- 6.5 The contractual partner may only assert claims against Hutter Consult that are undisputed or have been finally and conclusively established. A reduction of the remuneration or retention of the performance remuneration can only be claimed to the extent to which it is entitled according to the contract.
- 6.6 All prices are exclusive of VAT. If the services are rendered outside Switzerland, all services will be invoiced without VAT. For VAT invoicing outside Switzerland, the VAT liability is assumed in accordance with the local legislation of the country.

7. Change requests

- 7.1 The contractual partner may demand changes and additions to the service at any time up to the time of acceptance if these are feasible and reasonable for Hutter Consult. Hutter Consult shall examine the feasibility of the changes within 5 working days of receipt and shall inform the contractual partner of the result together with any additional costs incurred and the expected time required. This shall be delivered as a change or amendment offer.
- 7.2 The contractual partner agrees to examine the amendment or supplementary offer within 5 working days of receipt. If the contractual partner accepts the offer, the changes or amendments shall become an additional part of the contract. If the contractual partner does not accept the amendment offer, the contractual parties shall continue the project unchanged.
- 7.3 The remuneration for amendments or supplements shall be based on Art. 6.1. et. seq. further of these GTC.

8. Self-promotion

- 8.1 Hutter Consult is entitled to use the works for self-advertising purposes and for participation in awards.
- 8.2 After successful completion of the services, Hutter Consult may include the contractual partner on its reference list unless agreed otherwise or deemed unreasonable by the contractual partner.

9. Subcontractor / Outsourcing

- 9.1 Hutter Consult is entitled to commission subcontractors with partial services at any time for the production of the work or the provision of services. There are no contractual relationships between the subcontractor and the contractual partner. The subcontractors engaged by Hutter Consult are representative agents in the relationship towards the contractual partner.

10. Defaults of title and quality

- 10.1 Hutter Consult provides the statutory warranty by subsequent performance, at its own discretion either by reduction or cancellation.
- 10.2 Hutter Consult may also remedy defaults by showing the contractual partner possibilities and options which enable the effects of an alleged defect without detrimentally impairing the functionality owed. The contractual partner must take over the new programs or databases provided in the course of subsequent improvement or performance even if this leads to a reasonable adjustment or conversion effort. In the event of failure or impossibility of rectification, the contractual partner may demand a reduction in the order value. In the event of substantial defects, which are deemed unusable, the



- contractual partner may withdraw from the contract within the meaning of Art. 368 et seq. of the Swiss Code of Obligations.
- 10.3** The contractual partner may only claim damages for defects under the statutory prerequisites and only to the extent that liability is provided for in accordance with Paragraph 11 et seq. of the GTC. Any other claims due to deficiencies are excluded.
- 10.4** If the contractual partner has modified the work provided, Hutter Consult shall only be liable for defaults which can be proven to have arisen independently or not as a result of consequential damage as a result of the modification made.
- 11. Terms of liability and disclaimer**
- 11.1** Hutter Consult provides services to the best of its knowledge and belief on the basis of documents and documentation available from the media and channels, as well as generally accessible market research data. Hutter Consult does not owe the contractual partner any specific advertising or business success as a result of these services. The risk for the business success is always borne by the contractual partner. The liability of Hutter Consult and its subcontractors is excluded, except for damages caused intentionally or by gross negligence.
- 11.2** Hutter Consult assumes no liability for possible additional costs in the area of advertising on all social media and other online platforms, which have arisen due to disruptions, errors or negligence. The monitoring and the control of the correctness of the advertisement lies completely in the duties of the contracting partner.
- 11.3** Hutter Consult shall not be liable for damages resulting from loss of performance and delays in performance due to unforeseeable events (force majeure) for which neither Hutter Consult nor its subcontractors are legally responsible. Events of force majeure include in particular war, riots, natural disasters, fire, sabotage attacks by third parties (e.g. computer viruses), power failures, official orders, lawful internal work measures as well as the failure or performance limitation of communication networks and gateways of other operators.
- 11.4** As far as Hutter Consult can be made liable for the damage according to paragraph 11.1 of the GTC, this liability is limited to the order amount of the own services rendered by Hutter Consult. Hutter Consult's liability for consequential damage caused by a defect on the legal grounds of a positive breach of contract is excluded.
- 11.5** The contractual partner undertakes to indemnify Hutter Consult against all third-party claims and is liable to Hutter Consult for all damage caused by the contractual partner's use of Hutter Consult's services that are not in accordance with the contract.
- 11.6** Hutter Consult shall not be liable for objects, data or programs brought in by the contracting partner, unless Hutter Consult has caused the damage or destruction of these objects through intentional or grossly negligent action. Hutter Consult shall not be liable for burglary or theft of objects of any kind provided by the contractual partner.
- 11.7** In using the work that is to be produced, the contractual partner shall not violate any statutory provisions or the rights of third parties and shall indemnify Hutter Consult against all claims by third parties against Hutter Consult based on the unlawful use of the work or service.
- 11.8** The contractual partner explicitly acknowledges that Hutter Consult does not offer any legal advice and that the legal responsibility in any case lies with the contractual partner and that a legal examination of the measures must be carried out by the contractual partner. The contractual partner itself is responsible for compliance with legal regulations, in particular competition, trademark and copyright regulations, including the solutions proposed by Hutter Consult. The contractual partner will only release a service by Hutter Consult if it has ascertained itself of the legal harmlessness or if it is prepared to bear the risk associated with the implementation of the solution itself. In particular, Hutter Consult shall not be liable for legal costs, the contractual partner's own attorneys' fees or costs of the publication of judgements, or for any claims for damages or similar claims by third parties.
- 11.9** Hutter Consult undertakes to handle with the utmost care the administrator accesses to online platforms, Facebook, Twitter, advertising and other social media accounts of any kind of the contractual partner transferred to your account. Hutter Consult is not liable for any damage caused by a hacker attack, sabotage attacks by third parties (e.g. computer viruses) and the resulting illegal manipulation of the content, unless access was caused by gross negligence on the part of Hutter Consult. Liability for damages resulting from the causes listed in Art. 15.1 of the GTC is the subject of possible criminal investigations against third parties, to the complete exclusion of Hutter Consult. The submission of criminal charges against third parties shall be the responsibility of the contractual partner. The cooperation of Hutter Consult is understood as a service to the client and will be invoiced on the basis of the resulting expenses.
- 11.10** Hutter Consult is not liable for any kind of technical problems, platform blockages, faulty connections as well as published misinformation in the various platforms resulting from changes based on the customer order.
- 11.11** The contractual partner must report any damage which is alleged to have been caused by the action of Hutter Consult immediately in writing within 5 working days of the occurrence of the damage.
- 12. Limitations of claim**
- 12.1** Warranty and claims for damages shall become statute-barred within one year of the occurrence of the damage.
- 12.2** The copyright protection of the works expires 50 years after the death of the author.
- 13. Third party rights of use and protection**
- 13.1** Insofar as the contractual partner provides Hutter Consult with data, graphics, logos, etc. for the use of the production of the work, he automatically assures that he is entitled to the transfer and use of these essential data and has the corresponding rights of use.
- 13.2** The contractual partner undertakes to indemnify Hutter Consult against any liability arising from any claims arising from the infringement of third party industrial property rights within the scope of the use of the work. The contractual partner shall assume all reasonable costs incurred by Hutter Consult due to an infringement of the rights of third parties, including the procedural and defence costs incurred for legal defence. All further rights and claims for damages of Hutter Consult remain unaffected. The foregoing obligations of the contractual partner shall not apply insofar as the contractual partner is not responsible for the infringement in question.
- 14. Premature termination, contract term**
- 14.1** If a project is discontinued by the contractual partner which is not attributable to a demonstrable fault on the side of Hutter Consult or for which Hutter Consult is responsible, Hutter Consult shall be entitled to the full compensation as stated in the project contract or in the quotation from the entire project, regardless of the time of discontinuation. This only applies to the expenses for services provided by Hutter Consult. Any hardware and software to be purchased as well as other planned purchases are excluded from this regulation if they have not already been made to date.
- 14.2** In the case of projects, the contract term ends when the contractual partner pays the final invoice. In the case of recurring services on a monthly basis (e.g. support, consulting, optimization, reporting, etc.), a cooperation without time limitation is agreed, which can be terminated by the contractual partner or Hutter Consult at the end of each quarter with a notice period of 3 months. If a recurring service is discontinued prematurely by the contractual partner, Hutter Consult shall be entitled to the full compensation for expenses as stated in the project contract or in the quotation for the entire term, regardless of the time of discontinuation and irrespective of the service actually rendered.
- 14.1** Hutter Consult reserves the right to terminate the contract without notice if the contractual partner ceases payments or if insolvency proceedings are opened against the contractual partner or if there is a massive risk of the contractual partner becoming insolvent.
- 15. Privacy policy**
- 15.1** Unless agreed otherwise Hutter Consult's Privacy Policy (please see www.hutter-consult.com/datenschutz) applies in any project or mandate.
- 16. Employee protection and enticement prohibition**
- 16.1** The contractual partner undertakes not to directly or indirectly poach employees of Hutter Consult or third parties employed by it and not to establish direct contractual relationships with them. The aforementioned poaching prohibition shall apply upon conclusion of the contract and shall continue to apply for a period of one year from termination of the contractual relationship.
- 16.2** If the contractual partner violates this obligation, he shall pay a contractual penalty in the amount of CHF 100,000.00 in each case of violation. The right to claim damages and/or omission remains unaffected by this. The contractual penalty shall be set off against any claim for damages.
- 17. Casus Fortuitus (Force Majeure)**
- 17.1** Hutter Consult shall not be liable for damages resulting from loss of performance and delays in performance due to unforeseeable events (force majeure) for which Hutter Consult is not legally responsible or its subcontractors are not responsible. Events of force majeure include in particular war, riots, forces of nature, fire, power failures, official orders, lawful internal work measures as well as the failure or performance limitation of communication networks and gateways of other operators.

18. Severability clause

- 18.1** Should individual provisions be invalid in whole or in part, this shall not affect the validity of the remaining provisions of the GTC. Ineffective regulations are to be replaced by both parties by the conditions which economically come closest to the original condition.
- 18.2** Amendments and supplements to the contract must be made in writing in order to be effective. The written form requirement can only be waived in writing. A transmission in text form, in particular by telefax or e-mail, shall also suffice to comply with the written form.

19. Applicable law / place of jurisdiction

- 19.1** Swiss law is exclusively applicable. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG), also known as the Vienna Sales Convention, are excluded.
- 19.2** If a dispute arises in the course of or after completion of an order with regard to the commissioned project, an out-of-court mediation procedure shall be conducted prior to the initiation of legal proceedings. In the event of disputes regarding quality assessment or the amount of the fee, external expert opinions are prepared in order to reach an out-of-court settlement as far as possible. The costs for this shall be borne by the contractual partner.
- 19.3** The exclusive place of jurisdiction is the registered office of Hutter Consult or its legal successor.

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