

## General Terms and Conditions (GTC) of Scholz & Friends Health GmbH ("Agency") for the purchase of goods and the ordering of services (as of 03/2022)

### I. Edition. General – Scope

1. These Agency Terms and Conditions of Contract (hereinafter the "GTC") apply to contracts of the Agency with suppliers and service providers (hereinafter referred to as "Contractor"). The GTC apply only to entrepreneurs within the meaning of §§ 310 Abs. 1, 14 BGB.
2. These GTC apply exclusively; the Agency does not recognize conflicting or deviating conditions of the Contractor unless the Agency has expressly agreed to their validity in writing.
3. The GTC shall also apply if the Agency accepts the Contractor's deliveries without reservation in the knowledge of conflicting or deviating terms and conditions of the Contractor.
4. All agreements made between the Agency and the Contractor for the purpose of executing the order must be recorded in writing in the order.
5. If and to the extent that the Agency has commissioned the services for one of its customers, Sections 8, 12, 13, 17 of these GTC shall also apply in favour of the respective customer. Insofar as exclusive rights of the Agency are provided for in these clauses, a right is transferred exclusively within the meaning of these GTC if, with the exception of the Customer and the Agency, no third party is entitled to use the right in question. In this case, transfers of ownership in accordance with these conditions shall be made entirely to the Agency and the Client.
6. If and to the extent that the Agency acts as a representative of its client, it will disclose this accordingly. In this case, the GTC shall apply with the proviso that the customer is meant instead of the agency. This does not apply regarding sections 8 and 10, which remain applicable for the benefit of the agency even in the case of a substitute for the customer.

### II. Edition. Provision of services, delivery dates

1. The contractor is only entitled to use subcontractors for the provision of services with the prior express consent of the agency.
2. The agreed delivery time is binding.
3. The Contractor is obliged to inform the Agency immediately in writing if circumstances occur or become apparent from which it follows that the agreed delivery time cannot be met.
4. In the event of a delay in delivery by the Contractor, the latter shall pay the Agency a contractual penalty in the amount of 1% of the delivery value per completed week of delay in performance, but not more than 10% of the total delivery value. The agency is entitled to claim a contractual penalty in addition to performance. The Agency is obliged to declare the reservation of the contractual penalty to the Contractor at the latest when the last performance act of the Contractor is performed or, in the case of contracts for work, at the latest in the acceptance notice. The contractual penalty corresponds to the minimum damage to be expected in the event of default of performance by the contractor. The Agency reserves the right to assert a claim for damages or other rights. However, the contractual penalty shall then be deducted from damages to be paid by the Contractor due to delay in delivery. The Contractor reserves the right to prove that the Agency has incurred no damage at all or only less damage than the above lump sum. In this case, the contractual penalty must be reduced accordingly.

### III. Edition. Prices

1. All prices listed in the order are fixed prices. They exclude any additional claim, due to any wage or material price increases or changes in working conditions and other charges.
2. Subject to any individual agreements, the prices include all properties, components and devices belonging to the ordered item according to the latest state of the art and not expressly excluded. Subject to deviating individual agreements, the remuneration also includes the one for the granting of all copyrights of use and other ancillary copyrights. The Agency does not make any advance payments to the Contractor, but is entitled to make partial payments. Unless otherwise agreed, all claims of the contractor are compensated with the contractually agreed remuneration. Additional services are only subject to remuneration if this has been agreed in writing between the parties.

### IV. Payments and invoicing

1. For payments within 14 days of receipt of the invoice, the agency is entitled to deduct a 3% discount from the invoice amount.
2. The term of payment is 60 days from receipt of the invoice.
3. The Contractor is obliged to indicate on all shipping documents and delivery notes, including invoices, the order and work number of the Agency; If he fails to do so, delays in processing are unavoidable, for which the Agency is not responsible.

### V. Shipping of goods

Unless otherwise agreed in writing, deliveries, including work services and deliveries to the work, shall be made free domicile. The costs for freight, packaging and dispatch shall be borne by the contractor. If it is agreed separately that the Agency shall bear the costs, the Contractor shall agree the type of shipment with the Agency in advance with regard to costs and dates. Partial deliveries and the final delivery must be marked as such on dispatch notices.



## **VI. notice of defects - liability for defects on purchase**

1. The Agency shall inspect the delivery/service for defects within a reasonable period and shall notify them within 5 working days. The period for the notification of defects begins in the case of recognizable defects from the time of receipt of the goods and in the case of hidden defects from the time of discovery.
2. In the event of defects, the Agency's claims shall be governed by the statutory provisions with the following provisions: Defective deliveries of embodied items shall be replaced immediately by defect-free deliveries. Other defective services are to be repeated without defects. Rectification of defective deliveries or services requires the consent of the Agency. If the Contractor does not remedy the defect within a reasonable grace period set for it, the Agency may, at its discretion, withdraw from the contract or reduce the remuneration and in each case additionally claim damages. The limitation period for warranty rights is 36 months from the transfer of risk.

## **VII. Edition. Acceptance – Liability for defects in contracts for work and services**

1. The acceptance of work services and deliveries of works shall take place after their receipt by the Agency within a reasonable period without the cooperation of the Contractor and without the need for a request for acceptance, unless otherwise agreed in writing and insofar as the Contractor does not reserve its cooperation by written notification to the Agency before receipt of its services by the Agency. The declaration of acceptance shall only be made in writing.
2. The agency may refuse acceptance if the work is not manufactured in accordance with the contract unless the defect is insignificant.
3. Insofar as the Agency accepts work services despite defects known to it, acceptance shall be subject to reservation. The agency is entitled to the statutory warranty rights in the event of defects in work and work delivery services.
4. If and to the extent that the service cannot be transported due to its nature, the notification of readiness for acceptance shall take the place of receipt.

## **VIII. Edition. Indemnification in the event of material defects and defects of title as well as other claims of third parties**

1. Upon first request, the Contractor shall immediately indemnify the Agency against all claims asserted against the Agency by third parties – regardless of the legal grounds – due to a material or legal defect or other defect of a product delivered by the Contractor or the service provided by the Contractor. In this case, the contractor is obliged to reimburse the agency for the necessary costs of legal prosecution / legal defense.
2. In addition, upon first request, the Contractor shall immediately indemnify the Agency against all claims of third parties asserted against the Agency on the basis of or in connection with the Contractor's services to the Agency or the Agency's customer, if and to the extent that these are based on any other breach of contractual, quasi-contractual or legal obligations of the Contractor towards the Agency and the Contractor has committed the breach of duty. represented hat.

## **IX. Edition. Notice**

In addition to the statutory rights of termination, the Agency has the right to terminate the contract with the Contractor in whole or in part extraordinarily for good cause. An important reason exists in particular if and to the extent that the customer of the Agency, for whom the delivery/service of the Contractor was intended, in turn terminates the commissioning of services for which the Performance of the Contractor should be used without the Agency being responsible for this. If the Agency terminates extraordinarily for this reason, it is only obliged to pay remuneration for services already accepted or for embodied work results delivered.

## **X. Edition. Non-compete obligation**

The contractor undertakes not to provide comparable services – directly or indirectly – to the customer for whom the services were requested and to the customer to whom the services were ultimately delivered until the end of one year after execution of the order or to have them provided by third parties. The Contractor shall ensure in the same way that its own employees do not provide comparable services – directly or indirectly – to the Customer. For each case of culpable violation of this non-compete obligation, the Contractor shall pay the Agency a contractual penalty in the amount of 20% of the remuneration that the Contractor has invoiced the Customer for its services or – if no invoice has yet been issued – must receive in accordance with the contractual agreements. In this respect, the Contractor is obliged to provide the Agency with proper information and must also tolerate appropriate inspection and investigation measures of the Agency at its business premises. The Contractor reserves the right to prove that the Agency has suffered no damage at all or only minor damage. The contractual penalty is then to be reduced to the amount of the lesser damage. The Agency reserves the right to assert a claim for damages due to the same breach of duty, considering the contractual penalty.

## **XI. Edition. Work results from order execution**

The contractor is obliged not to otherwise exploit work results that he has produced in connection with the production of his contractual services, even if they are not the subject of acceptance, unless otherwise agreed in writing.



## XII. Edition. Transfer of rights, ancillary copyrights, source code

1. The Contractor and the Agency agree that the Agency shall be put in a position to use and exploit the services and work results provided by the Contractor (hereinafter collectively referred to as "Work Results") in a very comprehensive manner itself and/or by third parties (in particular the Agency's customers). With the creation of the work, the Contractor therefore grants the Agency the exclusive, temporally, content-related and spatially unlimited rights of use and exploitation for all known and unknown types of use as well as the right to use the portrait of the model - in each case concerning the subject matter of the contract. Purpose of use: advertising and non-commercial, first and multiple uses; Types of use: all printed advertising material (advertisements, posters, supplements, catalogues, brochures, packaging, other printed advertising material), collective works, films (TV, cinema, Internet), magnetic tapes (film cassettes, audio and video cassettes), online and offline use from electronic storage media (databases, CD-ROM, CD-I, MO drives, DAT, floppy disks, Internet, multimedia); Duplication technology: printing, film copying, magnetic tape copying, machine-readable recording, electronic duplication; Dissemination: distribution to the public, broadcasting, performance, exhibition, data (remote) transmission; Other powers: Use also of parts of the subject matter of the contract (including excerpt exploitation, photo composing, film composing), right of change, complete or partial transfer of the exclusive right of use to third parties, in particular the customers. The Agency may use the Contractor's performance as part of the advertising material designed by it for self-promotion on its Internet website and on the CD-ROM regularly created by it for self-promotion purposes for an unlimited period of time and may submit it for participation in competitions.
2. In his offer, the contractor must inform the client whether and, if so, which of his rights of use to be transferred in accordance with 1. he has transferred to collecting societies.
3. The Contractor is obliged to notify the Agency immediately in text form of any changes to his address to which a notification of the intended inclusion of a new type of use of the work is to be made.
4. Insofar as rights of use have not been transferred in deviation from 1. on the basis of a separate written agreement, the client may subsequently demand their transfer in whole or in part against appropriate remuneration. The remuneration shall be based - as far as possible - on what has already been agreed with the contractor, otherwise on the remuneration rates of the collecting societies; insofar as these do not intervene, the remuneration shall be determined by the client at a reasonable discretion that can be reviewed by the court.
5. The Contractor acknowledges that the enforcement of claims by ordinary legal means to verify the authority of use of the Agency or the Customer as well as to review the Discretionary Decision of the Agency in accordance with Section 4 above constitutes sufficient procedural legal protection. The Contractor hereby waives the use of interim legal protection (interim injunctions, arrest) if the Agency has set the remuneration and made payment in the corresponding amount to the Contractor.
6. If the contractor uses employees and/or subcontractors and/or third parties in the execution of the order, he is obliged to acquire their rights of use to the extent that is specified in 1. is agreed for the Contractor's own performance. In addition, he must impose on those persons the same obligations for their contribution to the agency as he himself has to assume for his performance.
7. The contractor must offer the rights of use to be transferred by him both comprehensively in accordance with 1. and limited to the type of advertising material for which the subject matter of the contract is to be ordered, but otherwise as in 1. Any further restrictions are to be explained in an additional offer alternative. Work fees and fees for granting rights must be shown separately. If this does not happen, both are included in the agreed remuneration.
8. The contractor is obliged to have Models sign a declaration of the transfer of the rights of use and to submit it to the agency until acceptance.
9. The contractor acknowledges that there is no obligation to name the author, insofar as this is customary in the industry.
10. If and to the extent that the Contractor is obliged to produce or modify software, the Contractor shall transfer the source code including documentation of the created or modified software to the Agency for unrestricted and exclusive use by the Agency within the framework of the statutory regulation.

## XIII. Edition. Rights of third parties, other legal admissibility of the use of services

1. The Contractor is obliged to ensure that neither the manufacture nor the contractually compliant use and use of its services infringes the rights of third parties, in particular personal rights, which may lead to claims against the Agency or its legal successors. In the event that third parties assert justified claims against the Agency or the Customer with regard to the Contractor's work results due to the violation of their rights, the Contractor undertakes to modify or re-perform the work results within a reasonable period of time set for the Agency in such a way that the rights of third parties are no longer infringed, or to obtain the necessary rights from the third parties at its own expense. After expiry of the deadline, the Agency may make the change itself or through third parties at the expense of the Contractor or obtain approval from the respective entitled parties. The Agency shall be entitled to request information on the arrangements it has made and to hand over such documents resulting in the acquisition of third-party rights and the power to delegate to the Agency in accordance with Section 12 above. The contractor guarantees the effective acquisition of these rights regardless of fault and indemnifies the agency and its legal successors from claims of third parties.
2. The contractor is obliged to ensure that the contractually compliant use and exploitation of the services or products provided by him are legally permissible, in particular that they do not violate legal regulations.

## XIV. Return of work documents

Material made available to the contractor for the execution of the order as well as work documents made available remain the property of the agency, unless otherwise agreed. If these have not been used as intended for the execution of the order, all materials and working documents must be returned to the agency immediately after execution of the services or termination of the order without further request or destroyed at its request.

## XV. Examination of documents

The Contractor agrees to keep books and documents showing the basis for the ordinary or extraordinary costs invoiced to the Agency based on this order. The Contractor shall make these books and documents available to the Agency for review and audit by the Agency for a period of two years after receipt of the final payment for the respective services. During this period of two years, the Agency shall have the right to inspect the books and documents with regard to all costs. Upon request, the Contractor shall make all these books and documents available to the Agency. If, during such an audit, the Agency determines that the Contractor's prices exceed reasonable amounts, the Contractor shall be obliged to reimburse the Agency for the overcharged amount.



## **XVI. Edition. Change Request**

The Agency is entitled at any time to demand a change of service from the Contractor (hereinafter referred to as "Change Request"). Change requests must be numbered consecutively. Upon receipt of a change request, the contractor must explain to the agency the changes to the services resulting from the change request and immediately notify the agency in writing of the consequences resulting from this, in particular on the remuneration. If the agency then declares that it wants to stick to the change request, the contractor must prepare a cost estimate and send it to the agency for approval. Changes requested by the Agency may only lead to an adjustment of the remuneration to the extent of the additional and reduced costs. For the calculation of the remuneration adjustment, as far as possible, the basis for determining the price for the contractual service must be assumed. If the Agency's requests for changes are carried out without the Contractor having previously reported additional costs, the Contractor shall not be entitled to compensation for any additional costs. As long as an agreement on the adaptation of the contract is not reached, it remains with the previous content of the contract. In such a case, the agency is also entitled to terminate individual orders insofar as they are affected by the change request. In this case, the Agency is only obliged to pay remuneration for services already accepted or embodied work results already delivered.

## **XVII. Edition. Proprietary rights**

Ownership of embodied work results is transferred to the agency upon their handover. An extended or extended retention of title is excluded.

## **XVIII. Edition. Confidentiality, Data Protection**

- (1) The contractor is obliged to keep secret all information, work and documents relating to the order, hereinafter the "Confidential Information", and not to make it accessible to any third party - with the exception of its own employees. The Contractor shall impose the same obligation of confidentiality on its employees and vicarious agents. This obligation of confidentiality shall not apply if and to the extent that the Contractor a) was already aware of the confidential information before becoming aware of it in the context of the provision of the services to the Agency, b) developed the confidential information independently of the provision of the service for the Agency, c) received the confidential information from a third party without breaching a confidentiality obligation, d) for the disclosure of the confidential information on the basis of enforceable An order of a German authority or a German court is obliged if and to the extent that the Contractor has informed the Agency in writing of the impending disclosure immediately after becoming aware of the disclosure obligation and has given sufficient opportunity to attack the disclosure obligation and e) the confidential information is or becomes publicly known without violation of this obligation of secrecy. Without prejudice to the obligation to pay damages to the Agency resulting from the breach of this obligation, the Contractor shall indemnify the Agency from the obligation to pay damages to third parties upon first request.
- (2) If and to the extent that it cannot be excluded within the scope of the performance of the services by the Contractor that the Contractor has access to personal data of the Agency or the Customer of the Agency or collects, processes and/or uses personal data, this is done by means of order data processing. In this case, the contractor undertakes to conclude an agreement with the agency for order data processing. If the contractor does not comply with this obligation, the agency is entitled to withdraw from the contract after further request to conclude the agreement on order data processing with a notice period of 1 week.

## **19.Exclusion of Assignment**

The Contractor shall not be entitled to assign claims against the Agency arising from the contractual relationship with the Agency without the consent of the Agency.

## **20. Edition. Minimum wage**

- (1) The contractor undertakes to observe the Law on the Regulation of a General Minimum Wage (Minimum Wage Act - MiLoG) and to pay the mandatory minimum wage. The above provision also applies to subcontractors employed by the contractor and their personnel.
- (2) The agency is entitled to request up-to-date proof of this at any time (e.B timesheets, payslips, employee lists). In the event of non-submission of required evidence, the Agency shall be entitled to withhold payments due.
- (3) The Contractor undertakes to indemnify the Agency from its liability to the minimum wage in the event of violation of the MiLoG by the Contractor and by subcontractors employed by the Latter.
- (4) In the event of a breach by the Contractor of the obligation to pay the minimum wage, the Agency is entitled to terminate the contract without notice. In addition, it has a right of retention against due payment claims of the contractor. In addition, after the withdrawal of the order, the Agency is entitled to have the unfinished part of the service carried out by a third party at the expense of the Contractor. Claims for damages due to further damages are expressly reserved.

## **21st edition. Business policy**

The agency and the companies of the WPP Group feel connected to certain values. For this reason, the Contractor undertakes vis-à-vis the Agency to respect the attached Code of Conduct available under [www.wpp.com](http://www.wpp.com).

## **22nd edition. Other**

- (1) These GTC are subject exclusively to German law to the exclusion of all international and supranational (contractual) legal systems, in particular the UN Convention on Contracts for the International Sale of Goods.
- (2) If the contractor is a merchant or does not have a general place of jurisdiction in Germany or moves his usual place of residence outside the scope of application of the law of the Federal Republic of Germany after conclusion of the contract, the exclusive place of jurisdiction is Frankfurt am Main. Unless otherwise agreed, the place of performance is Neu-Isenburg.
- (3) Our General Terms and Conditions for the Purchase of Goods and the Ordering of Services are available at [www.health@s-f.com](http://www.health@s-f.com)

