

## TERMS & CONDITIONS OF WU PERSONAL GMBH FOR SERVICES

### General

wu personal GmbH provides services for the planning, organisation and execution of complete or partial projects, as well as support and consulting for companies through the deployment of their own employees in individual projects.

### 1. Subject of the contract / performance

**1.1** wu personal GmbH provides the aforementioned services exclusively on the basis of these Terms & Conditions (T&Cs). Conflicting terms and conditions of the Client (customer) will only be recognised insofar as they are consistent with these Terms & Condition or have been explicitly confirmed in writing by the Contractor (wu personal GmbH).

**1.2** These T&Cs also apply if the Contractor performs the service for the Client without reservation in the knowledge of terms and conditions of the Client that conflict with or deviate from its Terms & Conditions. In such cases, the acceptance of services by the Client will be deemed to be an acknowledgement of these T&Cs with the simultaneous and hence previously accepted waiver of the validity of the Client's own T&Cs.

### 2. Quotations and prices

**2.1** Quotations are always made subject to change without notice. An agreement will only be concluded in the absence of a written agreement upon written confirmation of the quotation by the Contractor. If the service is rendered by the Contractor without the Client having received advance confirmation of the order, the contract will come into effect upon commencement of the performance of the service.

**2.2** The service will be provided at the prices and special conditions of the particular service agreement, where applicable together with a statement of work. The prices stated therein are binding.

**2.3** Unless otherwise agreed in individual cases, the prices are net and subject to the relevant statutory rate of value added tax, currently 19 %.

### 3. Dates and deadlines

**3.1** Dates and deadlines are binding if they have been agreed in writing as binding by the Contractor and the Client in the individual case. Unless otherwise agreed in individual cases, the performance period will commence upon conclusion of the agreement or dispatch of the order confirmation. Agreement of a fixed date of performance is subject to the condition that the Contractor, for its part, receives the services necessary for it from its particular upstream suppliers in good time and in accordance with the agreement.

**3.2** If failure to comply with a specific deadline for performance is due to events for which the Contractor is not responsible (including strike or lockout), the performance deadlines will be deferred by the duration of the disruption, plus a reasonable period for start-up.

### 4. Performance / subject of the contract

**4.1** Unless otherwise agreed in individual cases, the content/character and scope of the services due from the Contractor result, from the particular service agreement and, where applicable, the statement of work. This agreement does not extend to services performed under a contract to produce a specific work or service. The Client will bear responsibility for the project and its success. The Contractor will provide the service in accordance with the principles of sound professional practice.

**4.2** The subject matter of the contract may consist of a one-off service, which may also be rendered in parts, or may be of a permanent nature.

### 5. Service performance

**5.1** Unless otherwise agreed in individual cases, the place of performance is the Client's registered office.

**5.2** The Contractor will select the employees involved in the performance of the service. The Client has no entitlement to the provision of services by specific employees of the Contractor. The Contractor will give due consideration to the Client's interests when making the selection. The Contractor will provide the services through suitable staff who are qualified to provide the agreed services.

**5.3** The Contractor will determine the manner in which the service is provided – in accordance with the subject of the agreement.

**5.4** The Client is not authorised to issue instructions to the Contractor or the Contractor's staff involved in the provision of the service, with the exception of what is agreed under section 12.3.

**5.5** Where the Contractor is required to present the results of the service in writing, only the written presentation will be definitive.

## **6. Client obligations**

**6.1** The Client must designate a competent point of contact for the Contractor who can make binding decisions on behalf of the Client during the performance of the agreement. The latter must be available for the exchange of necessary information and participate in the decisions necessary for the performance of the contract. Necessary decisions by the Client need to be taken by the contact person without delay and subsequently documented in writing by both Parties without delay.

**6.2** The Client must ensure that the documents, information etc. necessary for the provision of the service, insofar as these are not the responsibility of the Contractor, are made available to the Contractor completely, correctly, in good time and free of charge. The Client must also ensure that they are kept up to date. The Contractor may assume the accuracy and completeness of these documents, information etc., unless it becomes aware or must recognise something to the contrary.

**6.3** The Client is obliged to support the Contractor as far as necessary and make all necessary arrangements in its sphere of operation to ensure the proper performance of the commission.

**6.4** Unless otherwise agreed, the Client will retain all documents, information etc. supplied by the Contractor in such a manner that they can be recreated in the event of damage or loss.

## **7. Rights of use**

**7.1** Unless otherwise agreed, the Contractor grants the Client the non-exclusive and non-transferable right to use the service results that the Contractor has rendered and delivered to the Client in connection with the contract for its own internal purposes within the scope of the contractually stipulated purpose of use on a permanent basis. Such rights extend to agreed interim deliverables, training materials and resources. For the rest, all rights remain with the Contractor. Any rights of use granted to the Client will only be provisional until payment of the remuneration owed has been made. The Contractor will be entitled to forbid the Client to continue using the services for the duration of a default in payment. The Contractor may only assert this right for a reasonable period of time, usually for a maximum of 6 months. If the Contractor forbids the Client from continued use, this will only constitute a withdrawal from or termination of the contract if the Contractor explicitly declares this.

**7.2** The Contractor may revoke the Client's right of use if the latter breaches restrictions on use or other regulations to protect against unauthorised use to a significant extent. Withdrawal must be made in writing; section 12.1 (3) applies accordingly. The Contractor must set the Customer a period of grace to remedy the situation prior to withdrawal. The Contractor may also withdraw from the contract without setting a deadline in the event of a recurrence and in special circumstances which justify immediate withdrawal after consideration of the interests of both parties. The Client must confirm the termination of use to the Contractor in writing within seven calendar days of receipt of the declaration of withdrawal.

## **8. Term**

**8.1** If the agreement is concluded for an indefinite period, it may be terminated in writing with three months' notice to the end of a calendar quarter. Such termination is possible for the first time at the end of the calendar quarter following the first calendar quarter after conclusion of the agreement. Any agreed minimum term remains unaffected by this right of termination. This will not apply in cases where different provisions have been agreed.

**8.2** Withdrawal from the agreement is precluded. However, both the Contractor and the Client may terminate the agreement without notice for good cause.

**8.3** Notice of termination will only be effective if given in writing.

## **9. Remuneration, payments, set-off and retention**

**9.1** Unless otherwise agreed in individual cases, payments are generally due within seven calendar days of the invoice date without any deductions.

**9.2** Insofar as the Parties have agreed on invoicing on a time and material basis, statements of expenses will be deemed to have been approved if and insofar as the Client does not object in detail within 14 calendar days of receipt and the Contractor has pointed out the notional approval in the statement of expenses.

**9.3** Travel costs and expenses will be reimbursed in accordance with the Contractor's price list, unless otherwise agreed. Time spent travelling is considered working time.

**9.4** A payment period granted to the Client is subject to a sufficient credit limit being available for each individual order. If a particular order exceeds the available credit limit, the Contractor is entitled to perform this and further orders only against advance payment or collateral in the form of a performance bond issued by a bank or credit insurer authorised in the European Union. The same applies if the Contractor becomes aware of circumstances after the order confirmation that justify doubts about the Client's creditworthiness.

**9.5** If the Client fails to settle a claim in full or in part by the agreed due date, the Contractor will be entitled to revoke any discount agreements made as well as agreements concerning periods allowed for payment for all claims outstanding at that time and to declare them due for payment immediately. The Contractor will also be entitled to perform any further services only against advance payment or collateral in the form of a performance bond issued by a bank or credit insurer authorised in the European Union.

**9.6** In the event of the Client's inability to meet its financial obligations towards the Contractor, or in the event of an application for insolvency by the Client, the Contractor may terminate or withdraw from the existing contract with the Client.

Section 321 of the German Civil Code (BGB) and Section 112 of the German Insolvency Code (InsO) will remain unaffected. The Client must inform the Contractor of any impending insolvency at an early stage.

**9.7** A payment will only be deemed to have been made when it has been credited to one of the Contractor's bank accounts.

**9.8** The Contractor will be entitled to charge interest at a rate of 5 percentage points above the base interest rate in the event of default. The Contractor's right to claim higher damages will remain unaffected.

**9.9** The Client may only set off or exercise a right of retention against undisputed or legally established claims. The exercise of a right of retention by the Client with a counter right that is not based on a right from the contract underlying these Terms & Conditions is excluded.

## **10. Impairments of performance**

**10.1** If the service is not provided in accordance with the contract, and if the Contractor is responsible for this (impairment of performance), the Contractor will be obliged to provide the service in accordance with the contract, in whole or in part, without additional costs for the Client within a reasonable period of time, unless this is only possible with disproportionate effort. Unless otherwise agreed, this obligation on the part of the Contractor will only apply if the Client notifies the Contractor of the impairment of performance in writing and without delay, but no later than two weeks after becoming aware of the failure to provide the service in accordance with the contract. To this end, the Client is required to supervise the Contractor's performance of the service appropriately.

**10.2** The Client will be entitled to terminate the contract without notice if the Contractor is responsible for a service that is not in accordance with the contract, and if the Contractor does not succeed in providing the service in accordance with the contract even within the grace period set by the Customer for reasons for which the Contractor is responsible. The right to give exceptional notice of termination for important reasons remains unaffected.

**10.3** In the event of termination in accordance with section 10.2, the Contractor will be entitled to remuneration for the services provided up to the effective date of termination. The entitlement will lapse for those services in respect of which the Client presents qualified evidence within two weeks after receipt of the notice of termination that they are unusable and are of no interest to the Client.

**10.4** If the Contractor is not responsible for a service that does not comply with the contract, it will offer the Customer its performance in accordance with the contract within the scope of its resources. The Contractor may claim related expenses and proven costs if the Client accepts such an offer.

**10.5** The limitation period for claims by the Client due to impairment of performance is one year from the statutory commencement of the limitation period. The statutory time limits will not be affected in the event of an intentional or grossly negligent breach of duty on the part of the Contractor, in particular its legal representatives or vicarious agents, in the event of fraudulent intent and in cases of injury to life, physical injury or injury to health.

**10.6** Section 11 will apply to any claims for costs and damages exceeding sections 10.1-10.3 above.

## **11. Liability**

The Contractor will be liable to the Customer for damages in the following cases: for any loss or damage caused by it or its legal representatives or vicarious agents intentionally or through gross negligence, for loss or damage resulting from injury to life, physical injury or injury to health for which the Contractor, its legal representatives or vicarious agents are responsible. The amount of liability will be determined individually in each agreement.

**11.1** The Contractor will be liable in the event of slight negligence insofar as it or its legal representatives or vicarious agents have breached a material contractual obligation ('cardinal obligation') whose fulfilment is a prerequisite for the proper performance of the contract or whose breach jeopardises the achievement of the purpose of the contract and on whose compliance the Client may reasonably rely. For the rest, liability is excluded in the event of slight negligence. The liability in accordance with section 11.1 remains unaffected by this provision. Insofar as the Contractor is liable for slight negligence, the liability for material damage and financial loss will be limited to the foreseeable damage typical for the contract. Liability for other, removed consequential loss or damage is excluded. Liability for an individual case of damage is limited to the value of the contract.

**11.2** Section 10.5 applies accordingly to the limitation period.

**11.3** The Contractor will only be liable in the event of loss of data for the cost and effort required to recover the data if the Client has properly backed up the data. This liability will only apply in the event of slight negligence on the part of the Contractor if the Client has carried out a proper data backup immediately prior to the action leading to the loss of data.

**11.4** Sections 11.1-11.3 apply accordingly to claims for reimbursement of expenses and other liability claims asserted by the Client against the Contractor.

## **12. Miscellaneous**

**12.1** Amendments and modifications to all contracts concluded between the Parties must be made in writing. Any form of text (Section 126b of the German Civil Code (BGB)) will satisfy this requirement for the written form. A simple text will not suffice if the written form or any other qualified form requirement (e.g. registered letter with acknowledgement of receipt or registered letter sent by registered mail) has been explicitly agreed upon in the agreement (e.g. for a notice of obstruction, a termination or a withdrawal). Verbal agreements are only valid if they are confirmed in text form by the Contractor within seven calendar days.

**12.2** The Contractor and the Client are obliged to maintain confidentiality regarding business and trade secrets as well as other information designated as confidential which becomes known in connection with their contractual relationship or the resulting contractual relationship. The disclosure of such information to persons who are not involved in the conclusion, execution or performance of the contractual relationship may only occur with the explicit written consent of the Parties unless there is a legal obligation to do so. Unless otherwise agreed, this obligation will end after five years from the date on which the particular information becomes known, but not before the end of a contractual relationship existing between the Contractor and the Client. The Parties will also impose these obligations on their employees and any third parties they may engage.

**12.3** Insofar as the Contractor has access to personal data stored on systems belonging to the Client, the Contractor will act exclusively as a contract data processor (Section 11 (5) of the Federal Data Protection Act (BDSG)) and will process and use this data only for the performance of the contract. The Contractor will observe the legal requirements of contract data processing and the Client's instructions (e.g. on compliance with deletion and blocking obligations) for the handling of this data. The Client will bear any adverse consequences of such instructions for the performance of the contract. The Parties will agree in writing on details concerning the handling of personal data, insofar as this is necessary in accordance with Section 11 (2) BDSG or other legal standards, before the Contractor is able to access the data. The Parties will also impose these obligations on their employees and any third parties they may engage.

**12.4** The Contractor and the Client are aware that electronic and unencrypted communication (e.g. by e-mail) is subject to security risks. Consequently, in this type of communication, neither the Contractor nor the Client will assert any claim based on the absence of encryption, except to the extent that encryption was previously agreed.

**12.5** All contractual relationships between the Parties are subject exclusively to the laws of the Federal Republic of Germany.

### **13. Place of performance and jurisdiction**

**13.1** The place of performance for all obligations arising from the contractual relationships between the Parties is the Contractor's registered office.

**13.2** The place of jurisdiction for all legal disputes arising from the contractual relationships between the Parties as well as for disputes relating to the establishment and validity of these contractual relationships will be the Contractor's registered office with respect to business people, a legal entity under public law or a special fund under public law. However, the Contractor will be entitled to sue the Client at the latter's place of business.