

General Terms and Conditions

Version: 04.11.2021

1. Scope of Application

These General Terms and Conditions apply to all proposals submitted by what. as well as to all agreements between what. and its customers.

Any specific additional provisions stipulated in the proposal or specific arrangements agreed to with the customer in the contract shall take precedence over these General Terms and Conditions. Any such alternative provisions must be made in writing.

2. Fees and payment terms

The fees for what.'s services are determined in accordance with the agreement with the customer. Unless otherwise stated, any agreement are fixed in price and the total price is due according to the payment schedule.

Payment terms are 10 business days after invoice date unless indicated differently in the agreement.

It is the sole responsibility of the customer to ensure that payment arrives at what. at or before the payment deadline. Failure to meet the payment deadline may result in work and service interruptions.

3. Warranty and liability

The customer must continuously verify that the services rendered are in compliance with the terms of the agreement. Any complaints must be submitted promptly. Hidden defects must be reported immediately on detection. what. undertakes to immediately rectify any defects, which have been promptly reported.

Insofar as legally permissible, the liability of what. for loss/damage of any kind is limited to the order value. Liability for slight negligence is excluded. The customer must verify that all assets (such as artwork and copy, websites and web applications) is in accordance with the law before publication. what. cannot be held liable for any violation of the law by assets published on behalf of the client.

what. cannot be held liable for compliance with national or international data protection acts and regulations. It is the responsibility of the client to seek legal advice independently, obtain all the required information and then brief what. accordingly in order to be compliant with any applicable laws and regulations.

4. Data Protection

All what. staff have signed the what. GDPR compliant data protection policy, and are aware of their data protection responsibility. Access to Personal Identifiable Information (PII) and other sensitive data is based on the need-to-know principle.

what. staff outside of Switzerland shall not be classified as suppliers or contractors in regards to data protection, regardless of the form of their contractual relationship with what. what. is released from the obligation to list them individually as suppliers or subcontractors in any data protection agreements between what. and the client.

5. Duty of loyalty / Non-solicitation agreement

what. shall safeguard the interests of the customer to the best of its knowledge and belief. what. undertakes to treat all information, which is designated by the customer in advance as trade secrets or confidential information as confidential.

During the contractual relationship with what. and for one (1) year after the termination of the contractual relationship, the customer undertakes not to entice away, employ or contract any current or past employee or subcontractor of what. and not to place any orders pertaining to what.'s area of activity with any current or past employee or subcontractor of what. or with any entity directly or indirectly controlled by such current or past employee or subcontractor.

In case of a breach of this non-solicitation agreement a fine in the amount of the last 12 monthly compensation is due.

6. Rights of use and copyrights

6.1 Services and contributions of what.

Intellectual property rights (IP) for works created through work done by what. under the terms of this agreement remain with what. until they are transferred.

Upon acceptance of a delivery and full payment of the agreed fee for said delivery and other agreed compensation, what. will transfer the exclusive and worldwide intellectual property rights, as far as exclusively resulting from work done under this agreement and held by what., to the client.

For intellectual property rights not exclusively resulting from work done under this agreement, e.g. pre-existing libraries, scripts, packages and modules, upon acceptance of a delivery and full payment for said delivery, what. will grant a worldwide unlimited non-exclusive license for the contractually defined purpose. what. retains the rights of ownership and copyrights in respect of the corresponding work. what. will disclose any corresponding Intellectual property upon request.

Any use of intellectual property whose rights are not held by what. (e.g. open source or owned by a third party) will be disclosed by what. upon request. Any such efforts are billable as out of scope work.

6.2. Services and contributions of the customer

what. is granted a right of use and processing regarding content (texts, graphics, photos, data, etc.) provided by the customer for the usage and intended purpose defined within the framework of this offer. The customer retains all copyrights to new work created on this basis by what.

The customer guarantees that it possesses the necessary rights of use with regard to the content supplied by it and that the content complies with the statutory provisions. The customer shall indemnify what. against third-party claims to rights to this content, including the costs required to defend the rights (regardless of whether these are asserted rightly or wrongly by the third party).

7. Applicable law / Jurisdiction

The contracts concluded between the customer and what. are subject to Swiss law. Zurich, Switzerland shall be the exclusive court of jurisdiction for all disputes arising directly or indirectly out of this contractual relationship.