

## **General Terms of Business (GTB)**

of

**Business Upper Austria – OÖ Wirtschaftsagentur GmbH**  
*(the “Supplier” or “Business Upper Austria”)*

Version from November 2024

### **1. Scope**

- 1.1 These GTB apply to all orders issued to the Supplier – including those issued in the future – as well as for events of Business Upper Austria (see item 8.). All services the Supplier renders will be governed exclusively by these GTB.
- 1.2 These GTB apply if their application is expressly or implicitly agreed or has been otherwise acknowledged. And, unless otherwise agreed, they are considered an aid to interpretation.
- 1.3 We expressly object to the application of any of the Principal’s general terms of business, preformulated conditions, or other terms, of any type whatsoever. None of those terms will become part of a contract under any circumstances, even if they contain no provisions that deviate from these GTB.
- 1.4 Any agreements between the Supplier and the Principal that deviate from these GTB must use the written form and apply to the respective legal transaction, but not to subsequent transactions.

### **2. Performing the order**

- 2.1 The Supplier may select suitable employees and determine working methods at its discretion.
- 2.2 In rendering its services, the Supplier may at its discretion bring in, or forward some or all of the order to, one or more third parties (such as experts). This will not establish any contract relationship between those third parties and the Principal.

### **3. Obligation of the Principal to cooperate**

- 3.1 The Principal shall without undue delay give the Supplier all necessary information and documents that are or might be important to the Supplier in rendering services, with no request being necessary. This also applies to information and documents that originate or become known during the contract relationship.

- 3.2 The Supplier is not required to check the transmitted information or documents to make sure they are correct or complete. The Supplier may consider the information and documents provided by the Principal to be complete and correct and may base its further activity on them. Therefore, the Supplier is not liable for any damage that arises because the Principal provided incomplete or inaccurate information or documents.
- 3.3 If the order remains unperformed for reasons having to do with the Principal, or because the Supplier terminates the contract relationship prematurely, the Supplier may demand payment of the entire agreed fee minus saved expenses. If an hourly wage is agreed, the fee for the number of hours expected for the fulfilment of the entire order must be used for the calculation. This also applies to the determination of the fee in accordance with items 4.5 and 7.6 of these GTB.

#### **4. Protecting the Supplier's intellectual property rights**

- 4.1 The work results created by the Supplier as part of the contract relationship are directed exclusively to the target audience specified. The Principal shall ensure that the work results the Supplier renders as part of the contract relationship are used only for the contractually agreed purpose.
- 4.2 The Principal shall not duplicate the Supplier's work results, pass them onto or make them available to any third party, or arrange for anyone else to do the same, except with the Supplier's written consent; this does not establish any liability on the part of the Supplier to any third party for any legal grounds. If the work results are duplicated, forwarded, or made available without authorization, the Principal shall fully indemnify the Supplier and hold them harmless against any claims asserted by third parties.
- 4.3 The Supplier will retain all rights to its performances and work results that arise from and in connection with intellectual property, especially copyright. The Supplier shall not grant any rights to these performances and work results except with the Supplier's express written consent.
- 4.4 Except with the Supplier's express written consent, the Principal shall not use for advertising purposes any statements the Supplier makes as part of the contract relationship.

4.5 If the Principal breaches any of the provisions of this item 4, the Supplier may withdraw from the contract immediately and will be entitled to the entire agreed fee. And the Supplier expressly retains the right to assert other statutory claims, particularly to injunctive relief, damages, or both.

## **5. Nondisclosure; Data privacy**

5.1 Each party shall not disclose any information that the other party makes available to them or provides them with; or that they otherwise become aware of in connection with or due to the business relationship; and that is designated by the disclosing party as confidential, and shall not make such information available to anyone else in any way, except with the consent of the disclosing party.

5.2 The nondisclosure obligation does not apply to information or documents if the receiver can prove that (i) they already knew about the information or documents before receiving them, (ii) the information and documents were already public knowledge before being received, (iii) they became public knowledge after being received, but the receiver was not responsible for this, or (iv) the receiver obtained them lawfully from someone else. The nondisclosure obligation does not apply to cases in which statutory obligations oppose this or the forwarding by the Supplier is necessary or expedient as part of order fulfilment. Moreover, the Supplier is not bound by the nondisclosure obligation if the Principal releases the Supplier from it.

5.3 The Supplier is released from the nondisclosure obligation in dealings with any assistants and other third parties the Supplier hires. The Supplier shall, however, fully impose the nondisclosure obligation onto those assistants and other third parties.

5.4 The nondisclosure obligation will apply during any valid contract relationship and for three years thereafter.

5.5 The Supplier may process, or commission a third party to process, personal data that are entrusted to the Supplier for the purposes of the order. The Supplier shall comply with the data protection regulations.

5.6 If the Principal passes data from third parties (such as contact people in its company) on to the Supplier in addition to the Principal's own personal data, the Supplier may assume that the Principal is authorized to pass those data on and that the Supplier may process them. The Principal shall indemnify and hold harmless the Supplier in this regard. The Principal warrants that all necessary measures for the purposes of applicable data protection regulations have been taken and that data protection regulations are complied with.

5.7 The Principal is aware of the privacy policy published on the Supplier's website [www.biz-up.at](http://www.biz-up.at).

## 6. Remuneration

6.1 Unless expressly regulated otherwise, the Supplier's remuneration applies ex-works and excludes all out-of-pocket expenses, daily expenses, travel costs, contract fees, and other fees and taxes, etc. incurred on a case-by-case basis.

6.2 The Principal shall not set off payments against any counterclaims, regardless of their basis.

6.3 The Principal shall not cancel the order except with the Supplier's written consent. Unless expressly regulated otherwise, if the Supplier consents to a cancellation, the Principal shall pay for the services rendered and costs incurred up to the cancellation as well as a cancellation fee amounting to 30% of the order value not yet settled.

## 7. Liability

7.1 The Supplier shall render its services with due diligence. The Supplier is not liable for achieving a certain result or success.

7.2 Unless personal injury is involved, the Supplier shall be liable toward the Principal for damage only in cases of intent or extreme gross negligence. This also applies for misconduct of the Supplier's employees or other people for whom the Supplier is liable.

7.3 If the Supplier gives advice connected with setting up a business, the Supplier assumes no liability for the legal, economic, technical, or actual suitability of a particular operating site. Only the Principal is responsible for checking and assessing this. The Principal shall also take all steps and obtain all permits that are necessary for any legal transactions arising from or connected with setting up a business.

7.4 The Supplier shall use the same diligence when handling the information, documents, and data it obtains from the Principal (in this item 7.4, "data") as it uses for its own data. If the Principal's data gets lost, misused, or both, whether through force majeure, hacker attacks, or other reasons, the Supplier shall be liable only if the Supplier neglected this diligence intentionally or through extreme gross negligence. The Principal shall keep originals or copies of all the data it provides to the Supplier.

- 7.5 No compensation will be paid for indirect damage, consequential damage, pure financial loss, loss of prospective profit, third-party damage, expected but unrealized savings, or loss of interest.
- 7.6 The amount of the Supplier's liability is limited to the agreed remuneration. If no remuneration has been agreed for a service rendered by the Supplier, the Supplier's liability will be limited to the amount of reasonable remuneration for such a service, or for a comparable or similar service.
- 7.7 The Principal shall bear the burden of proving culpability. § 1298 sentence 2 of the Austrian General Civil Code (*Allgemeines Bürgerliches Gesetzbuch, ABGB*) applies only in cases of personal injury.
- 7.8 If the Supplier renders its service with the help of a third party, the Supplier shall be liable only for gross negligence in selecting that third party.
- 7.9 Unless the legal statutes stipulate a shorter statute of limitations or preclusive period, all claims against the Supplier must be asserted in court within six months from the time the damage and the causer of the damage become known, but within three years from the occurrence of (primary) damage at the latest, based on the event giving rise to the claim, failing which the claims will be forfeited.
- 7.10 Claims based on warranty must be asserted in court within six months after the Supplier has completely rendered services, failing which the claims will be forfeited. § 924 ABGB does not apply.
- 7.11 The limitation of liability regulated in item 7.3 applies with the necessary modifications to all consultancy services rendered by the Supplier.
- 7.12 If a force majeure incident occurs, including but not limited to natural disasters, fire, and other circumstances outside the Supplier's control, the Supplier (1) will not be required to perform or (2) may reschedule the agreed performance deadline. If a force majeure incident occurs, the Supplier shall notify the Principal in an appropriate manner that performance has been impeded. Whether the impediment to the Supplier's performance continues or not, the obligation to perform can be postponed for that reason by no more than six months. After that, the Principal may withdraw. Such a withdrawal must be given using a registered letter. The Principal shall not, however, assert any claims against the Supplier on any legal grounds. Furthermore, the Principal shall pay the Supplier appropriately for partial services already rendered.

## 8. Events

- 8.1 These GTB also apply to all events and lectures organised or implemented by Business Upper Austria (the 'Events').

- 8.2 Registration for Events of Business Upper Austria must use the electronic registration form. When this form is sent, the registration becomes binding. By registering a third party for an Event, an applicant expressly states that it is authorized to make the registration and pass on the data of the third party and that Business Upper Austria may process those data to carry out the Event. The applicant must fully indemnify and hold harmless Business Upper Austria in this regard.
- 8.3 Registrations can be cancelled at no charge if Business Upper Austria receives the notice of cancellation no later than ten days before the Event. If a notice of cancellation is received later than that, or if a registrant fails to participate but does not cancel on time, the entire participation fee must be paid. If the originally registered participant is prevented from participating, a substitute participant may be appointed. Only the originally registered participant will be invoiced.
- 8.4 Business Upper Austria may cancel or postpone an event, even on short notice, seven days or more before the intended date in instances of force majeure, a legal or official order, or serious safety or security concerns. If an Event is cancelled within two weeks before the intended date in instances of force majeure, a legal or official order, or serious safety or security concerns, 20% of the agreed remuneration will be invoiced as a lump sum processing fee. Claims based on a postponement or cancellation of an Event are excluded regardless of legal grounds.
- 8.5 As long as an Event's overall character is not essentially changed, no claims – especially claims to withdraw from the contract or reduce the price – will arise from a replacement of speakers, changes to the content or schedule, etc., regardless of legal grounds.
- 8.6 Business Upper Austria does not warrant that the statements made by speakers in the Events are correct or complete, or that the content of the documents provided is correct or up to date, and assumes no liability in that regard. Furthermore, Business Upper Austria does not warrant that the Events are suitable for the purpose intended by the participant, and assumes no liability in that regard. Anyone visiting the Events does so at their own risk. Business Upper Austria is not liable for items or valuables brought in by participants. To the extent permitted by law, Business Upper Austria is not liable for (personal) damage that occurs in the Event premises of Business Upper Austria or the premises of third parties used by Business Upper Austria for Events, or in break rooms, aisles, or ancillary rooms. The provisions of item 7 also apply to any liability arising from or in connection with Events; particularly, item 7.3 applies with the necessary modifications.

- 8.7 All documents that are presented as part of Events, or that participants receive during Events, are protected by copyright. Duplicating, processing, disseminating, or publicly reproducing any or all of such documents is forbidden except with the written consent of Business Upper Austria and the speaker in question.
- 8.8 During Events, Business Upper Austria will make photos, videos, or both that depict participants, and Business Upper Austria may do one or more of process, use, publish, or disseminate any or all of them in any desired form, including electronically and in excerpts. By registering for the Event, participants acknowledge this and expressly consent to it. Any participants who do not consent must give prompt written notice of this (email is sufficient).

## **9. Miscellaneous**

- 9.1 Finding one or more provisions of these GTB to be ineffective, now or in the future, will not invalidate or render ineffective the remaining provisions or any contract relationships entered into on the basis of these GTB. If any ineffective provisions are found, each must be replaced with an effective provision that comes closest to the legal and economic purpose of the original provision. The same applies, with the necessary modifications, to gaps in the contract.
- 9.2 If contract relationships entered into based on these GTB change, these GTB will continue in effect unless otherwise expressly agreed in writing.
- 9.3 If the Principal's address changes, it shall notify the Supplier thereof in writing without undue delay. Otherwise, written notifications will be considered received if they are sent to the address most recently disclosed to the Supplier.
- 9.4 These GTB, and contract relationships between the Supplier and the Principal, are governed by substantive Austrian law, excluding the conflict of law rules and the United Nations Convention on Contracts for the International Sale of Goods.
- 9.5 All legal disputes arising from or in connection with these GTB or a contract relationship between the Principal and the Supplier, including disputes on formation, validity, and interpretation, will be settled exclusively by the courts having subject matter jurisdiction for the Supplier's registered office.

The pronouns used in these General Terms Of Business refer to all genders equally.