

General Terms and Conditions (GTC)

of bepartner ag, Kauffmannweg 14, CH-6003 Lucerne

As at: 6 June 2024

1. Scope

The following General Terms and Conditions (GTC) apply to all contracts between the Agent and its Customers, insofar as nothing else has been expressly agreed in writing or is required by law.

The GTC of the Customer or other terms and conditions that deviate from these GTC are deemed to be excluded unless the applicability thereof is confirmed in writing by the Agent.

2. Scope and execution of the contract

The contract awarded shall be binding with regard to the scope of the services to be provided by the Agent.

The contract shall be performed in accordance with the principles of normal professional practice. The corresponding services shall be deemed to have been performed as soon as the Agent has handed over and/or transmitted the results of the (consultancy) service to the Customer in written or electronic form.

The Agent shall deem the facts provided by the Customer, in particular figures, to be correct, unless the Agent should discover clear anomalies.

Verifying the correctness, completeness and regularity of the documents and figures handed over, in particular the accounts and balance sheet, only becomes part of the contract if agreed in writing.

3. Duty of confidentiality

The Agent is obliged to keep confidential all facts of which it becomes aware in the course of performing the contract, unless the Customer should release it from this duty or there is a statutory and/or official obligation to disclose such information. This duty of confidentiality shall continue even after the end of this contractual relationship.

4. Involvement of third parties

The Agent is authorised to enlist the help of employees, third-party specialists and companies in the performance of this contract (right of substitution).

Third parties are also subject to the duty of confidentiality pursuant to section 3, and the Agent shall ensure the compliance of these third parties in this respect.

5. Warranty

The Agent warrants to the Customer that the services shall be provided with professional diligence. In addition, the Agent warrants that the employees or auxiliaries and subcontractors commissioned to perform the services will be carefully selected, instructed and monitored.

6. Liability

The Agent shall be liable for any fault on its own part. However, with respect to the auxiliaries, it shall be responsible only for the correct selection and instruction of the third parties.

The Agent generally has the same duty of care as an employee in an employment relationship (Art. 398 para. 1 OR [Obligationenrecht - Swiss Code of Obligations]).

7. Duties of the Customer

The Customer is obliged to cooperate, insofar as this is required for the proper performance of the contract. In particular, the Customer must hand over to the Agent all the documents that are required for the performance of the contract in full and in a timely manner, without being requested to do so, to give the Agent reasonable time to process them. The same applies to the instructions regarding all processes and circumstances that could be of import to the performance of the contract.

The Customer must refrain from any actions that could hamper the independence of the Agent.

8. Calculation of compensation

The fee shall be agreed on an individual basis. As a general rule, the fee shall be charged on time or in accordance with other objective criteria. Incidental costs (expenses for postage, office materials, copies, communication charges as well as data storage, data security, archiving of data and destruction of data, etc.) shall be charged separately and amount to 3–5% of the invoice amount. Travel expenses shall also be invoiced separately (CHF 0.80/km). Journey time in connection with processing a mandate shall be charged as working time. The agent is authorised to offset money collected against their claims.

9. Termination of the contract

The contract shall end on fulfilment of the agreed services, on expiry of the agreed period or by revocation. A contract that has been agreed for an indefinite period can be revoked at any time; the revocation must be made in writing. Revocation at an inopportune moment gives rise to liability for compensation.

In each case of revocation of the contract by the Agent, the Agent must take any actions that are reasonable and cannot be delayed in order to avoid damage to the Customer.

10. Storage and publication of work results and reference files

The Agent must store the reference files for a duration of ten years following the termination of the contract. This obligation shall expire before the end of this period, however, if the Agent has requested the Customer in writing to take receipt of said reference files and the Customer has not responded to this request within a period of six months following receipt thereof.

The reference files include all written materials that the Agent has received from or on behalf of the Customer in the course of its professional activity.

11. Transfer of data

Data may be transferred to all involved parties via electronic applications such as email (unencrypted). Provided that they do not indicate otherwise, the agent agrees for their data to be transferred in this way. Unless consent is expressly withdrawn, this shall also apply for highly sensitive data such as health data, criminal records, details on welfare assistance, etc.

12. Severability clause

Should any one or more provisions of these GTC be fully or partially null and void or later become legally ineffective, or should gaps arise in the contract, this shall not affect the validity of the other provisions of these GTC. In this case, the provisions which are no longer legally valid or which are missing shall be replaced and/or supplemented by provisions that come as close to the original economic and legal purpose of the GTC as possible.

13. Applicable law and legal jurisdiction

These GTC and the individual contracts are exclusively subject to Swiss law, with the exclusion of the conflict of law rules of the Federal Act on International Private Law (IPRG) and international agreements. The exclusive place of jurisdiction is the head office of the Agent.