



## **General Terms and Conditions of Doing Business**

### **Business Consultancy**

#### **Preamble**

(1) The “General Terms and Conditions of Doing Business – Business Consultancy” are an integral part of service contracts covering expert consultancy offered to clients by professional business consultants. These consultancy services are offered within the framework of generally accepted principles and rules of the profession, specifically including the field(s) of specialization of the business consultant.

(2) Should any of these General Terms and Conditions become inoperative, the effectiveness of the remaining terms will not be affected.

(3) The business consultant has the right to call upon either expert staff of his firm or self-employed professionals (either entirely or in part) to carry out the project. Employment of specialized associates is to be agreed on in writing.

(4) It is the responsibility of the client to ensure that, when the consultancy is carried out on his business premises, the organizational circumstances are such that the consultancy may be expeditiously carried out there with as little disturbance as possible.

(5) It is the responsibility of the client to ensure that all documents needed for the performance and completion of the order are made available to the business consultant on a timely basis without having to be specifically requested, and, further, that the consultant be informed of all occurrences and circumstances that are of significance to the implementation of the order. This also applies to all documents, events and circumstances that first emerge during the consultancy period.

(6) It is the responsibility of the client that his staff and the employees’ representative board (works council), as legally provided for and when in place, be informed of the consultancy project prior to its inception.

(7) The relationship of trust between the client and the business consultant requires that the consultant be fully informed about previously performed and/or current consultancies, including such in other fields.

#### **§ 1 Area and Scope of Application**

(1) The conditions of doing business are effective when their application has been expressly agreed upon.

(2) All consultancy orders and other agreements are only then legally binding when they have been confirmed by the client and signed by an authorized officer of the firm; they are mutually binding only to the extent set forth in the written contractual agreement (service contract).

## **§ 2 Scope of the Consultancy Order**

The scope of the consultancy order is to be agreed on contractually

## **§3 Client's Obligation to Inform/Declaration of Completeness**

See there to Preamble (5).

## **§ 4 Safeguarding of Independence**

- (1) The partners to the agreement are obligated to reciprocal loyalty.
- (2) The partners to the agreement are each responsible to the other to make all appropriate arrangements to avert threat to the independence of any cooperating professionals or employees of the business consultant.

## **§ 5 Reports**

- (1) The business consultant agrees to provide written reports about the progress of his work, that of his employees and that of any associated professionals.
- (2) The client and the business consultant agree that for the consultancy order, either
  - (a) periodic reports in keeping with the progress of the work or
  - (b) a final report [choose one], are/is herewith arranged.
- (3) The client will receive the final report within an appropriate period of time (2-4 weeks, in accordance with the form of consultancy agreement) after completion of the order.

## **§ 6 Protection of the Business Consultant's Intellectual Property / Copyrights / Use**

- (1) The client is obligated to see to it that offers, reports, analyses, expert opinions, organizational plans, programs, performance reports, drafts, computations, drawings, data carriers, and the like produced in connection with the consultancy order by the business consultant, his staff, and associated professionals are used only for purposes of the order. In particular, the written permission of the business consultant must be obtained before any of his professional statements, of whatever nature, can be made available to third parties, either for payment or free of charge. Such permission does not establish liability on the part of the consultant toward the third party.
- (2) The client is prohibited from using professional statements of the business consultant for advertising purposes. Violation of this condition entitles the business consultant to cancel without notice any not yet completed orders.
- (3) The business consultant retains the copyright to his products.
- (4) In view of the fact that the consultancy services provided are the intellectual property of the business consultant, the client has the right to use the products, even after payment for them, only for his own purposes and only to the extent agreed in the contract. Should any of these products nonetheless be made available to others, in case also of dissolution or bankruptcy of the firm, as well as during temporary provision for purposes of reproduction, the right to claim damages results. In such cases, the business consultant is entitled to complete satisfaction.

## **§ 7 Correction of Deficiencies and Warranty**

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(1) The business consultant is entitled and obligated to correct errors and deficiencies in his consultancy services that subsequently become known to him. He is obligated to immediately inform the client thereof.

(2) The client is entitled to cost-free correction of deficiencies, insofar as the business consultant is responsible for them. This right ends six months after the work subsequently found faulty has been delivered (final report) by the business consultant.

(3) Should the correction of any deficiencies prove faulty, the client has the right to a price reduction, or – in case the product is justifiably no longer of interest to the client following the faulty correction – to rescission of the contract. Insofar as the right to damages exists, the terms of §8 apply.

(4) Reversing the burden of proof, i.e., requiring the business consultant to prove that he is innocent of a deficiency, is ruled out.

### **§ 8 Liability**

(1) It is understood that the business consultant and his staff perform their consultancy services in accordance with generally accepted principles of professional practice. The business consultant is liable for damages only when intent or gross negligence can be proven in the framework of statutory regulations. This applies also to violation of the obligations by associated professionals.

(2) Claims for damages can be enforced only up to 6 months after the rightful claimant(s) has (have) become aware of the damage, or at the latest 3 years after the event giving rise to the claim.

(3) If the work of the consultant is carried out with the participation of a third party, e.g., a data processing firm, a trustee, or a lawyer, and the client is informed thereof, then the rights to any warranty and liability claims against the third party are transferred to the client, in conformity with the law and the third party's terms and conditions of doing business.

### **§ 9 Obligation to Maintain Confidentiality**

(1) The business consultant, his staff, and any associated professionals pledge themselves to secrecy about all matters that come to their attention in connection with their work for the client. This obligation is both toward the client and toward the business connections of the client.

(2) Only the client himself, and not his agent, can release the business consultant from the obligation to maintain strictest confidentiality, which release must be in writing.

(3) The business consultant may distribute to third parties reports, expert opinions, and other written statements about the results of his work only with the permission of the client.

(4) The obligation to maintain confidentiality on the part of the business consultant, his staff and any associated professionals is also valid after the conclusion of the order. The exceptions are cases in which there is a legal obligation to disclose information.

(5) The business consultant is authorized to process personal data entrusted to him within the framework of the purposes of the consultancy order, or to allow these data to be processed by others. The business consultant guarantees the obligation to maintain data confidentiality in accordance with the provisions of the data protection law. Materials provided to the business consultant (data carriers, data, reference figures, analyses, programs, etc.) as well as all results arising from the performance of the work are on principle to be returned to the client.

### **§ 10 Claim for Fee for Service**

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(1) The business consultant has the right to claim payment by the client of an appropriate fee in consideration of the performance of his consultancy services.

(2) If the performance of the order is prevented by the client after the contract has been signed (e.g., because of cancellation), the business consultant is nonetheless entitled to the agreed-upon fee.

(3) If, for good cause, the order is not completed by the business consultant, then he has the right to the part of his fee that covers his services to that point. This is particularly the case if, despite cancellation, his services to that point are utilizable by the client.

(4) The business consultant can make the completion of his services dependent on the complete satisfaction of his fee claims. Complaints about the work of the business consultant do not justify, other than in the case of obvious deficiencies, nonpayment of the remuneration to which he is entitled.

### **§ 11 Amount of Fee**

The amount of the fee depends on an agreement between the business consultants and his partner.

### **§ 12 Applicable Law, Place of Performance, Jurisdiction**

(1) Insofar as no other agreement has been made, only Austrian law applies to the order, its performance, and the resulting rights to claims.

(2) The place of performance is the location of the professional offices of the business consultant.

(3) In case of disputes, the courts in the location of the registered office of the business consultant shall have jurisdiction

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