

January 1st, 2022

# PAKD GmbH

## General Terms and Conditions

### 1. Scope of Application

These General Terms and Conditions (hereinafter referred to as "GTC") apply to all present and future contractual relationships of PAKD GmbH (hereinafter referred to as "PAKD"). General Terms and Conditions of PAKD's contractual partner (hereinafter referred to as "Customer") shall only become part of the contract if expressly agreed to in writing by PAKD. These General Terms and Conditions shall also apply if PAKD performs services in the knowledge of terms and conditions that are contrary to or deviate from these Terms and Conditions. General terms and conditions of PAKD's contractual partner do not become part of the contract, even if PAKD does not expressly object to them.

### 2. Offer & Conclusion of Contract

2.1. In principle, written offers or indicative offers (hereinafter referred to as "offers") shall be submitted to the customer prior to the conclusion of the contract. An initial meeting is free of charge and non-binding for both parties. If the preparation of an offer causes unusual expenditure, the customer shall already owe remuneration for the offer. Concepts, drafts and presentations shall be compensated if this has been agreed in writing.

2.2. Contractual relations between the Customer and PAKD are established by the Customer's declaration of acceptance of the offer and always on the basis of these General Terms and Conditions. Placing an order with PAKD automatically implies that these General Terms and Conditions have been read and fully accepted. PAKD is entitled to accept and execute changes to the order made verbally by the Customer.

2.3. The Customer acknowledges that (unless explicitly stated otherwise in the offer) all dates included in PAKD's offer are non-binding. Dates declared as binding are estimated as of the date of the offer and may be delayed depending on the date of order placement by the Customer.

2.4. The Customer acknowledges that quotations are based on the state of the art at the time the quotation is submitted. Technological and/or regulatory changes (e.g. change of API, technical changes or changes in the terms of use of third party

providers) may lead to postponements and additional expenses at the expense of the customer. If the changes make it impossible to implement the agreed solutions, PAKD will endeavor to offer alternative solutions. The work performed up to that point must be paid for by the customer.

### 3. Costs

3.1. Unless explicitly stated otherwise, the prices quoted in offers are approximate prices. If it is foreseeable that the actual costs will exceed the costs estimated by PAKD in the quotation, PAKD will inform the Customer of this circumstance in good time. Additional costs shall be deemed to have been approved by the Customer if the Customer does not object in writing within four days of such notification. The parties will then discuss the further handling of the project in good faith.

3.2. The prices quoted in offers are - unless explicitly stated otherwise - non-binding guide prices. The actual expenditure shall be decisive.

3.3. If, in the course of the execution of the order, the contractually agreed scope of services is extended, PAKD will prepare a recalculation and a new quotation. The costs incurred up to that point for services rendered are to be paid by the Customer.

3.4. Consumables, expenses and licenses obtained from third parties (hereinafter "Third Party Licenses", e.g. image licenses) are generally not included in the estimated costs and will be purchased by PAKD at standard market conditions and invoiced to the Customer. The customer will reimburse PAKD for out-of-pocket expenses incurred in connection with the processing of the order. Travel time outside of Zurich will be charged at 50% of the regular hourly rate of PAKD employees. Special services - including changes or reworking of concepts or final artwork, research, manuscript study, print monitoring, preparation or input of content and similar services - will be charged to the Customer according to the time required.

3.5. The customer is obliged to maintain a clear and efficient project management and to ensure communication in a bundled form. Project delays and additional costs resulting from a breach of this obligation or other failures of the customer shall be borne by the customer.

### 4. Terms of Payment

4.1. PAKD's invoices are due for payment within 30 days of the invoice date.

4.2. If the Customer is more than 6 weeks in delay with a payment, PAKD has the right to terminate all current contracts and/or to suspend the execution of agreed services. Work already performed will be charged at cost. In the event of late payment after termination of the contract, PAKD may deny the customer access to developed software or services.

4.3. Fees for hosting, monitoring, backups, ASP (Application Service Providing) or Software as a Service (SaaS) will be invoiced at the beginning of the services or, in case of an existing contract, at the beginning of the year. Fees are billed in

monthly increments pro rata temporis for one year in advance. PAKD may adjust the fees at any time, in particular in the event of changes in the cost price or high demand for a service, by giving 30 days' written notice to the end of the month. Improvements to the range of services while maintaining the fees as well as fee reductions may also be put into effect with a shorter notice period to the end of the month.

4.4. Service contracts for hosting and Application Service Providing (ASP) or Software as a Service (SaaS) are concluded for an indefinite period of time, unless otherwise agreed in writing. Unless otherwise agreed in writing, either party may terminate the service agreement at the end of the year subject to a notice period of 6 months, but for the first time after a minimum contract period of 12 months. An extraordinary termination is only possible if both parties agree on it.

4.5. Unless PAKD has given its prior written consent, the Customer may not offset any claims against PAKD.

## 5. Involvement of Third Parties

5.1. PAKD is entitled to perform the work assigned to it itself or to assign it to third parties.

5.2. PAKD is entitled to conclude contracts with third parties in the name of and for the account of the Customer, provided that the relevant costs are included in the offer.

5.3. The Customer is obligated to inform PAKD if he assigns third parties with the same or similar tasks during the term of the order.

## 6. Data and other Documents

6.1. Insofar as their creation is not the task of PAKD, the Customer shall provide PAKD with the data, data collections, information and documents, e.g. images, sound, texts, video, software, address data, domain names, trademarks, etc. (hereinafter "Materials") necessary for the execution of the order. (hereinafter "Materials") free of charge, in a timely manner and in appropriate quality for further processing.

6.2. Both parties retain ownership and all rights to the materials handed over and the receiving party guarantees to use the materials exclusively for the purposes necessary within the framework of the cooperation. Materials handed over must be returned after termination of the cooperation or - if electronic materials or copies made are involved - deleted or destroyed.

6.3. The customer has no rights whatsoever to concepts, drafts and presentations within the context of offers or competitions, even if he owes remuneration. If no contract is concluded on the basis of an offer, the Customer must return concepts, drafts, presentations and documents to the Company without delay and destroy any copies without delay.

6.4. The Customer shall inform PAKD prior to the commencement of the execution of the order of any special technical requirements as well as of any statutory, official and other regulations, insofar as these are of significance for the development and use of the results of the work. Any additional expenses incurred by PAKD as a result of such regulations and regulatory conditions shall be charged to the Customer.

6.5. The delivered contents/texts will be treated confidentially. At the Customer's request, additional confidentiality declarations may be signed. The transmission of content, texts and data between the Customer and PAKD is at the Customer's risk.

6.6. The Customer is obliged to make and keep a backup copy of the data provided to PAKD. PAKD is not liable for lost data.

6.7. If available, the terms of the Hosting & Maintenance Agreement apply to the hosting of websites and applications.

## 7. Confidentiality

7.1. The parties mutually undertake to treat as confidential all technical and commercial information exchanged in connection with their business relationship which is not publicly accessible or was not already known to the receiving party ("Proprietary Information"), even after the end of the cooperation, and to disclose it to third parties only for the purpose of fulfilling the orders placed.

7.2. The Parties shall ensure that their employees and third parties to whom Protected Information is transferred are subject to at least a confidentiality obligation.

7.3. The Parties mutually undertake to comply with all applicable data protection regulations.

7.4. PAKD has the right to use the customer and the completed projects as a reference and to publish them on PAKD's website and other channels.

## 8. Rights of Use

8.1. Upon payment for PAKD's services, the Customer is granted the non-exclusive and non-transferable right to use the developments made by PAKD for the Customer (design and graphic elements, software, publishing concepts, texts, analyses, presentations, apps, web applications, websites, etc., hereinafter "Products"). The customer's right of use is limited to use within the scope of the contractually agreed purposes and includes the right to reproduce and modify the delivered developments for personal use. Any use beyond this requires the prior written consent of PAKD. The Customer has no claim to the surrender of source data (source codes, open image and layout files, etc.). The Customer acknowledges that - to the extent that PAKD grants third-party licenses - its rights to use the Products are subject to the terms and conditions of the third-party licensor and may be limited accordingly.

8.2. PAKD has the right to place references to its authorship on Products, on websites, web applications and apps with a linked reference.

8.3. The (partial) use of concepts, works, services and ideas presented or handed over by PAKD with the aim of a subsequent conclusion of a contract - irrespective of their copyright protection - requires the prior and explicit consent of PAKD, even in modified form. Even the payment of a presentation fee to PAKD does not transfer any rights of use to the content of such presentations.

## 9. Warranty & Liability

9.1. After delivery, the Customer shall immediately inspect the product and notify PAKD in writing of any defects or errors within 14 days at the latest. There is no right to withhold payment. After unused expiry of this period or in the case of notifications of defects which do not affect the functionality of the product, the product shall be deemed to have been accepted by the Customer. In the event of material or legal defects for which PAKD is responsible and which impair the functionality of the product, PAKD shall - at its own discretion - remedy the defects or reduce the agreed remuneration. If rectification or reduction are unsuitable or not possible, the customer has the right to withdraw from the contract. Substitute performance by the customer is excluded. The warranty period is 12 months from acceptance.

9.2. Notices of defects are not possible with regard to services which PAKD has performed within the scope of its creative freedom (concepts, designs, layout proposals, etc.). In this respect, PAKD undertakes to exercise due care and to perform the tasks assigned to it in a quality that meets the requirements.

9.3. PAKD is not responsible for defects caused by force majeure, improper handling, excessive use, unsuitable operating materials or extreme environmental influences, intervention by the Customer, requests for changes to the website, mobile application, etc. initiated by the Customer, disruptions by third parties (viruses, worms, hacker attacks, etc.). If the product is modified or impaired by improper use, excessive strain, unsuitable operating equipment, extreme environmental influences or effects of the Customer, respectively its employees and auxiliary persons or third parties (e.g. viruses, worms, hacker attacks, etc.), the warranty obligation and liability of PAKD shall automatically expire.

9.4. Representations and possibilities of the technical implementation of web-based solutions can vary greatly depending on the device, browser and browser version. PAKD guarantees the representation and browser suitability of the developed web-based solution only to the extent assured in writing.

9.5. The Customer warrants that it owns all rights necessary for PAKD to use the Materials in accordance with the Contract. The Customer undertakes to fully indemnify and hold PAKD harmless from and against all third party claims and related costs in connection with the Materials provided to PAKD.

9.6. Unless explicitly agreed, PAKD does not warrant that the Product will meet the requirements and purposes of third parties or will interoperate with other programs selected by third parties. Likewise, PAKD does not guarantee that products created or services rendered will enable the Customer to achieve the economic or other purpose intended by the Customer.

9.7. The liability of PAKD and its auxiliary persons for all damages, in particular consequential damages, to the Customer is excluded to the extent permitted by law.

## 10. Termination of Contract

10.1. Unless otherwise agreed, the Customer may withdraw from the contractual relationship at any time. If the Customer exercises this right, he must compensate PAKD for the work already performed and fully indemnify PAKD.

10.2. In the event of termination of the contract, all warranty and liability obligations on the part of PAKD shall also cease.

## 11. Concluding Provisions

11.1. Should one or more provisions of these GTC be or become invalid, this shall in no way affect or impair the validity and enforceability of the remaining provisions. In this case, the parties undertake to replace the invalid provision with a legally valid substitute provision that comes as close as possible to the economic intentions of the original provision.

11.2. Amendments and supplements to and deviations from these GTC must be made in writing.

11.3. Force majeure, labor disputes, riots, official measures and other unforeseeable, unavoidable and serious events shall release the contractual partners from their performance obligations for the duration of the disruption and to the extent of its effect.

11.4. For the duration of the cooperation and for two years beyond its termination, the Customer shall not directly or indirectly entice away, employ or commission any employees of PAKD without the consent of PAKD.

11.5. All agreements between the Parties shall be governed exclusively by Swiss substantive law, excluding the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (UN Sales Convention).

11.6. The exclusive place of jurisdiction shall be the ordinary courts in Zurich, Switzerland. PAKD has the right to enforce any claims against the Customer also at the Customer's domicile.

Zurich on January 1st, 2022