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## **GENERAL TERMS AND CONDITIONS OF BUSINESS**

### **JEFF ZÜRICH GMBH**

#### **1. SCOPE**

These General Terms and Conditions of Business (hereinafter referred to as the “Terms and Conditions”), as amended from time to time, apply to all orders for work issued by the client to JEFF Zürich GmbH (hereinafter referred to as “JEFF”). These Terms and Conditions continue in force indefinitely and also apply to any follow-on assignments. In this document, words denoting any one gender include all genders, words denoting the singular include the plural and words denoting persons include legal entities. The latest, binding version of the Terms and Conditions is published online at [www.askjeff.com](http://www.askjeff.com).

Any terms and conditions of the client that are at variance or in conflict with these Terms and Conditions will not apply unless JEFF has agreed to such terms and conditions in writing.

Insofar as is practicable, the client and JEFF will enter into an agreement for each project assignment. These Terms and Conditions form an integral part of such agreements. In the event of any inconsistency between the terms of the project agreement and these Terms and Conditions, the terms of the project agreement will prevail.

#### **2. CONCLUSION OF CONTRACT**

The contract comes into existence once an order for work has been issued by the client and accepted by JEFF. Where an order has been placed verbally, the contract is deemed to have come into existence unless the client raises an objection in writing or by e-mail within three working days of confirmation of the order by JEFF. If, during any concept phase or as part of a tender procedure, JEFF is instructed to carry out investigations or develop concepts, which are more extensive than normal, JEFF shall inform the client if such work is chargeable and submit a quotation to the client. The contract is deemed to have come into existence unless the client raises an objection in writing or by e-mail within three working days of submission of the quotation by JEFF. Any internal procedures of the client are not a condition precedent to the conclusion of the contract unless expressly agreed. If it is agreed that the conclusion of the contract is conditional upon an internal procedure, the client shall keep JEFF updated as to progress and notify it when the procedure is completed. During any period in which work on the project cannot be started or the project is stalled due to the client’s internal procedures, JEFF is under no obligation to perform the services under the contract and the client shall, in all circumstances, pay JEFF adequate remuneration in consideration of work already completed.

#### **3. BUDGET, REMUNERATION AND TERMS OF PAYMENT**

JEFF shall prepare a budget, which forms an integral part of the order for work. The budget will set out all external costs and agency services and may include a project reserve. If additional costs are anticipated, JEFF shall advise the client regarding use of the project reserve and the client shall acknowledge such use in writing or by e-mail. The client will be deemed to have approved the use of the project reserve unless he notifies JEFF to the contrary within three working days.

Any amounts due will be charged on the basis of actual time spent. Costs may not exceed the budget accepted by the client (including, where applicable, the approved project reserve) by more than 10 per cent. Agency services will be charged by the hour based on the rates set out in the budget. Unless otherwise agreed, any discounts will only apply to the specific projects for which they were granted.

JEFF will use an internal time-keeping system to record all hours worked and shall disclose such information at any time at the client’s request.



Any additional work required by the client, which falls outside the scope of the project and budget agreed at the outset, will be chargeable to the client in addition to the payment originally agreed.

As a general rule, JEFF shall issue invoices on account at regular intervals once the project has commenced. JEFF shall issue a final invoice on completion of the project.

Invoiced amounts are payable within 20 days net from the date on which the invoice is received by the client.

All prices stated are exclusive of value added tax.

If the client fails to comply with the terms of payment agreed, JEFF is entitled to suspend work on the project concerned. JEFF accepts no liability for any loss or damage suffered, of whatever kind, if work is suspended due to non-compliance with the terms of payment.

If the client fails to meet any deadline for payment, JEFF may, without issuing a payment reminder, charge default interest of five per cent from the date on which the payment falls due.

#### **4. COPYRIGHT, RIGHTS OF USE AND OTHER RIGHTS**

Except as otherwise agreed in writing and subject to reasonable payment, JEFF will retain all rights in and to any deliverables created by JEFF, including any pre-contractual deliverables (artwork, logos, designs, drafts, presentations, templates, blueprints, layouts, concepts and creative results).

The client will acquire the non-exclusive right to use the deliverables created by JEFF for the purpose of accomplishing the project concerned (subject to any restrictions that may apply with respect to content, time periods and territories).

The client is not permitted to use the deliverables for any purpose other than the purpose intended without obtaining the prior consent of JEFF and paying JEFF appropriate remuneration.

The client shall supply to JEFF any data (including images, logos, typefaces, guidelines, etc.) and materials which may be required for the purpose of performing the work. The client warrants that he holds all rights in and to any content supplied and grants JEFF the right to use such content, free of charge, for the purpose of providing the services agreed. The client shall indemnify and hold JEFF harmless from and against any claims or actions brought for infringement of third-party rights by JEFF due to any unauthorised assignment by the client of licences or rights of use to JEFF.

If, in the course of completing the assignment and unless otherwise agreed by the parties, JEFF arranges for any IT tools and/or software to be programmed or makes use of such IT tools and/or software, any licences or rights to use such IT tools and/or software will be granted to the client on a non-exclusive basis, subject to the payment of a fee. Moreover, such licences or rights of use will expire once the project is completed.

The client accepts full responsibility and liability in respect of any disputes, including but not limited to disputes regarding intellectual property rights, arising out of or in connection with the assignment. In particular, the client is responsible for obtaining any legal clarification or assurances that may be required. In any event, the client releases JEFF from all liability and claims in respect of statements or assessments made by third parties and in respect of any actions performed in reliance thereon.

#### **5. RETENTION OF TITLE**

All goods and services produced by JEFF or purchased from third parties will remain the property of JEFF until the client has paid all sums due in full. JEFF is entitled to register the retention of title in the relevant register in the name and for the account of the client.

#### **6. WARRANTIES**

JEFF warrants that all work assigned will be completed with due care, to the best of its knowledge and belief and in the interests of the client. JEFF further warrants that due care will be exercised in selecting, training and supervising the staff deployed and ensuring that work is performed to a professional standard.



The foregoing warranties do not extend to defects and faults that are not attributable to JEFF, including natural wear and tear, force majeure, improper use, tampering by the client or third parties, overloading or excessive use, the use of inappropriate equipment or extreme environmental conditions.

The limitations of liability set forth in clause 9 will prevail over the foregoing warranties.

## **7. ACCEPTANCE OF WORK AND DELIVERABLES**

The client shall inspect all completed work and deliverables created by JEFF of which he is aware. Such work and deliverables are deemed to have been accepted unless the client raises an objection within three working days, even if he failed to carry out an inspection. The client is not permitted to subsequently revoke his acceptance.

## **8. THIRD-PARTY SERVICES**

JEFF shall either supply the services required to implement projects on its own initiative or appoint third parties to provide such services. Where available, JEFF will use the services of long-standing and reliable partners. JEFF shall exercise due care in selecting such third parties and shall ensure that they enter into a confidentiality agreement where required. JEFF is entitled to commission any work required for the project from third parties for the account of the client. JEFF is not liable in respect of any delay or default on the part of third parties in supplying goods and/or services. JEFF shall, in all circumstances, represent the client's interests in dealings with third parties.

The relevant projects are governed by these Terms and Conditions and, on a subsidiary basis, by the terms and conditions of any third parties appointed and the terms of any agreements with such third parties, provided that the client has been informed of such appointment.

## **9. LIABILITY**

JEFF hereby excludes all liability for any loss or damage, except where such loss and damage was caused deliberately or through gross negligence. JEFF shall draw the client's attention to any relevant legal matters during implementation of the project. All actions may be performed on behalf of the client. To the extent permitted by law, all liability for financial loss and consequential loss or damage is hereby excluded.

The client is liable for damage caused to any equipment or materials belonging to JEFF, whether caused deliberately or through negligence.

If JEFF is prevented from or delayed in providing a service due to the client's failure to provide information and/or goods on time, or because the client cannot be contacted, the client will be responsible for any loss or damage suffered as a result. Any extra costs incurred or extra work performed by JEFF as a result will be chargeable to the client in addition to the costs agreed.

## **10. CONFIDENTIALITY**

The parties have shared, or will share, information pertaining to their existing collaboration or potential collaboration on future projects. In the course of their collaboration, trade secrets, confidential business information and other confidential information may be disclosed either verbally or in writing. The parties agree to keep such information and, in particular, any trade secrets of the client, confidential. JEFF shall sign a separate confidentiality agreement at the client's request.

## **11. EXCLUSIVITY**

Unless otherwise agreed in writing, JEFF is entitled to work for more than one client operating in the same sector.



## **12. FORMAL REQUIREMENTS**

No variations or amendments to any agreements between the client and JEFF will be effective unless they are in writing. The foregoing also applies to any waiver of the requirement for the written form. E-mails are deemed equivalent to writing.

## **13. OTHER PROVISIONS**

JEFF is entitled to amend these Terms and Conditions at any time. If a project is still underway, JEFF is obliged to give advance notice of any such amendments by suitable means. Such amendments are deemed to have been accepted unless the client raises an objection within three working days of notification, or at the latest at the time of any follow-on assignment. If an objection is raised, the "old" Terms and Conditions will continue to apply pending completion of the current project.

## **14. SEVERABILITY**

If specific provisions of an agreement between JEFF and the client or these Terms and Conditions are invalid or unenforceable, such provisions will not affect the validity of the remaining provisions thereof. Any invalid or unenforceable provision will be replaced by a new provision, the effect of which is as close as possible to the commercial effect intended by the invalid or unenforceable provision.

## **15. PLACE OF JURISDICTION AND APPLICABLE LAW**

Any disputes arising out of or in connection with work assigned to JEFF is determined exclusively in accordance with Swiss law. The provisions of the United Nations Convention on Contracts for the International Sale of Goods, concluded in Vienna on 11 April 1980, do not apply. Furthermore, the parties agree to submit to the exclusive jurisdiction of the courts of Zurich, Switzerland, unless any other mandatory place of jurisdiction is prescribed by law.

General Terms and Conditions of Business of JEFF Zürich GmbH, version dated 27 October 2016