

General Terms and Conditions Vagedes & Schmid GmbH

Part I - General Provisions

Version November 2020

- § 1 General**
- 1.1 Offers, deliveries and services provided by Vagedes & Schmid GmbH (hereinafter referred to as VS or Agency) are governed exclusively by the following terms and conditions.
- 1.2 The customer's terms and conditions only become integral elements of the agreement if VS recognises them in writing. In all cases, acceptance of the services that VS provides is considered recognition of these General Terms and Conditions of VS.ge
- § 2 Conclusion/contents of the agreement**
- 2.1 All offers are non-binding. Offers made by VS described as „cost framework“, „cost outline“ or „calculation of rough costs“ are non-binding.
- 2.2 Regular agreements only come into force upon written confirmation by VS. However, once orders are placed, they will also be considered accepted if VS does not issue a rejection in writing within 10 working days.
- 2.3 If offers are drawn up based on information provided by the customer and the documentation provided by him or the customer's particular project manager, VS is not liable for the accuracy and suitability of such documentation unless their inaccuracy and unsuitability go unnoticed deliberately or due to gross negligence.
- 2.4 VS must always confirm in writing any additional agreements or amendments that alter the scope of contractual services.
- 2.5 VS will immediately inform the customer of any changes or deviations in individual services that alter the agreed content of the agreement and that become necessary following conclusion of the agreement. The customer will not have any right of termination in the event that such changes do not, or only insubstantially, impact the agreed content. VS is entitled to deviate from the specification and alter parts of the sequence or contents of the event in consultation with the customer.
- § 3 Prices**
- 3.1 The offer prices apply to the entire order only.
- 3.2 VS is entitled to provide partial services and to bill separately for these services.
- 3.3 All prices are net and subject to the statutory rate of value added tax.
- 3.4 Unless otherwise agreed, any services provided by third parties will be commissioned in the name of and for the account of VS. In this case, VS will not be required to provide accounts of the services provided by third parties on its behalf or to present invoices issued by persons it has commissioned.
- 3.5 VS will bill the customer additionally and based on its current remuneration rates for all services not included in the offer, performed on the request of the customer, and also for any additional costs incurred due to erroneous data provided by the customer, transport delays for which it is not responsible or late or inadequate upstream services provided by third parties, unless such parties are acting as agents of VS.
- § 4 Transport/packaging**
- 4.1 The objects (of delivery) will always be transported at the customer's risk and expense unless otherwise agreed. If there are no other instructions, VS will determine the mode of despatch at its own discretion without being responsible for any particular packaging or for choosing the cheapest or fastest route.
- 4.2 VS is entitled, but not required, to take out transport insurance the cost of which will be borne by the customer.
- 4.3 VS must be informed immediately of any transport damage. On request, any claims against the transport company will be assigned to the customer.
- 4.4 Any objects belonging to the customer that VS requires to perform the designated services must be delivered franco domicile on the agreed date and/or to the location specified by VS. These items will be returned freight collect from their place of use and at the customer's risk.
- 4.5 The customer will bear the risk and expense of any destruction of the supplied materials during transport or their loss at the designated place of use, provided this is through no fault of VS.
- § 5 Acceptance/transfer of risk**
- 5.1 The customer is required to accept the goods or services provided by VS on the date of completion specified by VS.
- 5.2 As a general rule, goods or services will be accepted on the basis of general tests or trial runs. This does not apply to planning services, which will be considered complete and ready for acceptance upon receipt by the customer.
- 5.3 Any outstanding partial services or the rectification of defects will be completed or dealt with as quickly as possible. This will not be considered a reason to refuse acceptance, provided such aspects do not substantially impair the function of the object of supply.
- 5.4 In the event that VS is unable to provide the goods or services for reasons for which the customer must accept responsibility, the risk will be transferred to the customer on the day upon which notification of completion is received. In such cases VS will be considered to have completed the service.
- § 6 Termination**
- 6.1 VS will receive remuneration as agreed for all services already provided in the event that the customer serves notice of termination without good cause. With regard to services that have not yet been provided, the expenses saved will be set at 40 % of the fees agreed.
- 6.2 In the event that the customer does not accept VS's goods or services despite notification of completion and without good cause, or in the event that the customer does not, or does not properly, meet his payment commitments, VS will be released from its duty of performance after granting an appropriate extension of time, and will be entitled to demand damages due to non-performance.
- 6.3 VS is entitled to demand the value of the goods or services provided until termination of the agreement and also 60 % of the value of all goods or services not yet provided as damages for non-performance. The customer is entitled to provide proof that no damages were suffered, or that they did not extend to the amount claimed. This will not affect the right for VS to make a claim for further damages.
- § 7 Guarantee**
- 7.1 The customer must inspect the goods and services that VS provides on acceptance and must report any defects immediately. Any defects that do not become apparent until later despite careful inspection must be reported without delay. In any event, VS must have received all notifications of defects no later than 7 days following the end of the event.
- 7.2 In principle, customers are only entitled to demand remedial work as a warranty service. VS will use its own judgement to define the manner and nature of appropriate remedial work and also has the option at any time of providing a replacement.
- 7.3 The customer may demand annulment of the agreement (cancellation) or a reduction in price (reduction) in the event that at least two attempts at remedial work for the same defect have failed.
- 7.4 Insofar as remedial work is not possible for scheduling reasons (end of the event), the customer will only have the right to demand a reduction in price.
- 7.5 VS will be entitled to refuse rectification of defects insofar as the customer has failed to properly meet his contractual obligations, in particular payment obligations.
- 7.6 Any warranty claims will lapse entirely in the event that notification of any defect is received later than specified, or reservations concerning known defects were not expressed upon acceptance/handover. The same applies if the customer makes changes himself or impedes VS in ascertaining any defects.
- 7.7 Claims for damages, in particular regarding a violation of the obligation to provide remedial work, are excluded unless such claims are based on gross negligence or culpable intent.
- § 8 Liability**
- 8.1 VS is only liable for carrying out the order on time and to the quality specified if the customer has met his contractual obligations properly, in particular those relating to punctual payment.
- 8.2 VS undertakes to employ due diligence in conscientiously and carefully selecting and supervising all those charged with performing the services. VS will not accept any liability for standard deliveries or services provided by external firms commissioned on behalf of the customer, unless VS can be shown to have acted with gross negligence or culpable intent in violating its duties of care in the selection and supervision of the external firms. If necessary, the customer may demand that VS assign any claims held against these parties.
- 8.3 Unless otherwise agreed, VS will not be liable for any objects that the customer introduces unless VS has damaged or destroyed them by gross negligence or culpable intent. The customer must himself insure any objects introduced or provided and maintain such insurance for the entire duration of their deployment.
- 8.4 Claims relating to compensation for damages of any nature, including such damage as was not caused directly to the object supplied itself, resulting for instance from delay, impossibility of performance, positive breach of obligation, culpa in contrahendo and tort, will not be permitted unless such damage was caused by gross negligence or culpable intent and provided that contractual fulfilment is not jeopardised or rendered impossible by the exclusion of such compensation claims.
- 8.5 No liability will be accepted for (consequential) damage of a nature not typical to the contract. This also applies in cases of gross negligence.
- 8.6 Liability will be limited to 10 % of the agreed fee – and no more than €25,000 – provided that VS did not act with gross negligence or culpable intent.
- 8.7 If VS is shown to have acted with gross negligence, liability for damages will be limited to the level of the fee or the cover provided by the liability insurance taken out by VS.
- 8.8 This limitation of liability will apply accordingly to any agents employed by VS.
- 8.9 Claims for damages arising from product liability law will not be affected.
- 8.10 The customer is liable for any loss or damage to objects of any nature that VS provides, rents or hires out as part of an event.
- 8.11 As the organiser, the customer undertakes to take out organiser's third party liability insurance to cover the event.
- § 9 Property rights**
- 9.1 All industrial property rights arising in connection with the services to be provided by VS or its employees or by third parties commissioned by VS - also on behalf of the customer - (copyrights and ancillary copyrights, trademark rights, rights enshrined in competition law, patent rights to concepts, materials, presentations, photos, films, data of any kind in any format, etc.) will remain exclusively with VS unless explicitly agreed otherwise. The transfer of usufructs and exploitation rights requires written agreement and applies at all times only to the specifically agreed use (e.g. event). Alterations to concepts, drafts, etc. may only be made by VS or persons that VS explicitly commissions.
- 9.2 The customer is only entitled to use the concepts, drafts, etc. provided by VS for its own purposes provided for in the contract, and he is only permitted to make copies with the prior explicit approval of VS. Printing materials, rushes and negatives produced by VS or on its behalf, will remain the property of VS even when billed to the customer. The customer is not permitted to use any concepts, drafts, etc. without a contractual agreement.
- 9.3 With regard to the execution of orders based on details or documents specified by the customer, he guarantees that no third party property rights will be violated by the manufacture and provision of the goods and services carried out in accordance with the details or documents he has specified. VS is not required to review whether the details or documents that the customer supplies for the provision of services violate, or may violate, property rights held by third parties. The customer is obliged to immediately hold VS harmless from any possible claims for damages asserted by third parties, to pay for any damages arising from the violation of property rights and, if required, to make advance payments.
- 9.4 VS is entitled to make a recording of the event and to use the recording and background information on the project for the purposes of documentation and company PR.

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§ 10 Storage of documents

VS will store the documents relating to the order for a period of 6 months. The customer undertakes to make copies/backups of all original documents made available to him (e.g. as images, on storage media, etc.). VS will not accept any liability for customer materials that are not requested to be returned within one month following completion of the order.

§ 11 Terms of payment

- 11.1 VS is entitled to bill for each individual service immediately following completion thereof.
- 11.2 Unless otherwise agreed, invoice amounts are payable immediately upon receipt of invoice.
- 11.3 VS is entitled additionally to demand advance payments as follows to cover expenses incurred:
- 30 % of the agreed fee upon placement of the order,
 - 30 % of the agreed fee upon the start of production,
 - 30 % of the agreed fee by 14 days before the first day of the event,
 - 10 % of the price upon receipt of the final statement.
- 11.4 No deductions of any kind are permitted. No interest will be paid on advance payments.
- 11.5 If payment is late in spite of a reminder, VS will be entitled, without prejudice to other claims, to charge default interest at 8.00 percentage points above the base interest rate as compensation for late payment. The customer retains the right to show that the damage incurred is lower.
- 11.6 If payment is late despite a goodwill period being extended with the threat of refusal of performance, VS will be entitled furthermore to withdraw from the agreement and to demand damages due to non-performance. The provisions defined under item 6.3 of these terms and conditions apply to the amount of damages.

§ 12 Offsetting and assignment

- 12.1 The customer will only be entitled to offset such claims as are undisputed or are upheld in a court of law.
- 12.2 The customer's rights arising from this contractual relationship may only be assigned with the prior consent of VS.

§ 13 Data protection information

With regard to quotations, deliveries and/or services, VS will adhere to the data protection provisions contained in the General Data Protection Regulation (DS-GVO) and the latest draft of the German Data Protection Act (BDSG), and any handling of personal data is subject to the following binding, general data protection notices:

- 13.1 The company responsible as defined by the General Data Protection Regulation is Vagedes & Schmid GmbH, Osterfeldstr. 6, 22529 Hamburg. The Data Protection Officer of VS as the person responsible for data processing can be reached as follows:
Data Protection Officer,
Vagedes & Schmid GmbH,
Osterfeldstr. 6,
22529 Hamburg.
- 13.2 **Data processing for a contractual relationship**
VS draws attention to the fact that in the course of the business relationship or in connection with a contract, quotation, contact, initiation of new business or similar circumstances, and with regard to VS staff acting in this context, personal details such as name, address and contact details such as telephone number and email address will be processed. Personal details are therefore used to set up, execute and terminate a contract. In advance of a contract — i.e. in the contract preparation phase — it is permitted to process personal details in order to produce quotations, prepare contracts or meet other wishes of the potential customer aimed at concluding a contract. Potential customers may be contacted during the contract initiation phase using the details they have provided. Any restrictions imposed by potential customers must be respected. The use of such data also covers the support given to the contractual partner if this is in connection with the purpose of the contract.
Personal details are stored on specially protected servers at VS. Access to such servers is limited to a few specifically authorised and trained persons who are involved in the technical, commercial or editorial management of the servers and in executing the contracts, etc.
- 13.3 **Consent to data processing**
Personal details can be processed at VS on the basis of the consent of the person concerned (contractual partner, potential customer, applicant, etc.). The person concerned must be informed before their consent is sought. For reasons of proof, the declaration of consent must be obtained in writing or electronically. In some circumstances, e.g. in the event of consultation by phone, the consent can also be issued verbally. Any consent issued must be documented.
- 13.4 **Data processing on the basis of legal permission**
The processing of personal details is also permitted if national legal regulations demand, presuppose or permit such data processing (e.g. obligations of retention and proof under commercial or tax legislation). The nature and scope of the data processed must be necessary for the data processing permissible in law and be based on such legal regulations.

13.5 Data processing due to a legitimate interest

Personal data can also be processed if this is necessary in order to pursue a legitimate interest on the part of VS. Legitimate interests are usually legal (e.g. enforcement of out-standing claims) or commercial (e.g. avoidance of breaches of contract). Personal data may not be processed on the basis of a legitimate interest if there are reasons to believe in a particular case that sensitive interests of the data subject outweigh the interest in processing the data. Sensitive interests must be checked with every processing of personal data.

13.6 Processing especially sensitive data

Particularly sensitive personal data may only be processed if this is required for legal reasons or the data subject has given their explicit consent. Particularly sensitive details consist of data on racial and ethnic origin, political opinions, religious or philosophical convictions, membership of unions or the health or sex life of the data subject. It is also permissible to process such data if this is strictly necessary to assert, exercise or defend legal claims against the person concerned. If the processing of especially sensitive data is planned, the officer for data protection must be informed in advance.

13.7 User data and the internet

Personal data are collected, processed and used on websites or in apps belonging to VS. The data subjects are informed by VS in special data protection notices and, where applicable, in cookie notices on its web pages and in the apps. Data protection notices and any cookie notices must be integrated in such a way that they are easily discernible, directly accessible and permanently available to data subjects.

13.8 Deletion

Personal data no longer needed after the expiry of statutory retention periods (see those specified in the Commercial Code and Tax Code, among others) or those relating to business processes (contractual purposes), will be deleted by VS in accordance with corresponding concepts.

§ 14 Contract Data Processing

VS uses contract data processing. This applies when a contractor is commissioned to process personal data without being given responsibility for the associated business process. In such cases, an agreement must be concluded with external contractors for contract data processing. As the commissioning company, VS retains full responsibility for ensuring that the data are correctly processed. The contractor may only process personal data as instructed by VS. VS uses contract processing in particular in personnel management, attendee management and for processing orders.

§ 15 Rights of data subjects:

Any data subject can exercise the following rights. If such rights are asserted, they will be immediately processed by VS and may not lead to any disadvantages for the relevant data subject.

- 15.1 Data subjects can request information on what personal data are stored on them, where they come from and for what purpose they are held. If the employment relationship provides for more extensive rights under labour laws to view documents belonging to VS as the employer (e.g. their personnel file), such rights will not be affected.
- 15.2 If personal data are sent to third parties, information must also be provided on the identity of the recipient or categories of recipients.
- 15.3 Should personal data be incorrect or incomplete, the data subject can demand their correction or completion.
- 15.4 The data subject is entitled to demand the deletion of their data if the legal basis for processing the data no longer applies. The same applies in the event that the purpose of processing the data no longer applies as a result of the passage of time or other reasons. Existing retention obligations and any sensitive interests conflicting with deletion must be respected.
- 15.5 Data subjects have a fundamental right of objection to the processing of their data which must be taken into account if their sensitive interests outweigh the interest in processing the data due to a particular personal situation. This does not apply if a legal regulation makes it obligatory to process the data.

§ 16 Place of performance and jurisdiction

- 16.1 The place of fulfilment and jurisdiction for any disputes between the parties arising from this contractual relationship is Hamburg, provided that the customer is a commercial trader, a legal entity under public law or a special public fund.
- 16.2 The contractual relationship is governed by German law.

§ 17 Final provisions

- 17.1 Should any of the provisions of these terms and conditions be invalid or void, this will not affect the validity of the remaining provisions. The invalid provision will be replaced with a provision agreed between VS and the customer that approximates as closely as possible to the commercial and legal substance of the original provision.
- 17.2 The purchase and commissioning of works and services, data protection for the management of participants and commissioning the deployment of agency workers are all subject to respective special terms and conditions of VS.