

GENERAL TERMS AND CONDITIONS

I. Field of activity

1. The MAXVISIBLE GmbH (hereinafter referred to as agency) is an advertising agency with international focus, especially on Asia. It is editor of a print magazine and operates an internet platform. It offers its customers the possibility to advertise products in the above mentioned media, write articles and appear as experts. Besides that it also offers services which include graphical preparation of advertising messages and pictures and general consultation and advice on advertising.

2. The general terms and conditions apply for any contract of the agency with a company, especially with customers.

3. The agency is only active for entrepreneurs and excludes any contractual agreement with end-consumers.

Therefore the rules of the Consumer Protection Act do not apply for the objective contracts.

4. Conflicting terms and conditions of the customer are not subject matter of the contract. The general terms and conditions of the MAXVISIBLE GmbH are also exclusively valid if the agency accepts an order of a customer knowing that the terms and conditions are conflicting or diverging.

5. All agreements and especially changes need confirmation in writing.

II. Copyright and right of use

1. The customer confirms and ensures that any provided data, template, picture, text, file etc. is his/her intellectual property and/or that he/she has the exclusive exploitation right in any case for the time and space covered by the contract.

This is valid for copyrighted works, brands, and patents as well as for intellectual work which is not protected by a special law.

2. The customer ensures that any advertising material which is handed over is free of rights of third parties.

3. The customer is responsible that he/she owns any rights necessary for utilisation. The customer undertakes to notify the agency if third parties raise a claim on works and materials.

4. The customer holds the agency harmless in regard to legal proceedings and claims. This also includes defence expenses, payment for appropriate consideration, damage compensation and costs of opposing parties.

5. The agency is authorized to change or edit any data or document for the purpose of publication through third parties if this is necessary for the publication.

6. The customer also holds the agency harmless of legal proceedings and claims in regard to image protection.

III. Warranty and liability

1. The agency undertakes to execute the order with maximum possible care and in all conscience.

2. The customer undertakes to have made copies of data and documents which were handed over. He/she undertakes to provide the agency with the above mentioned copies, if any of the handed over material has gone lost – regardless of the reason.

3. The customer undertakes to promptly verify any service of the agency, especially the advertisements meant for publication. If this does not happen the customer loses not only warranty but also damage claim.

4. In case of flaws the agency is allowed to change and adjust twice - within an appropriate time.

5. The agency does not assume liability for data and documents.

6. The liability of the agency is restricted to gross negligence and/or deliberate intention.

7. Liability of the agency for services of third parties which perform services on explicit wish of the customer is excluded. The customer exempts the agency from any claim for compensation.

8. The agency is excluded from any liability for templates, texts and clean copies which were released by the customer.

9. The agency does not take any responsibility for the use of pictures. The customer is solely responsible that the use does not violate any personal rights or rights of third parties.

10. The agency does not take any responsibility for the way an advertising message is placed unless explicitly agreed with the customer in written form.

IV. Data security, data protection

1. The customer is responsible for data saving. The agency is entitled to make copies for filing and saving reasons. Absolute care and security are of utmost importance. The agency does not take any liability for illegal or violent access to the above mentioned data.

2. The agency does not assume liability for the lawfulness and registrability in terms of competition law and intellectual property law of the work.

3. The agency observes secrecy about information and data of the customer and does not hand them over to third parties unless necessary. The customer is obligated not to forward information and data of the agency to third parties. Any information which is the immanent basis of the contract as well as information which is part of a lawful obligation is excluded from this ban.

V. Refusal

1. The agency is entitled to dismiss any publication without cause.

The agency is also entitled to dismiss any further publication of an already released advertisement and article (expert).

2. The agency exercises its right to take back advertising messages – even without consultation with the customer – in case of statutory violation or enforcement of third parties.

3. The agency is entitled to remove advertising messages if they violate local advertising directives or other laws (e.g. children's advertising).

In this case, the customer has the opportunity to provide proof that there was no infringement and has to take care – as well as the agency itself – that such demands are defended.

4. The agency is entitled to leave advertising messages (at the customer's risk) regardless of warnings of third parties and the request to remove advertising messages and other material if the customer cares for appropriate security. Only as long, however, until a legal order obligates the agency to remove an advertising message.

VI. Compensation

1. Compensation is according to a pricelist respectively according to an offer. There is a difference between products for Asian customers and products for European customers. The products for Asian customers are basic entry in the MAXVISIBLE internet database free of charge, ready marketing packages of different extent as well as individual orders. The main products for European customers are an entry in the MAXVISIBLE expert network, PR articles or advertisements in print media as well as individual orders.

2. The agreed prices are net prices, where the value added tax needs to be added.

3. Any additional advertising costs and charges will be charged to the customer separately.

4. The generation of graphic design, additional delivery of the desired advertising message and pictures are included in the packages for Asian customers. Services beyond that, especially the generation of advertising graphics and other advertising material for the customer, especially the European customer, is charged as agreed.

5. Any services done by the agency can only be used by the customer in the agreed media. Any use beyond that needs confirmation in writing.

6. The agreed compensation for services of the agency is due in advance. The agency is therefore not obliged to publish if the payment is not carried out in advance. Damage compensation because of not or too late carried out publication despite delay of payment is conjointly excluded.

7. If the agency performs services independently, such as the generation of an advertising graphic, the agreed claim for compensation will not be cut even if the customer takes an active part in the generation of the work.

8. In case of delay of payment interest on account of delay in the height of 5% above the base rate of Austrian banks will be agreed.

9. Travel costs and expenses for trips which need to be performed by the agency in connection with the order need to be agreed with and paid by the customer.

10. The customer is entitled to verify the correctness if foreign-language services need to be involved. The customer bears the sole risk for translation mistakes and language-wise ambiguity.

VII. Freedom of scope, production control

1. Within the order the agency has freedom of scope.

2. When taking over production control, the agency is entitled to decide and order according to its best knowledge.

VIII. Place of fulfilment, court of jurisdiction, miscellaneous provisions

1. If certain provisions of these terms and agreements are ineffective and impracticable, the validity of the contract will stay untouched. In place of the ineffective and impracticable provisions will be alternative provisions; void parts need to be replaced if possible.

2. Place of fulfilment and exclusive court of jurisdiction for any conflict is Vienna. Austrian law shall apply.

For any conflict due to intellectual property rights the court in Vienna is agreed.

For any conflict due to the contract and possible damage compensation which exceeds a claim of € 100.000,00, the following arbitration agreement is agreed:

Any conflict due to this conflict or due to any violation, liquidation or incorrectness will be regulated through an arbitral court according to the rules of arbitration of the International Chamber of Commerce through an arbitrator who is appointed according to the rules of arbitration. The arbitration procedure is in Vienna, Austria, in English language. The decision of the arbitral court is binding for both parties.

On this agreement only Austrian law shall apply. The reference provisions do not apply.

3. The agency decides where to place an advertising message; in print media as well as on the homepage. The customer has the opportunity to change the place and sequence of the advertising messages due to special agreements and after having paid an extra fee.

4. Language of correspondence between the agency and the customer is either English or German. The agency does not assume liability for correspondence in any other language, even if it is translated in the agency. In any case, the German version is binding. The agency is obliged to transmit the translations and to place them at the customer's disposal. It is the task of the customer to complain immediately about any possible mistranslations.

5. The customer is obliged to contract a general liability insurance for possible claims for damages, which results out of duties taken over by the customer and to transmit this insurance to the agency in advance.