



General Terms and Conditions - GTC

1. General Terms and Conditions

Preamble

(1) Mergus GmbH (hereinafter „Mergus“) intermediates independently from its interests or the interests of third parties service contracts between its cooperating companies (hereinafter „Cooperation Partner“) on the one hand and the Customer or, in case of a concluded contract to this extent, provides such services on its own. Customers in this sense may be both legal entities and natural persons. If applicable, apart from the provisions set out herein, the rules on consumer protection shall be equally applicable to the latter category. In case of a commissioning by the Customer, Mergus shall provide services for both parties to the service contract, but shall predominantly protect the Customer's interests.

(2) Mergus shall provide its services in compliance with the statutory provisions and the present General Terms and Conditions (hereinafter „GTC's“) with the due care and diligence of a prudent businessman.

§ 1 Scope

(1) The GTC's shall be applicable between Mergus and the Customer from the Customer's registration on Mergus's website. If the Customer wishes to use Mergus's services directly, apart from the present GTC's, the attached Special Terms and Provisions shall also be applicable.

(2) The Customer expressly agrees that the present GTC's represent the basis of the entire contractual relationship between the Customer and Mergus, as well as of all future intermediary contracts and shall be applicable even if no direct reference is made to the present GTC's.

(3) Mergus shall be entitled to amend the present GTC's at any time, such amendments being also applicable to existing contractual relationships. The GTC's current up-to-date version shall be available at Mergus's website (www.mergusinternational.com), but it can also be communicated on the Customer's request.

§ 2 Collateral Agreements

The Parties agree that there are no oral collateral agreements to the Contract. All amendments to the Contract shall be made only in writing.

§ 3 Obligations of Mergus

(1) Mergus shall give the Customer professional advice in accordance with the Customer's needs, provide the Customer with information and intermediate the best possible Cooperation Partner under the given circumstances or render the services on its own. The Customer acknowledges that such services are based exclusively on the information provided by the Customer. Hence, false and/or incomplete information provided by the Customer may represent a barrier for the proper rendition of services.

§ 4 The Customer's Obligation to Inform and Cooperate

(1) In order to provide the services described in §2 diligently, to be able to substantially assess the individual framework conditions and to intermediate the Customer the best possible Cooperation Partner under the given circumstances, Mergus requires all relevant information in the Customer's possession. Therefore, the Customer shall in a timely manner provide Mergus with all information necessary for the performance of services and notify Mergus on all circumstances that could be of relevance for the provision of services from §2.

(2) Mergus is entitled to use the information received from the Customer as a basis for the provision of further services for the Customer, unless such information is obviously false.

(3) The Customer shall, unless subject to the Consumer Protection Act in the capacity of a consumer, check all (electronic) documentation received from Mergus in the course of the intermediation for factual inconsistencies and deviations from the original Intermediation Contract, and shall for the purpose of correction notify Mergus on these circumstances.

§ 5 Notices, Electronic Correspondence

(1) The Customer's valid delivery address shall be the one last communicated to Mergus.

(2) The Customer acknowledges that the transmission of e-mails may under certain circumstances result in the loss, falsification or publication of data as a consequence of occasional technically unavoidable errors. Mergus shall assume responsibility for



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such instances only if they can be attributed to Mergus' fault. The receipt of e-mails shall not have the effect of accepting a contractual offer.

§ 6 Term, Cancellation and Termination for Cause

Unless a specific term set out in the order confirmation, it shall be deemed that the Contract is concluded for an indefinite period. Fixed term contracts may be terminated with a 1-month notice period given at a month's end. Contracts for an indefinite duration may be terminated by either Party after a year, with a three-month notice period given at a month's end.

The Contracting Parties may however terminate the present contractual relationship for cause, without a notice period.

The following instances shall especially be considered a cause for termination without a notice period:

- a) total or partial non-payment to Mergus of the contracted fee together with all increases upon the expiry of a 14-day extension period;
- b) if the Customer fails to pay the contracted security deposit within 14-days from receiving a notice;
- c) if the services provided to the Customer are used contrary to the contract despite a corresponding warning, or if such services are contrary to the contract transferred to third parties;
- d) opening of legally binding bankruptcy proceedings on the Customer's assets, or if such proceedings are dismissed due to the absence of a bankruptcy estate;

In case of a physical lease of business premises Mergus shall be entitled to terminate the Contract without a notice period in line with §1118 of the Austrian Civil Code (ABGB) (especially in the event of considerably detrimental use).

The fees contracted for the entire term of contract shall be payable at the effective date of termination. In case of terminating fixed-term contracts without a just cause. In case of terminating contracts concluded for an indefinite period, Mergus shall invoice the services rendered until the termination day, while Mergus reserves the right to assert all other claims, such as seeking damages. Should the Customer be in default regarding the entire payment or partially despite a warning and a 14-day payment extension, Mergus shall be entitled to suspend further performance without terminating the Contract.

§ 7 Liability

(1) The Customer shall be liable for the data and information provided to Mergus, their correctness and completeness and shall protect, indemnify and hold harmless Mergus against any and all third party claims. The Customer shall furthermore be liable for the permissibility of services ordered from Mergus. This is also applicable for the contents of objects transmitted to Mergus (such as packages, letters, etc.) for such are not opened by Mergus. Mergus shall not be liable for the correctness of data and information contents of third parties transmitted to the Customer. Mergus shall within the statutory framework be liable for damages caused by its employees in case of proving their intent or gross negligence. The reparation of consequential damages, loss of interest and damages of the ordering party arising from third party claims shall in any case be excluded.

Note: the following liability provisions (§ 7(2)) shall be applicable only to B2B (business to business) transactions, not regarding transactions with consumers:

(2) Mergus shall be liable for the Customer's material and financial damages exclusively if these can be attributed to its intent or gross negligence. Mergus shall in case of intent also be liable for loss of profit.

Mergus' liability shall however be limited by the amount of coverage of its existing professional liability insurance. Damage claims against Mergus shall be asserted within six months from becoming aware of the damages.

§ 8 Confidentiality and Data Protection

(1) Mergus shall keep confidential all information received in course of the business relationship with the Customer and handle them as business secrets towards third parties. Mergus shall have its employees comply with the present obligation. Each data transmission shall be subject to the provisions of the Data Protection Act.

(2) Pursuant to the relevant provisions of the Data Protection Act the Customer agrees with the automatic processing of the Customer's data, especially for marketing purposes. The Customer is entitled to revoke the present consent at any time without the obligation to provide reasons.



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§ 9 Right to Withdraw

(1) If the Customer fails to submit its acceptance of contract either in Mergus' business premises or at a stand maintained for business purposes on a fair or a market, the Customer shall in line with §3 of the Consumer Protection Act be entitled to withdraw from its contract application. The Customer may make such a withdrawal until entering into the contract or within 14 days after the contract has been concluded. The above time limit shall commence at the issuance of a document to the Consumer containing at least Mergus' name and address, the data necessary to identify the contract, an instruction on the right to withdraw, the time limit of withdrawal, as well as the manner of exercising the right to withdraw, but earliest at the conclusion of the contract, while in goods purchase contracts it shall commence on the day when the consumer takes possession of the goods. Should such a document not be issued, the Consumer shall have the right to withdraw within a time limit of twelve months and 14 days from entering into the contract and/or the delivery of goods. Should the trader issue the failing document within twelve months from the commencement of the time limit, the prolonged right to withdraw shall end in 14 days from the Consumer's receipt of such a document.

(2) The Customer shall also be entitled to withdraw if he was brought to the business premises of Mergus within the framework of a promotional journey, an outing or a similar event or during a personal individual conversation in the street conducted by Mergus or a cooperating third party.

(3) The Customer shall not be entitled to withdraw:

1. if the business contacts with Mergus or its associates for the purpose of contract conclusion were initiated by the Customer himself,
2. if the contract conclusion is not preceded by negotiations between the involved parties or their representatives or
3. in case of contracts where the mutual obligations are to be performed immediately if such contracts are normally concluded by companies outside of their business premises and the contracted fee does not exceed EUR 25, or if the company - due to its nature - does not operate from a permanent seat and the contracted fee does not exceed EUR 50.

4. in case of contracts subject to the Act on Distance and Off-Premises Transactions, or

5. if the Consumer's acceptance of contract is made in the trader's absence, unless such an acceptance was forced by the trader.

(4) The withdrawal does not have any requirements as to its form. It shall be deemed that the withdrawal is timely if sent within the prescribed time limit.

(5) The Customer shall furthermore be entitled to withdraw from its contract application if Mergus infringes upon the commercial law provisions on collecting and accepting service orders (§54 GewO 1994 /Industrial and Trade Act/), on publicity event visits by natural persons (§57 GewO 1994) or on the receipt of purchase orders by natural persons (§59 GewO 1994). The provisions of Par. 1, Par. 3 Item 4 and 5 and Par. 4 shall be applicable to this type of a withdrawal right. In these instances the Customer shall be entitled to withdraw even in the cases enumerated in Par. 3 Items 1 to 3.

§ 10 Charges, Prices, Payment and Fees

All fees, taxes, costs and expenses arising from drawing up a contract shall be borne by the Customer.

The indicated prices are excluding VAT. The indicated prices pertain only to the order at hand. All contract fees, as well as travel expenses, daily allowances and accommodation costs shall be invoiced separately. In case of introducing new statutory or other generally applicable cost factors (collective agreements, taxes, etc.), Mergus shall be entitled to adjust its prices accordingly. The adjustments that are also applicable to existing contracts are to be communicated to the Contracting Party in writing and shall enter into force in a month from such notification. Apart from the above, the payment conditions set out in the order confirmation shall also be applicable.

Unless otherwise provided for in the special terms and conditions or in separate contracts, all fees arising from continuing obligations (e.g. leases) together with all their annexes shall be payable monthly in advance on the first day of the month. One-off payments, such as the payments for consumption-based goods (e.g. telephone costs, conference room fees, secretary



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fees, etc.) shall be payable immediately upon receiving the corresponding invoice. In case of a delay in payment, the Customer shall be obliged to pay a default interest from the due date at a rate of 12%. The Customer shall furthermore compensate Mergus for all damages caused by such delayed payment. This pertains primarily to collection and overdue notice fees, as well as all other expenses connected with debt collection, such as court fees, attorney's fees, etc.

§ 11 Assignment of the Contractual Relationship

(1) The Customer shall be entitled to assign its rights and obligations arising from the contractual relationship to third parties only upon Mergus' written consent. Along with the previous Customer, the new one shall also be liable as a joint and several debtor for fee payment claims and claims for damages arisen up to the assignment of rights and obligations.

(2) Should a third party accept an obligation without Mergus' prior consent, along with the Customer liable according to contract law, the Customer shall be liable for fee payment claims and claims for damages according to the principles of unjust enrichment.

(3) Mergus' rights and obligations from the present Agreement may without the Customer's consent partially or entirely be transferred to an affiliated company of Mergus. Mergus shall take appropriate measures to have the involved parties notified on the contract assignment.

§ 12 Severability

Should particular provisions of the present General Terms and Conditions turn out to be entirely or partly ineffective or unenforceable, such circumstances shall be of no effect to the remainder of the Contract. In B2B transactions the ineffective or unenforceable provision shall be replaced by a provision serving the commercial goal of the ineffective or unenforceable provision.

§ 13 Applicable Law

Austrian Law shall be applicable for the present Contract without the application of the provisions on private international law. This shall be equally applicable regarding matters of concluding the present Contract, as well as the legal consequences of its after-effects.

§ 14 Venue

All disputes arising from the present contractual relationship shall be resolved by the courts having subject-matter jurisdiction in Vienna. Regardless of the above, in respect of consumers according to the Consumer Protection Act, courts having jurisdiction at the Consumer's habitual place of residence or place of occupation shall be competent to resolve the dispute.

2. Annex: Special Terms and Conditions

1. The present Special Terms and Conditions shall be applicable along with the provisions listed in §1 of the General Terms and Conditions, in the instances when the Customer contracts the provision of services by Mergus itself, rather than only intermediation.



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2. Special Terms and Conditions regarding Office Services

§ 1 Office Services

1) Mergus shall provide the services described in the Offer. All services described as office services depend on the availability of Mergus' staff. Mergus shall endeavor to fulfill the request as early as possible; however Mergus shall not be liable for delays.

2) Fair use: Should Mergus reach the conclusion that a particular request for office services exceeds normal extents, Mergus reserves the right to invoice at the contracted rate the costs of time necessary to fulfill such a request, provided that the Customer fails to reduce the usage of services to a normal extent upon Mergus' one-off notice.

3) The liability for gross negligence shall be excluded if a Mergus employee performs activities according to the Customer's instructions. In such instances Mergus employees shall towards third parties be deemed as the Customer's employees. The employer's managerial and instructing rights over employees shall however be reserved for Mergus. The possibility of Mergus' extraordinary labor contract termination due to the employee's fault in case of the performance of office services shall be excluded.

§ 2 Hardware, Furniture and other Equipment Placed at the Customer's Disposal

1) Unless expressly agreed otherwise with the Customer, hardware and other equipment placed at the Customer's disposal by Mergus shall remain Mergus' property and shall upon contract termination or the end of particular additional services be returned to Mergus.

2) The Customer shall keep and use the objects received from Mergus carefully and protect them from detrimental influences or improper treatment.

The customer shall repair all defects exceeding normal wear, which have a detrimental effect as to the object's value. A corresponding report shall be made in writing if an object gets lost or stolen.

3) Upon the expiry of the Contract the Customer shall upon an appropriate advance notice grant Mergus access to the devices in Mergus' property and their removal by Mergus.

4) The security deposit paid according to the underlying contractual relationship shall be reimbursed only upon establishing the defect-free return of all hardware and/or other equipment.

§ 3 Maintenance

1) The Customer shall report Mergus all malfunctions and grant upon advance notice access for the purpose of implementing repair and maintenance operations. In the event of infringing upon such an obligation to report and/or cooperate, Mergus shall not be liable for damages and expenses arising from such a failure to report and/or cooperate (e.g. the costs of a third company engaged by the Customer).

2) The repair operations shall be separately billed to the Customer if the malfunction was caused by the Customer or a third party in the Customer's premises and cannot be attributed to Mergus or its subcontractors, or if the malfunction originates from the Customer's equipment or a device connected to the system, which equipment or devices are not owned by Mergus. Mergus shall furthermore be entitled to invoice the attempt to repair if it turns out that there was in fact no malfunction.

§ 4 Assignment of the Contractual Relationship

(1) The Customer shall be entitled to assign its rights and obligations arising from the contractual relationship to third parties only upon Mergus' written consent. Along with the previous Customer, the new one shall also be liable as a joint and several debtor for fee payment claims and claims for damages arisen up to the assignment of rights and obligations.

(2) Should a third party accept an obligation without Mergus' prior consent, along with the Customer liable according to contract law, the Customer shall be liable for fee payment claims and claims for damages according to the principles of unjust enrichment.

(3) Mergus' rights and obligations from the present Agreement may without the Customer's consent partially or entirely be transferred to an affiliated company of Mergus. Mergus shall take appropriate measures to have the involved parties notified on the contract assignment.



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2. Special Terms and Conditions regarding Office Services

§ 5 Error and Frustration of Contract

The Parties waive their right to contest the Contract on grounds of error or frustration of contract.

§ 6 Warranty

1) Mergus shall in case of hardware and software render the contractual services to an extent possible under the technical conditions provided by the Customer. Mergus does not guarantee that the Customer's all functional requirements shall be met with the provided components.

2) Unless otherwise agreed, the warranty period amounts to six months. Defects covered by the warranty shall be repaired either by rectification or by replacement, at Mergus' discretion. Conversions or price reductions are expressly excluded. Warranty claims are preconditioned by the Customer's obligation to promptly report all defects in writing and in detail. The right of recourse according to §933b ABGB is expressly excluded.

3) Defects arising from arrangements not made by Mergus, inadequate devices, repairs and assembly, inobservance of installation requirements and terms of usage, loading over the limits indicated by Mergus, improper treatment or the use of unsuitable operating materials shall not be covered by the warranty;

this shall also apply to defects traceable to the materials provided by the Customer. The warranty shall not extend to the replacement of parts subject to natural wear, unless such defects were already present at the handover.

§ 7 Liability

1) If a service is not provided or in case of a delayed performance, Mergus' liability shall be limited to crediting or reimbursing the Customer with a reasonable part of the corresponding fees. The present liability disclaimer shall not be applicable if Mergus acted intentionally or with gross negligence or if Mergus culpably breached a contractual obligation. In all other instances the liability on any legal grounds of Mergus' employees or subcontractors shall also be excluded for their actions and omissions.

2) Mergus shall furthermore not be liable for damages caused by failure to perform due to force majeure, mechanical defects, strikes, payment defaults, staff shortages or any other grounds,

unless Mergus acted intentionally or with gross negligence. In case of a culpable breach of material contractual obligations the compensation shall be limited to contract-typical, foreseeable damages.

3) Mergus shall under any circumstances not be liable for the loss of orders, loss of profit, loss of expected savings, loss of data or data damage, third party claims or any consequential damages.

4) Mergus shall not be liable for damages sustained due to the failure to obtain necessary telecommunications authority permits, other regulatory authorizations or third party permits and consents under private law.

5) In case of the Customer's non-observance of possible assembly requirements, commissioning, use or regulatory permit conditions, any compensation of sustained damages shall be excluded.

6) Mergus shall furthermore not be liable for the data loss or data modification due to the installation or use of contractual services, unless these can be attributed to the intent or gross negligence of Mergus or its authorized subcontractors.

7) The Customer shall hold Mergus harmless against all claims arising out of the Customer's unlawful and culpable non-observance of contractual obligations. The above obligation to hold Mergus completely harmless shall especially comprise all payable fines and appropriate legal expenses.

8) The Customer shall be responsible for the insurance of its property brought into the office premises placed at the Customer's disposal, as well as for the liability insurance towards the Customer's employees and third parties.



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3. Special Terms and Conditions regarding Day Offices

§ 8 Use of the Leased Property

§ 8.1 Obligation to Report

The lessee shall without delay report the lessor all damages in the leased property, the common parts of the building and the common equipment. The lessee shall be liable for damages sustained due to delayed reporting if the damages would have been smaller had the lessee notified immediately.

§ 8.2 Modifications and Expansions

All modifications made by the lessee are subject to the lessor's prior written approval. The lessee shall be exclusively responsible for all eventual damages, even if the lessor approved the changes. Without the lessor's express written consent the lessee shall particularly not install outside of the leased property any sun blinds, roller blinds, fixed or removable balcony covers, TV-antennas, air conditioners, convectors, lighting fixtures, neon signs, perpendicular signs, name or company signs, unless these are expressly permitted for the lessee by means of special statutory provisions.

§ 8.3 Assertion of Rights

Should the lessee be disturbed in the use of the leased property, the lessee shall be entitled to enforce his rights against the interrupting party directly by way of legal action. In return the lessee shall not request from the lessor any legal assistance, such as the introduction of court or administrative proceedings.

§ 8.4 Waiver of the Right to Reimbursement of Expenses

The Parties expressly exclude the application of §1096 ABGB regarding the lessor's maintenance obligations, as well as §1097 ABGB (reimbursement of expenses).

§ 8.5 Access Rights to the Leased Premises

The lessee shall grant the lessor access to the leased property at any time. This shall also be applicable in regard to persons who need to perform their professional obligations in the leased premises (e.g. chimney sweeps or other craftsmen).

§ 9 Transfer/Sublease

The lessee shall not be entitled to sublet the leased property or otherwise transfer it entirely or partially to third parties. All such transfers shall be ineffective and inadmissible. All transfers or waivers of rights from the present Contract, either against a consideration or free of charge, shall be ineffective.

§ 10 Return of the Leased Property

Upon the expiry of the lease period the lessee shall return the lessor the leasehold in a very good condition. The security deposit shall serve for the costs of covering the works necessary to achieve such a condition.

§ 11 Keys

The lessor shall hand over the lessee 1 (one) key upon entering into the Contract. Additional keys can be made at the lessee's expense. Should a key be lost the lessee shall build in a new lock. In case of a central lock system the lessee shall bear the costs of conversion. The same shall be applicable for the event if the lessee cannot completely return the keys to a central lock system upon the termination of the lease.



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4. Special Terms and Conditions regarding Service Contracts and Lease Agreements in Connection to Virtual Offices

§ 12 Leased Property

The Parties expressly lay down that only the inner space of the leasehold shall be the subject of lease. The Customer acknowledges that the leased property and/or its parts together with their infrastructure may be placed at the disposal of more users simultaneously, in compliance with the specific office services offered by Mergus. Should a Customer wish to use the leased property on its own, this circumstance needs to be contracted expressly in writing within a framework of a new contract. The usage fee shall be accordingly adjusted to this circumstance and agreed upon in writing.

§ 13 Business Purpose and the Customer's Obligations

The services shall be provided to the Customer only for the business purposes of the Customer's company and the activities in connection with its business. Mergus therefore reserves the right to examine whether the Customer exercises the reported business activities and, if necessary, refuse the conclusion of a contract on office services. The use of the leased premises for other purposes is expressly prohibited for the Customer.

§ 14 Prohibition to Transfer and Sublet

Without the lessor's prior express written consent the Customer shall not be entitled to transfer the leased property to third parties, either against a consideration or free of charge.

5. Special Terms and Conditions regarding Events, Video Conferences, Lease of Premises for Seminars and Meetings

§ 15 Number of Participants

In order to assure an adequate preparation, the Customer shall notify Mergus on the final number of participants at least 7 days before the event date. A decrease in the number of participants compared to the number reported as final shall not be taken into account and shall be at the Customer's expense. An increase in the number of participants shall be invoiced according to the actual number of participants. An excessive number of participants shall be agreed upon with Mergus in advance. In case of a number of participants lower than the one confirmed in the order Smart Office reserves the right to place at the Customer's disposal an event location differing from the confirmed one, but which corresponds to the number of participants and shall in case of a sales shortfall be entitled to invoice a corresponding room rental fee.

§ 16 Cancellation Fees

The following conditions shall be applicable In case of a complete cancellation:

- 30% of the turnover loss shall be invoiced in case of a cancellation up to 6 days before the beginning of the event
- 50% of the turnover loss shall be invoiced in case of a from 6 to 2 days before the beginning of the event
- the entire sum of booked services shall be invoiced in case of a cancellation on the day preceding the event or on the day of event.



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5. Special Terms and Conditions regarding Events, Video Conferences, Lease of Premises for Seminars and Meetings

§ 17 Liability, Loss, Damages, Technical Equipment

The Customer shall be liable for losses or damages caused by its employees, other associates and event participants in the same manner as for damages caused by the Customer personally. It is the Customer's responsibility to purchase appropriate insurance to this end. The lessor is entitled to request the presentation of such insurance. Should Mergus obtain technical or other equipment from third parties for the Customer, it shall be deemed that Mergus acted on behalf of the Customer and in its stead, so that the Customer shall be liable for the appropriate careful use and due return of such equipment and shall hold Mergus harmless against all third party claims in connection with the transfer of such equipment.

§ 18 Food and Drinks

The Customer is basically not allowed to bring its own food and drinks to the events. The Parties may however, as an exception, make a special written agreement to this end.

§ 19 Security Provisions, Hazards

Open light, fire, table fireworks, as well as fog machines and other similar devices are strictly forbidden in all premises. The indicated emergency escape routes shall be kept clear at all times.

Should Mergus have grounded reasons to believe that the event endangers the smooth flow of business operations, the security or the reputation of the house, as well as in instances of force majeure, it shall be entitled to cancel the event.