

PLATEAU CANDY

General Terms and Conditions of Plateau Candy GmbH & Co KG

hereinafter referred to as P-C

Stand: 10/2023

General Terms

Offers from P-C are always non-binding and can be revoked until they are accepted by the client. They are merely an invitation to make an offer, unless explicitly stated otherwise. All contracts are executed according to the following terms and conditions. Only P-C's T&Cs apply. These T&Cs also apply to future business relationships, even if they are not explicitly agreed upon again. Conditions deviating from those of the client, which have not been explicitly acknowledged in writing, are non-binding for P-C, even if they are not explicitly opposed. Ancillary agreements, changes, and supplements require written form to be valid. This also applies to the assurance of properties. Individual agreements made with the client in specific cases take precedence over these T&Cs. Legally relevant declarations and notifications to be made by the client to P-C after the conclusion of the contract require the written form to be effective.

§ 1 Scope of the Contract

- (1) The subject of the contract is the agreed-upon creative, conceptual, or consulting activity or the provision/delivery or mediation of defined goods or services, but not achieving a specific economic success.
- (2) Data provided by third parties or the client will only be checked by P-C for obvious plausibility.
- (3) Unless explicitly agreed otherwise, P-C may use expert subcontractors for the execution of the contract.
- (4) Sketches, drafts, trial sets, test prints, samples, and similar preparatory work commissioned by the client will be billed, even if they are rejected by the client.
- (5) P-C has creative freedom within the scope of contract execution. Reclamations regarding artistic design are excluded. If the client requests changes during or after production, they must bear the additional costs. P-C retains the claim for compensation for work already started.
- (6) P-C is entitled to sign the goods, services, and concepts it has developed appropriately and in accordance with industry standards, and to publish the granted contract for self-promotion. This can only be excluded through a separate agreement.

§ 2 Changes in Scope of Performance

- (1) Changes and additions to the contract require the written form. Meeting protocols satisfy this condition if signed or otherwise confirmed.
- (2) P-C will bill an appropriate fee for any additional services requested by the client.
- (3) P-C is entitled to pass on price increases billed by third parties to the client.
- (4) P-C is authorized to process data entrusted to it within the framework of the contract's purpose, in compliance with legal data protection regulations, or have it processed by third parties.

§ 3 Client's Obligations

- (1) The parties are mutually committed to loyalty within the respective contractual relationship and inform each other immediately about any circumstances that could influence the project's progress.
- (2) The client is obligated to support P-C and provide all necessary conditions for proper contract execution.
- (3) If the client fails to fulfill obligations, they are liable for the resulting damages. P-C can terminate the contract with immediate effect in such cases.
- (4) The client confirms the correctness of all submitted documents and ensures the timely delivery of essential project documents.
- (5) The client guarantees that they own all rights to the execution documents. If rights, especially copyrights, of third parties are violated, the client is solely liable.
- (6) The client authorizes P-C to conclude contracts for services obtained from third parties on behalf of and for the account of the client.

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§4 Service, Service Delay

- (1) P-C is entitled to fulfill its service obligations in partial services or partial deliveries.
- (2) In case of delays in performance or delivery, claims for damages are governed solely by § 9 (Exclusion of Liability).
- (3) Default occurs only after setting a reasonable grace period in case of culpable exceeding of an agreed service or delivery deadline.

§ 5 Remuneration, Payment Terms, Offsetting

- (1) The remuneration for P-C's services is calculated either on the basis of the time spent on the activity (time-based fee) or agreed as a fixed price. Unless otherwise agreed, P-C is entitled to reimbursement for expenses incurred in connection with the fulfillment of the respective order. Payment details will be regulated in writing if necessary.
- (2) If billing is based on a time-based fee, P-C is entitled to issue invoices at reasonable intervals for the work already performed and expenses incurred.
- (3) P-C is entitled to charge reasonable advance payments on the remuneration according to 5.1 and 5.2.
- (4) In long-term contractual relationships billed based on effort, P-C's current remuneration rates apply. These are regulated in writing at the beginning of the contractual relationship but can be adjusted by P-C within the scope of reasonable price increases.
- (5) Expenses for technical ancillary costs, particularly for special materials, the creation of models, photos, intermediate recordings, reproductions, etc., are to be reimbursed by the client.
- (6) Travel costs and expenses for trips associated with the order and to be coordinated with the client are to be reimbursed by the client.
- (7) All claims by P-C against the client are due upon invoicing and are payable immediately and without deductions. All price indications are net, i.e., plus the applicable statutory VAT.
- (8) If the client is in default of payment, P-C is entitled to charge default interest at the currently applicable statutory default interest rate.
- (9) If the client is more than two weeks in arrears with any payment obligations, all existing claims become due immediately.
- (10) Multiple clients are liable as joint debtors.
- (11) Offsetting against P-C's claims is only permitted with undisputed or legally established claims.

§ 6 Production-Related More or Less Quantities

Production-related more or fewer quantities of up to 10% cannot be objected to. The delivered quantity within the fluctuation ranges regulated in this point and including the produced samples will be billed.

§ 7 Warranty for defects

- (1) The client is obliged to examine P-C's services immediately upon delivery for their conformity with the contract.
- (2) Defects in a part of the delivered goods do not entitle the client to object to the entire delivery unless the remaining part of the delivery is of no interest to the client.
- (3) Liability for damages and consequential damages caused by P-C's services only exists in accordance with § 9 (Exclusion of Liability).
- (4) In the case of justified complaints, P-C is entitled to initially improve its services and to supplement them.
- (5) If the improvement and supplementation fail, the client can demand a reduction of the remuneration or the cancellation of the contract.
- (6) P-C does not assume any warranty for the suitability of the works, products, and services for the purpose intended by the client.
- (7) The client bears the risk of the approval requirement for certain types of use of the works and services by P-C.
- (8) The client bears the risk of the legal admissibility of the commissioned works by P-C.

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- (9) P-C is not liable for the patent, pattern, copyright, or trademark protection and registrability of the ideas, suggestions, concepts, designs, or other services delivered within the scope of the contract.
- (10) A warranty period of 6 months from the transfer of risk applies for the warranty, provided the client is an entrepreneur.

§ 10 Shipping and Packaging

- (1) The place of fulfillment is the location of P-C. Upon request and at the expense of the client, shipping can be made to another destination. However, in this case, the risk of accidental loss, deterioration, and delay passes to the client as soon as the goods are handed over to the freight forwarder, carrier, or any other person or establishment designated to carry out the shipment. This applies even if the shipment occurs within the same location, is carried out by employees or vehicles of P-C, regardless of whether the shipment originates from the place of fulfillment or who bears the freight costs. If the client does not expressly request a specific method of shipment, P-C will, at its discretion, ship by mail or parcel service, freight forwarder, or its delivery.
- (2) If shipping is delayed due to circumstances attributable to the client, the risk passes to the client from the day the goods are ready for shipment. All shipping costs are borne by the client unless P-C has explicitly assured free delivery in writing or made other written agreements with the client.

§ 11 Protection of Intellectual Property

- (1) Insofar as work results are copyrightable, P-C remains the author of the services provided. P-C explicitly reserves the right of use as an author. The client receives in these cases the right of use limited by the contract purpose agreed with the client, otherwise unlimited in time and location, irrevocable, exclusive, and non-transferable, unless otherwise agreed in writing. The client is not authorized to transfer the right of use to third parties. Usage rights of third-party works are transferred to the client only insofar as the rights have been transferred by the third party to P-C, and P-C is authorized to transfer them.
- (2) The respective usage rights are only transferred to the client after full payment of the remuneration.
- (3) Works by P-C may neither be modified by the client nor by third parties commissioned by the client, neither in the original nor during reproduction. Any imitation, even of parts of a work, is prohibited.
- (4) Insofar as goods and services are otherwise delivered to the client, P-C retains ownership until the complete payment of all current and future claims from the contract or an ongoing business relationship. The client is authorized to sell the reserved goods and services to third parties in regular business transactions. However, the client now assigns to P-C any claims and remuneration claims regarding the reserved goods to the invoice value of the reserved goods. If third parties access the reserved goods, the client must indicate P-C's ownership and notify P-C immediately in writing. If the third party cannot reimburse the court and out-of-court costs of a lawsuit according to § 771 ZPO, the client is liable for the loss incurred.

§ 12 Force Majeure

Events of force majeure, which significantly hinder or temporarily make performance impossible, entitle the affected party to postpone the fulfillment of its performance for the duration of the obstruction and a reasonable start-up time. Strikes and similar circumstances are equivalent to force majeure, as long as they are unpredictable, serious, and not at fault. Both parties will immediately inform each other of the occurrence of such circumstances.

§ 13 Termination

- (1) Unless otherwise agreed, in indefinite contract relationships after an invoice based on fixed prices for sub-project sections, the order can be terminated at the end of the sub-project sections indicated in the project plan. The right to extraordinary termination remains unaffected.
- (2) To be effective, the termination must be in written form.

§ 14 RIGHT OF RETENTION

- (1) Until the complete settlement of its claims, P-C has a right of retention to the documents and materials entrusted to it.
- (2) After the completion of P-C's work and after settling its claims from the contractual relationship, P-C will release all documents given to it by the client or third parties in the context of executing the order. This does not apply to correspondence between the parties and to simple copies or backup copies of photographs, graphics, layouts, reports, organizational plans, drafts, and drawings, etc., as long as the client has received the relevant originals.

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- (3) P–C's obligation to store the client's documents expires 6 months after receiving written notice for collection, and in any case, 3 years after the termination of the contractual relationship; for documents retained according to paragraph 1, 5 years after the termination of the contractual relationship.

§ 15 MISCELLANEOUS

- (1) Rights and claims from contractual relationships can only be assigned by the client with P–C's prior written consent. P–C is entitled to assign its claims against the client, e.g., to a factor. Insofar as P–C has assigned the claims, the client can only make payments with discharging effect to the factor.
- (2) The agreed place of jurisdiction and fulfillment is Cologne, provided that P–C's contract partner is a merchant in terms of commercial regulations.
- (3) The legal relationship between the contracting parties is exclusively subject to the law of the Federal Republic of Germany, excluding all international and supranational (contractual) legal systems and the UN Sales Law (CISG). Unless otherwise agreed, for contractual relationships with foreign clients, the application of German law is considered agreed.
- (4) If individual conditions are or become ineffective or contain a gap, the remaining conditions remain unaffected. The parties commit to establishing a legally permissible regulation in place of the ineffective regulation, which comes closest to the economic purpose of the ineffective regulation or fills this gap.

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