

# General Business Conditions

## for marketing, market research, event management

The company Heinze GmbH (hereinafter referred to as “Heinze”) provides, in particular, consultancy, conceptualization and execution services in the fields of marketing communication, advertising, market research, address management as well as trade fair and event management (hereinafter referred to as “the Services”) also presented on the web portal under [www.heinze.de](http://www.heinze.de). In particular, these services are intended for architects, specialist planners, specialist dealers, artisans, builder-owners and modernizers. All arrangements made between the Customer and Heinze in connection with these services are detailed in particular in these General Business Conditions (hereinafter referred to as “GBCs”) as well as in the confirmation letter from Heinze.

The use of Heinze websites is subject to the Heinze’s “Terms of Use” available at [www.heinze.de](http://www.heinze.de). In the event of a conflict, the provisions of these GBCs relating to the services described herein shall take precedence over the Terms of Use.

### 1. Scope of application; general

- 1.1 Business relations between the customer (hereinafter referred to as “the Customer”) shall be exclusively governed by the following General Business Conditions in their current version at the time of placing the order. These GBCs of Heinze shall apply exclusively. Any general business conditions of the Customer in departure from, conflicting with or provided supplementary to these shall become contractual elements only if and to the extent that Heinze has given its explicit consent.
- 1.2 The GBCs shall apply only if the Customer is an entrepreneur as contemplated by Section 14 of the German Civil Code (BGB), a legal person under public law or a special asset under public law. An entrepreneur is any natural or legal person or partnership with legal capacity that, by entering into the Agreement, acts in exercise of its commercial or self-employed activities.
- 1.3 The GBCs in their respective current version shall also apply as a general framework agreement also to future contracts concerning services provided by Heinze with the same customer, without a fresh reference being necessary to the GBCs in each individual case. Heinze shall notify the Customer of any amendments thereto.
- 1.4 The GBCs also apply to verbal (including telephone) statements. If, in specific cases, individual arrangements with the Customer (including ancillary arrangements, addenda and amendments) are made, a contract or confirmation, at least in text form, shall be decisive with regard to their content.
- 1.5 Any declarations and notices of legal relevance from the Customer after entering into the Agreement shall be in writing in order to be legally valid.

### 2. Subject matter

- 2.1 Heinze offers services individually tailored to the Customer’s needs, as described e.g. in the offer and/or budget plan. Offers from Heinze are without engagement and non-binding. This shall also apply if an offer, a budget plan and/or the like is prepared for the Customer. Heinze shall coordinate the offer with the customer and shall record the final outcome of such coordination in a binding confirmation letter. The Agreement entered into between the Customer and Heinze, even if in verbal form (including by telephone), shall always be deemed to have entered into force or to have been extended on receipt of the confirmation letter.
- 2.2 In the case of long-term debt relationships, Heinze shall be entitled to modify agreed services if new requirements under legislation or from public authorities call for a change to be made, if the agreed services no longer comply with the current state of the art, safety conditions or data protection or if agreed services are replaced by equal or higher-quality services, if the agreed target properties essentially remain unchanged and the associated change in service is deemed to be acceptable to the Customer. Changes in service will be communicated to the Customer at least one (1) month in writing or in text form before entering into force. The Customer may terminate the service affected by the change in writing within one month of the announcement of the change in service to the point in time at which the change is to become effective.

- 2.3 Heinze reserves the right to modify its prices. If, in the case of digital services, the scope of service is extended more than just to a negligible degree, Heinze shall be entitled to increase the prices to a reasonable degree, namely in proportion to the extension made. Each price increase for individual services shall be possible only after a period of twelve (12) months has expired. Heinze reserves the right to send invoices and payment reminders in electronic format, e.g. by email, unless a paper invoice is desired.

### 3. Duties of cooperation and rights of use

- 3.1 The Customer is obliged to make available the following items necessary for Heinze to carry out its services: information, data, records, logos, brands, merchandising articles, characters, graphics, photographs, illustrations, press work and the like (hereinafter referred to as “the Materials”) at the agreed point in time as well as on request. The Customer is responsible for the content of the Materials made available, in particular for ensuring that they are correct, complete, lawful, accurate and appropriate.
- 3.2 The Customer grants Heinze, free of charge, the non-exclusive, transferable, irrevocable and unlimited right in terms of time, space and content to use the Materials described in No. 3.1, in particular, brand, copyright, ancillary copyright and other rights comprising content, in tangible and intangible form in all types of use, including types as yet unknown. In particular, this also includes the right to publish, copy, disseminate, present, transmit, render in public, edit and to modify such Materials, to use them wholly and/or in part, to combine them with other content and to use them for promotional purposes.
- 3.3 The Customer allows Heinze to grant sub-licences and to transfer the rights, data and/or information that are the subject matter of the Agreement to its group affiliates (including Febis Service GmbH, Ibau GmbH, DOCUmedia.at and .ch) to the extent required to meet the obligations as contractually agreed, without any consent being necessary to do so.
- 3.4 The Customer warrants that it is the holder of the rights transferred and that it is possible for the Customer to effectively grant the rights constituting the subject matter of this Agreement. The Customer also warrants that the content is free from any rights of third parties and, in particular, that no personality rights of third parties are violated and that any persons featured agree to the use in line with the contractual subject matter. The Customer shall indemnify Heinze in full from all claims by third parties on account of violations of any copyright, brand, personality, competition, data protection or other ancillary copyright raised in connection with the exercise of the rights forming the subject matter of the Agreement, including reasonable costs for legal defence.
- 3.5 The Customer shall notify Heinze without delay once it is aware of any impairment of the rights forming the subject matter of the Agreement. Specifically, it shall also notify Heinze of any objection to the processing of personal data, and of the lodging of claims pursuant to Art. 15-22 GDPR.
- 3.6 The services rendered by Heinze are protected by intellectual property and ancillary rights. The Customer shall acquire a simple, non-transferable, revocable right pending full payment of the licence fee, to use the services and/or content made available in tangible and/or intangible form, limited to the duration of the Agreement, for its own purposes in the ordinary course of business. The Customer may use the said services and content only for its own use and within the statutory framework allowed for this purpose. The Customer is granted no rights of exploitation, such as to copy, disseminate or make the said items publicly available. The Customer shall not be entitled to transfer or licence the services and/or content to any third parties, either. A third party as contemplated here is any natural or legal person apart from the Customer. Any use beyond this shall be subject to prior approval in writing from Heinze.

#### **4. Warranty**

- 4.1 The statutory claims for defects shall remain unrestricted. Any claims for defects against the Customer shall be statute-barred after one (1) year.
- 4.2 Heinze assumes no warranty that the content of the services will meet the Customer's expectations or that a certain objective will be achieved with them. The information in the offer and budget plan constitutes no warranty of certain properties.
- 4.3 Heinze assumes no warranty that the content of the services will meet the Customer's expectations or that a certain objective will be achieved with them. Heinze cannot guarantee the correctness, completeness and/or up-to-dateness of the content of the services, which means that a warranty is thus excluded unless otherwise agreed.
- 4.4 If the Customer is solely or predominantly responsible for circumstances that would entitle it to rescission, particularly within the scope of event management, or if the circumstance giving rise to rescission occurred during delayed acceptance by the Customer, rescission shall be precluded. Rescission shall likewise be precluded if a defect or breach of duty is not material in nature.
- 4.5 Heinze points out that the confidentiality of data for transmission in open networks such as the Internet cannot be guaranteed under the current state of technology. The transmission of data shall be the responsibility of the respective party in question.
- 4.6 It is the Customer's responsibility to report any defects, disruptions or damage without delay.

#### **5. Disclaimer**

- 5.1 The Customer is obliged to examine the service without delay and with the necessary degree of care and to give notice of patent defects to Heinze in writing within seven (7) days of receipt; timely dispatch will suffice to meet the time limit imposed. This shall also apply to defects discovered at a later date from the time of their discovery. Breach of the obligation of inspection and of giving notice of defects shall preclude the bringing of warranty claims. If the service provided by Heinze reflects a defect subject to warranty, then Heinze shall initially remedy the defect or deliver a replacement, at its own discretion. Liability for damages on the part of Heinze shall apply only if the Customer has reported the defects complained of to Heinze and if Heinze fails to remedy these within a reasonable period of time.
- 5.2 Non-culpable, strict liability on the part of Heinze for defects that already existed at the time of contracting shall be ruled out.
- 5.3 Heinze shall be liable only in cases of intent and gross negligence. In the event of gross negligence, any liability of Heinze for indirect and/or consequential loss or damage, in particular due to lost profits, efforts/expenses in vain and the like, shall be ruled out. Heinze shall not be liable in the event of slight negligence of its managerial bodies, legal representatives, salaried employees or other vicarious agents unless a breach of cardinal contractual duties is involved. Cardinal contractual duties are duties the fulfilment of which is facilitated by proper performance under the contract in the first place and upon compliance with which the contracting partner must habitually be able to rely.

#### **6. Data protection, confidentiality**

- 6.1 If any personal data are affected, Heinze shall ensure an adequate level of protection in accordance with Art. 25 and 32 GDPR. Heinze collects, uses and processes customer and delivery data with the aid of electronic data processing. Heinze has appointed a Data Protection Officer who can be reached at [datenschutz@heinze.de](mailto:datenschutz@heinze.de).
- 6.2 Any information becoming known in the course of contractual performance and stemming from the domain of the party of the other part shall be treated in confidence. Upon termination of the this Agreement, the records made available within the scope of the order shall be returned to the Customer and/or destroyed.
- 6.3 All information and records received by the Customer within the scope of contractual performance by Heinze may not be disclosed to any third parties except as otherwise agreed. Upon termination of this Agreement, if requested the records made available within the scope of the order shall be surrendered to Heinze and/or destroyed.

#### **7. Contractual duration/termination**

- 7.1 The contractual duration and notice periods are specified in the offer, the budget plan and/or the order confirmation from Heinze. The Agreement may be terminated subject to six (6) months' notice prior to the expiry of the performance period, for the first time duly on expiry of two (2) years

except as otherwise agreed. The Agreement shall be tacitly extended subject to the same performance and remuneration by a further twelve (12) months unless duly terminated in accordance with the notice period or unless any change in the scope of services was confirmed in a confirmation letter from Heinze prior to the expiry of the notice period.

#### **8. General provisions**

- 8.1 Heinze reserves the right to amend these GBCs at any time with future effect, without having to state any reasons, provided this is not unacceptable to the Customer. Heinze shall notify the Customer of any amendments to the GBCs in good time. The amended GBCs shall be deemed to have been accepted by the Customer unless the latter objects within four (4) weeks of such notification. Heinze shall alert the Customer in its notice to the Customer's right of objection and to the significance of the period for lodging an objection. Moreover, Heinze reserves the right to terminate the Agreement if the Customer objects to the amendment of the GBCs. In addition, Heinze reserves the right to amend the GBCs (i) on account of changes in terms of legislation or court rulings and state-of-the-art technology, (ii) if the amendment is merely beneficial to the user, or (iii) if Heinze introduces additional services that require a description in the GBCS unless the past contractual relationship will be impaired and/or modified to an unacceptable degree. Heinze shall give notice of any such amendments to the GBCs.
- 8.2 Any amendments and addenda to these GBCs, including the agreement waiving this requirement as to written form, shall be in writing.
- 8.3 Should one or several provisions of this Agreement be invalid or unfeasible, this shall not affect the validity of the remainder of this Agreement. In this event the parties undertake to replace the invalid and/or unfeasible provision with an effective and/or feasible provision that best approximates the commercial purpose within the scope of what is legally permissible in terms of form, content, time and range of application of the relevant invalid or unfeasible provision. The same shall apply in the event of any loopholes and doubtful issues in this Agreement.
- 8.4 These GBCs shall exclusively be governed by German law. The sole place of jurisdiction for any disputes arising from contracts with merchants, legal persons under public law or special assets under public law shall be Celle, Germany.

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