

General Terms and Conditions

of

Improve OG

1. Applicability

1.1. These General Terms and Conditions, hereinafter referred to as „AGB“, apply to all our legal transactions and business relations, particularly also to consumer business within the meaning of the (Austrian) Consumer Protection Act insofar as its mandatory provisions are not violated.

1.2. The AGB shall also be applicable to future business transactions, particularly also to post services/performance, even if explicit reference is not made to them.

1.3. We do not accept terms and conditions otherwise provided by the principal or customer (hereinafter referred to as “Customer”). The transmission of a confirmation letter shall not be deemed as an acceptance of the customer’s contract terms. If there is any inconsistency between these AGB and, if existing, performance specifications or contract specifications, technical descriptions, standards of technical content or ÖNORMEN, even if they were the subject of specific agreement, the AGB shall always prevail.

1.4. Improve and the client are in the following referred to as „the Contracting Parties“.

2. Offers, Presentations, Acceptance

2.1. Our offers – also including its fee and price quotations – shall be non-binding – absent any express provisions to the contrary – and only in writing. Our offers shall be valid only for the total performance offered, insofar as not explicitly stated that partial performance may also be offered.

2.2. Offers including its price quotations are provided to the best of Improve’s expert knowledge. Order-specific circumstances or such circumstances which the client has ex ante not advised us of accordingly, must not be considered insofar as they are beyond our recognizability.

2.3. All prices are quoted in Euro including any Value Added Tax due.

2.4. If not explicitly agreed in writing otherwise, Improve shall be compensated appropriately for its participation at presentations, Beauty–Contests and the like, particularly for its material and personnel expenditures as well as for costs resulting from third–parties employed.

2.5. If there is no contract awarded documents presented and if need be its made copies, irrespective in whatever form made, shall forthwith be returned to us (electronic documents must be deleted), without prejudice to our due remuneration. Furthermore we are entitled to make other use of the presented ideas, concepts and drafts.

2.6. We are not obliged to review the power to represent of persons acting in the name of the Customer. The Customer agrees that any representation of persons acting in its name shall be binding on the Customer.

4. Remuneration

4.1. All prices are quoted in Euro including any Value Added Tax due as well as any cash expenditures, particularly travel expenses (train, aircraft, and each second class), accommodation expenses (customary in that place, four-star) and remunerations for third–party services.

4.2. If not agreed expressly in writing otherwise, we shall be entitled to appropriate fees for each of our services rendered. All services, which are not – expressly in writing – compensated with the agreed fee, will be charged separately. If our offers include hourly- or daily rates, such rates for our services rendered in any case may be deemed as appropriate for settlement.

4.3. If services have not been completed on account of circumstances attributable to the Customer we shall be entitled to the agreed fee or – if not agreed – to an appropriate fee for the services ordered by the Customer. If services are not completed on account of circumstances neither attributable to us nor the customer, we shall be entitled to an appropriate fee for the services rendered.

5. Warranties and Documents by the Customer

5.1. The Customer shall warrant and be liable for any (private and state or regulatory) permits/approvals, licenses and rights necessary for the operation, maintenance and improvement of the Customer’s operated website(s) including its content(s) and the Customer will take all commercially reasonable efforts to assure their persistence.

Furthermore the Customer shall warrant and be liable that its website operates according to applicable laws and is not used for non–legitimate purposes or equally used with his knowledge by third–parties. The Customer shall be obliged to take all commercially reasonable precautions to avoid breach of laws or improper uses of its website(s) by third parties.

5.2. The Customer will provide us without delay after receipt and confirmation of his order with all for the rendering of services necessary information, access data and documents. The Customer shall be liable for the accuracy of the information provided.

5.3. If the Customer provides us with documents (pictures, logos, descriptions, drawings, drafts, plans, texts or documents of a similar nature), he shall be liable for its compliance with potential copyright and trademark rights or other rights of third parties as well as applicable laws.

The Customer shall be liable to own all necessary rights to the documents provided for rendering our services. If and to the extent that Improve is made liable for infringement of rights related to the furnishment of documents, the Customer shall be obliged to indemnify us against any and all liabilities, claims and costs incurred by or made against us as a direct or indirect result of us performing services.

5.4. Improve has no obligation to make backups of the Customer's operated website(s) or provided documents or back up them otherwise whatsoever.

6. Third-Party Services

6.1. We shall be entitled at our discretion to reserve the right to use third-parties for fulfilling our obligations under this contract.

6.2. If we embed software of third-parties, such software will be provided to the Customer on the basis and conditions of a special software license agreement to be concluded between the third-party and the Customer. At the Customer's request we will provide you with these licensing terms. At our discretion we shall be entitled to conclude licensing agreements with the Customer under the very same licensing terms and conditions.

6.3. If and to the extent that the Customer in relation with our services employs third-party services, he shall alone be responsible for compliance with terms of license and utilization.

7. Scope of Services / Duration of Services

7.1. The scope of our services as well as start and duration of our services will be set out in a separate offer or order.

7.2. If start and duration of our services to be provided are not explicitly set out, our provision of services shall start on the day on which the contract is concluded and end with the last step to be taken implied by the agreement and its purpose but at the latest on the day the final invoice is issued.

8. Change of Services, Supplementary Services

If the Customer wants additional or changed services and we agree to such services – in spite of the fact that we are not obliged to do so – Improve shall be entitled to an equitable remuneration. Principally we are willing to perform minor non cost-relevant changes.

9. Performance of Services, Duty to Cooperate, Withdrawal from Contract

9.1. We are obliged to perform our services only after all contractual details have been clarified and the Customer has fulfilled his obligations and provided us with all necessary information and documents for performance as set out in Point 5.

9.2. All our services (in particular our concepts in relation to AdWords etc) may be reviewed by the Customer notably for competitive reasons and reasons for trademark rights. If we do not receive a written objection within five days, our services are deemed as cleared and approved.

As of clearance (and also in the case of omission of a written objection) the Customer shall be liable for any errors (erroneous data, misspelling etc) as well as for any infringement of third-party rights. Only in case of an explicit written Customer's request our services may be reviewed legally on behalf of the Customer and on its own account.

9.3. If we are unable to perform our services on account of circumstances attributable to the Customer or if the Customer does not provide us with documents as set out in Point 5., despite a request to do so and an additional respite of 14 days granted, or if there are justifiable concerns regarding the Customer's credit worthiness and the Customer does not – despite request and additional respite – render upfront payment or provide suitable security (suitable securities are solely a savings book in the name of the bearer or a bank guarantee of an Austrian credit institution or a declaration of liability of a third-party with excellent credit ratings, each in amount of the order value), we shall be entitled to withdraw from the contract.

10. Ownership Rights, Usage Permissions, Copyright

10.1. All of our services and works, as well as used services of third-parties, remain – unless otherwise expressly in writing agreed – exclusive intellectual property of Improve. This includes also inventions, algorithms, software, application processes, drafts, presentations, etc.

10.2. Unless otherwise expressly in writing agreed, the Customer acquires through payment of our fees only the right to use and duplicate our services for itself within Austria and only for the duration of the contractual relationship (license of utilization). The acquisition of such right of use requires an explicit written agreement and full payment of our fees. The Customer acquires no defined right of use through his assistance or participation in the course of performance of our services. Any infringement of our rights shall result in claims for damages, whereby in such case full satisfaction (volle Genugtuung) shall be granted.

10.3. Our services and works must not – without our explicit written consent (and additional consent of the originator in case services or works of third parties are involved) – be changed, further developed or be passed on to third parties.

10.4. Unless otherwise expressly agreed in writing, the use of our services is prohibited after termination of the contract.

10.5. We are entitled to refer on our website as well as in our advertising materials to the contractual relationship or mandate with the Customer, particularly also with its distinctive mark (logos).

11. Acceptance of Performance

11.1. The Customer shall accept the performance of our services (for example concepts) in the absence of any other agreement within 14 days upon request. If the Customer does not demand within 14 days after completion any amendment (Verbesserung) to our services performed, the performance of our services shall in any case be accepted.

11.2. Electronic services, as for example enhancements on websites or of programs are deemed to be operational and accepted by the Customer by the time these electronic services are provided electronically (for example on CD-ROM or via .ftp) to the Customer or put online, the Customer was informed accordingly (Email is enough) and has not within 5 working days submitted any written (email) justified objections.

11.3. We shall not be obliged to adapt our services to third-party software or integrate our services into third-party software, unless this has been explicitly agreed in writing. This also applies to changes of soft- or hardware after installation.

11.4. After acceptance of our services performed we are not obliged to save, further maintain or service the data used for our services or our electronic services.

12. Performance Periods and Deadlines

12.1. Our furnished particulars about delivery dates or dates relating to the provision of services are not binding unless otherwise explicitly agreed in writing. If we do not meet explicitly in writing agreed deadlines (subject also to the following provisions), the Customer shall be entitled to make use of his legal rights but only after a written reminder and a reasonable period of grace at least 14 days has been granted. Such period begins as soon as the reminder has been received.

12.2. Every request for modification by the Customer (additional service or change request) is followed by a modification of the original planned dates. Dates of delivery or dates relating to the provision of services – unless beforehand otherwise explicitly agreed in writing – will be extended insofar as it is reasonably necessary for the additional or changed services.

12.3. If the start of the provision of our services or the performance itself are delayed in time and such delay is not caused on account of circumstances attributable to us, the original dates and deadlines will – even if they were confirmed as binding – correspondingly be extended. The Customer is held liable for any additional costs caused by the delays on account of circumstances not attributable to us.

12.4. In the event of unforeseen as well as inevitable events, breakdowns, strikes, public unrest, lockouts in our company or at the premises of third-parties involved in part of the order, in the event of war or orders of authorities and in all other cases of force majeure the dates of delivery and periods of performance will be suspended for the duration of the disturbance and the correction of its effect on the company's operations. Any of the foregoing mentioned events shall also entitle us to withdraw from the contract, without (damage-)claims of any kind arising for the Customer from that.

13. Payment

13.1. In principle payment is due from the date of invoice without discount and is to be transferred into the bank account stated. Payment shall be considered effected at the date at which Improve can dispose of the payment loss-free. In the event an upfront payment or bank guarantee is required, we shall not until their receipt be obliged to perform.

13.2. In case of default in payment we shall be entitled to demand the applicable statutory default interest but at least be entitled to charge default interest of 12 % p.a.. In the event of delayed payment, the Customer undertakes to reimburse the dunning fees and collection charges incurred by Improve for the necessary legal measures, and shall take as the basis for this reimbursement at least the amounts set down in the decree of the BMWA (Federal Ministry of Economics and Labour) relating to the highest rates payable to collection agencies.

As far as the dunning process is operated by Improve, Improve is entitled to charge a sum of EUR 10.90 for every reminder issued.

13.3. Should the Customer be in arrears with his financial obligations, Improve shall be entitled to stop providing any services to the Customer and also be entitled to demand payment for all services already rendered and to call in accrued amounts owed.

13.4. Should the Customer be in arrears only with one of his financial obligations, payments first of all will be applied against accrued expenses, afterwards against default interest incurred, thereafter payments are settled with the oldest outstanding debt, possible earmarked use of payments will be deemed as irrelevant.

13.5. Bills of exchange shall not be accepted.

14. Partial Billing

14.1. We shall be entitled to submit partial invoices in accordance with the progress achieved of our services. This also applies to delays in the course of provision of our services.

14.2. Should it become evident after the conclusion of the contract, that payment is jeopardized by the Customer's lack in financial means or that circumstances about the poor financial situation of the Customer become known, Improve shall be entitled to demand immediate payment for all services already rendered and to call in accrued amounts owed as well as to make any further progress of our services dependent on the provision of adequate security by the Customer.

15. Setting Off / Assignment of Claims

15.1. The Customer is not entitled to set off claims against Improve except where the claim has been legally proved or has been acknowledged by us.

15.2. The Customer shall not be entitled to assign claims against us without our express prior written consent.

16. Data Protection, Consent to Commercials

By submitting an offer requested by the Customer and upon conclusion of a contract personal data of our Customers like title, first name and surname or company name and company register number, address, contact information (particularly contact, telephone number, and email address) as well as by the Customer registered domains will be determined and processed. The Customer explicitly has agreed thereto.

The Customer also agrees that such data is collected, used, processed and saved for executing the order, billing and delivery of goods as well as to simplify future orders likewise for advertising our own similar products and services. Such consent may be revoked any time (and sent to Improve OG, Spengergasse 37, A-1050 Wien, or via email office@improve.at).

17. Warranty

17.1. The warranty period is 6 months.

17.2. **We shall not be held liable for a specific or risen number of visitors (visits) on the website of the Customer or better search results of this website in search engines (e.g. Google) (ranking) or better PageRank of that website in**

search engines (e.g. Google) or for specific or higher (direct or indirectly e.g. via AdSense of Google) advertising revenues for the Customer and on its website(s), respectively.

17.3. In case of justified notices of defect, the Customer – at our discretion – shall have to a free of charge removal of the defect within reasonable period of time. In the event that rectification is impossible, does fail or should require for us a disproportionate effort, the Customer has only then – at our discretion – the right of price reduction or rescission of the contract (redhibition). Any recourse to § 933b ABGB after the warranty period expired is excluded.

17.4. Our duty of warranty shall be excluded in the event the Customer does not make a written complaint to Improve about the defect after performance and delivery/handing over, respectively, immediately after defect is noticed or hidden defect become known to the Customer. The Customer furthermore undertakes after performance or delivery/receipt to notice us in writing about any complaints the earliest possible, otherwise our services shall in any event be deemed accepted. In the event that notice of defect is not made in due time, any claims by virtue of warranty, any claims to compensate for damages due to the defect itself and due to consequential harm caused by a defect as well as claims relating to a misapprehension about the faultlessness of our services, shall be excluded.

17.5. We shall be under no warranty whatsoever for our services in the event that these services are subsequently modified by the Customer or a third-party or in such an event that the electronic environment (interfaces, hard- or software as well as its components) is inappropriate or has been modified or changed.

18. Compensation for Damages

18.1. We shall only be liable for physical injury and material damage caused by gross negligence or wilful intent on our part, whereby the injured party who asserts a claim has to prove the facts justifying negligence.

Beyond this and insofar as it is in accordance with general rules of civil law ((i.e. above all in the event of slight negligence (leichte Fahrlässigkeit) and ordinary negligence ("schlicht" grobe Fahrlässigkeit)), any and all further claims against us or against third parties commissioned by us, particularly claims for damages on account of default, impossibility of performance, claims of compensation for consequential damages, claims for compensation of consequential harms caused by a defect, claims for damages caused by breakdown or delay in data transmission from or to the host server(s) or inaccessibility of the website or loss of profit (entgangener Gewinn) and non-arisen savings, asset/property claims of any other kind as well as claims by third parties asserted against the Customer or claims resulting from tortious acts, shall be excluded.

18.2. Furthermore we shall not be held liable for any faulty or malicious software of the Customer or third parties (Viruses, Trojans etc), unless the third party has been commissioned by Improve.

18.3. Additionally we shall not assume any liability for Customer operated or related content(s) on its website(s) as well as for content of external sites linked or referred to direct or indirectly from the Customer's website(s).

18.4. Claims for damages against us shall be statute-barred within six months after those entitled to assert a claim have gained knowledge of the damage and the liable party, but not later than two years after the termination of the mandate or contractual relationship upon which the claim is based.

18.5. Our liability for any particular case of damage shall be limited to each net order value but such liability shall not exceed EUR 10.000,-.

19. Dissolution of Contract for Good Cause

19.1. The contractual relationship may be terminated for good cause by each of the Contracting Parties at any time through submission of a registered letter (Einschreiben), particularly

(i) if insolvency proceedings are initiated for the assets of one Contracting Party or if the initiation of insolvency proceedings for the assets of one Contracting Party is rejected for insufficiency of assets to the extent permitted by the law, i.e. particularly (a) if the dissolution of the contract would not jeopardize the continued operation of the company, which the Contracting Parties currently assume, (b) in the event of a default on outstanding debts after insolvency proceedings are initiated and (c) in any case six months after insolvency proceedings have been initiated;

(ii) if one of the Contracting Parties still violates basic obligations of this contract (as e.g. the liabilities to pay according to Point 13.) in spite of written reminder of the other contracting party (email or fax is enough) and after granting a grace period of at least 14 days;

(iii) if the ownership structure of the Customer alters in such a way that a collision with our interests may be possible.

19.2. If one of the Contracting Parties omits to have the contractual relationship be terminated in spite of a good cause present which would immediately entitle to cancel the contract this shall not constitute a waiver to claim the dissolution of the contractual relationship for good cause at a later point in time or in case of recurrence.

20. Other, Governing Law, Place of Jurisdiction

20.1. The avoidance of contracts due to error (Irrtum), rules applicable to the frustration of contract (Wegfall der Geschäftsgrundlage) and leasio enormis (the disproportion of more than the half between consideration and performance) shall be explicitly excluded.

20.2. Any oral agreements, supplementary agreements, modifications of the agreement, changes to or exclusion of our General Terms and Conditions ("AGB") are only valid and binding once confirmed by us in writing. This also applies to a waiver of the requirement for written form.

20.3. All our contracts shall be exclusively governed by Austrian law excluding the application of any conflict of law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG). Place of performance is A-1050 Wien, Spengergasse 37.

20.4 Should individual provisions of the contract including these General Terms and Conditions be or become completely or partially invalid, the validity of the remaining provisions shall not be affected as a result. Any such invalid provision or part of a

provision shall be replaced by a provision reflecting the purpose of this contract to the best extent possible. This also applies to possible arrangements to be made which are not already covered by the provisions of the contract or this AGB.

20.5 Unless otherwise agreed in writing, the exclusive place of jurisdiction for all disputes arising from the contractual relationship or directly or indirectly relating thereto as well as any question regarding its existence, validity or termination including these AGB's shall be the competent court of Wien Innere Stadt (Vienna's first district).

20.6 These General Terms and Conditions shall apply as of 01.12.2010.