

**GTC to be submitted to client**

**ProSympos is the service provider**

**To be used in conjunction with the event agreement for the client**

## General Terms of Contract of ProSympos GmbH

The following terms of contract are submitted to the client by ProSympos GmbH (referred to for short as "PS" herein after) and shall become part of the contractual agreements:

### **I. Conclusion of contract/Terms of payment**

1. The contract is concluded by mutual signing of the contract or, in the case of businessmen, by means of a written confirmation by the contractor. The contract is also concluded in case the client makes a down payment, which PS accepts as such or in case PS begins the performance of the services under the contract for the client without objection.
2. PS shall prepare a proper invoice. On principle, all prices for agency services are defined as net prices; in case artists are hired via the agency plus statutory artists' social security contributions on artists' fees in accordance with the rates established by the statutory artists' social insurance and the statutory value-added tax rate to be paid over in the FRG – even if this is not provided for separately in individual cases. In case value-added tax has to be paid over to another state organisation, PS shall be entitled to the payment of such tax. Cash discounts are not granted. Unless other provisions are made, the total amount shall fall due for payment without any deductions:
  - 25 % of the order total upon the conclusion of the contract
  - 50 % of the order total upon the commencement of the project
  - 25 % of the order total after completion of the project

- The increased or lower costs actually incurred shall be settled with the final invoice.
3. Travelling expenses, hotel and out-of-pocket expenses are settled on the basis of the costs actually incurred. Flights within Europe shall be economy class; intercontinental flights shall be business class. Rail trips shall be first class. Trips by passenger car shall be settled at EUR 0.50 per km, trips by mini van shall be settled at EUR 0.70 per km and trips by lorries of 7.5 t and up shall be settled at EUR 1.40 per km.
4. All costs and expenses incurred by PS which do not have to be defrayed by PS according to the performance specifications shall be settled on the basis of the actual expenses incurred.
5. All services which are not comprised in the performance specifications shall be remunerated by the client in addition even if PS does not employ the services of third parties but has the respective service concerned performed by its own staff. PS shall be entitled to have services which PS can contract out to third parties on behalf and for the account of the client performed by members of its own staff and to charge these separately to the client afterwards.
6. PS shall be entitled to charge collection fees and normal bank default interest in the event of defaults in payment.
7. Any GEMA charges which might be incurred as well as costs for power, water and waste as well as the expenses for a sufficient event liability insurance and any insurance regarding a possible cancellation of the event and/or electronics insurance shall be defrayed by the client.

### **II. Cost plan/Budget**

1. The budget is estimated without obligation.
2. In case the foreseeable costs are exceeded by more than 20%, the client is entitled to terminate the contract.
3. PS shall be obliged to communicate any budget overrun of more than 20% to the other party to the contract forthwith by pointing out the right of termination, the period of notice and the consequence of an expiry of the termination without notice as soon as such overrun becomes foreseeable. PS shall also specify the amount by which the budget will probably be exceeded to the client in this letter.
4. In case the other party to the contract does not use its right of termination within a period of three weeks as of receipt of the notification, the cost overrun shall be considered approved provided it does not exceed the original budget by more than 40%. If the right of termination is exercised by the client, the client shall not be entitled to any claims towards PS unless this is precluded by mandatory statutory provisions or agreements under this contract. In case the costs exceed the original budget by more than 40%, PS can terminate the contract without claims against PS on the part of the client unless this is precluded by mandatory statutory provisions or agreements under this contract. In case neither of the two parties to the contract terminates the contract, a new agreement comprising an adequate increase of the fee for PS shall be made.
5. PS is entitled to take the fee agreed on – in as far as such falls due under the payment schedule – from the budget in advance and it shall even be entitled to do so in case this exhausts the budget.
6. Services, which are not comprised in the performance specifications, shall only be performed or commissioned by PS after prior consultation with the client in case the individual service exceeds a cost share of 10% of the budget.
7. In the event that the immediate performance of this specific service is required for the implementation of this contract and that prior consultation with the client is not possible, PS may perform or commission the service before consultation with the client provided the budget is not exceeded by more than 20%. In such a case, PS has to inform the client forthwith subsequently.

6. Client's items (give-aways, banners, technical equipment, etc.) shall always be shipped at the client's expense and risk. Unless other provisions are made, PS shall have shipment effected at its own discretion without any responsibility for special packaging or the cheapest and/ or fastest route. Client's items which are required for the provision of services by PS have to be delivered free of charge to the PS address or to the address specified by PS on the date agreed on. The return of these items shall be effected freight forward from the place of use. PS shall be entitled to take out a transport insurance, the costs of which shall be borne by the client; however, it shall not be obliged to do so. Any cases of damage in transit which might arise have to be communicated to PS forthwith. Upon request, all possible claims against the shipping company shall be assigned to the client.
7. PS shall keep client's documents submitted in the framework of the order for a period of six months. In case original documents (slides, floppy discs, CD-ROMs, DVDs, Blu-ray discs, etc.) are submitted, the client undertakes to make copies of these. PS does not accept any liability for client's documents which are not demanded back within a period of one month after completion of the order.

### **IV. Withdrawal and Impossibility**

1. In case the execution of the event is prevented in its entirety or in part for reasons which lie within the sphere of responsibility of the client, PS shall retain its claim to the fee agreed on. However, PS shall have taken into account that amount which it saves as a result of the release from performance and gains through a different use of its working capacity or which it wilfully neglects to gain. In the case of open-air events, the client shall assume the weather risk.
3. In cases of force majeure (e.g. thunderstorms, storms, hail) or in cases of special events (war, terrorism, strikes, government regulations, etc.), PS shall be entitled to shorten or cancel the event. In the event of non-performance of the service under the contract by PS or its agents as a result of force majeure or special events, the claims under this contract shall cease to apply. In these cases, PS shall retain its claim to those parts of the fee which have already fallen due under the payment schedule. With regard to the services provided by PS after the last instalment which has fallen due according to the payment schedule, PS shall be entitled to a share in the fee corresponding to such service.
4. The client can withdraw from the contract at any time. In this context, receipt of the written notice of withdrawal by PS shall be decisive. The client can withdraw from the contract by means of a written notification until the day of the event.
5. In case of a withdrawal by the client, PS shall be entitled to demand adequate compensation for the provisions made, including lost profits and its expenses. Instead of the specific calculation of the compensation for such withdrawal, PS can assert the following lump-sum claim to cancellation charges under consideration of the expenses which are usually saved. The lump-sum cancellation charges amount to the following sums:
  - Up to three months before the beginning of the event, 30 % of the fee agreed on
  - Up to one month before the beginning of the event, 60 % of the fee agreed on
  - As of one month before the beginning of the event, 90 % of the fee agreed onThe calculation shall be based on the fee agreed on with the client plus VAT minus the expenses not incurred (travelling expenses, accommodation and board, etc.). The client shall be at liberty to prove that no costs or lower costs than those reported by PS in the lump sum were incurred in connection with the resignation.

### **V. Liability/Insurance**

1. PS shall only be liable for cases of personal or material damage which are caused by PS employees or agents in the event of negligent or premeditated action unless this is precluded by mandatory statutory provisions.
2. The operational and personal risk for the proper execution of the event as well as the full liability for the safety of the parties commissioned and PS' own and leased equipment shall be borne by the client. PS does not assume any liability whatsoever with regard to any kind of damage caused by visitors. Natural loss, breakage of glass and any possible costs caused by damage to the site, the premises or buried lines on account of the installation of stages, exhibition stands, tents, etc. shall be borne by the client. The same shall apply in case of damage to equipment rented by PS. The client shall be obliged to take out an event liability insurance with sufficient coverage and to furnish proof of such to PS upon request.
3. In the event of the culpable non-performance of the contract or of a culpable violation of contract, PS shall only be liable up to the amount of the fee agreed on at maximum. The assertion of further claims to damages towards PS is, hence, excluded. In the case of a culpable violation of contract on the part of the client, PS shall not be obliged to carry out the event.
4. PS shall be directly responsible for examining the legal admissibility as well as the technical and artistic reasonableness of the measures developed by PS with the attention of a conscientious businessman. On principle, any liability shall be excluded in case PS carries out the measures in spite of concerns, which have been expressed, at the client's instruction. In this case, the client shall indemnify PS against third party rights asserted against PS on account of such measures.
5. In as far as PS concludes contracts with third parties on behalf of the client in the context of the performance of this contract, the activity as per the contract shall be restricted to the selection of the contractual partner concerned and to

8. PS shall inform the client in the event that an early exhaustion of the budget becomes discernible. The client, in turn, shall be obliged to pay the amount required forthwith after receipt of the information provided such amount does not exceed the budget by more than 20%. In case overrunning of the budget by more than 20% is approved or in case the approval of such is considered granted, the required additional amount shall be paid by the client forthwith after such approval has been granted or after such approval is assumed to have been granted.

### **III. Execution/Organisation**

1. The event shall be executed and organised on the basis of this concept. Essential changes shall be co-ordinated with the client.
2. PS shall be free in arranging the program and the performances in accordance with the time schedule agreed on. PS shall not be subject to artistic directions by any third party.
3. PS shall be entitled to change the contractual services agreed on including a programme (e.g. in case of the absence of scheduled artists) and the provision of food and beverages provided the value of the service originally agreed on is not adversely affected on account of this.
4. In the context of the provision or of booking of the rooms for exhibitions and/or events by the client, the premises shall be made accessible for the erection of exhibition stands and stage constructions, the installation of lighting and sound technology as well as for stage rehearsals on the days for installation and dismantling as well as on the days of the event. Dismantling shall commence immediately after the end of the event. All costs for the event and for the premises, such as electricity, rents for the rooms, supervisory staff, room technology, cleaning services, the fire brigade and medical emergency services shall be settled directly by the client. Cloakrooms for artists have to be provided to a sufficient extent.
5. All of the contracts required for the performance of this contract shall be concluded in the name and on behalf of the client. PS is hereby authorised by the client to conclude all the contracts which are required or at least appropriate for the execution and performance of the contract on behalf of the client. PS shall be authorised to issue instructions towards contractors commissioned by the client to provide services for the event in the interest and on behalf of the client.

the conclusion of the contract concerned by safeguarding the limits established in this contract. PS shall, in particular, not be obliged to monitor the performance of such contracts itself. Third parties commissioned by PS in this way shall not be considered vicarious agents of PS in the relationship between PS and the client.

### **VI. Secrecy/Intellectual property rights**

1. Both parties to the contract undertake not to provide any information regarding the fee agreed on to any third party. The parties to the contract permit each other to issue press releases. Upon request, PS shall be specified by name as the author and executing agency in publications.
2. The ideas and concepts outlined shall remain the intellectual property of PS. Any further use, forwarding to third parties as well as a partial or full implementation shall require approval by PS.
3. Videos and photographs of events are copyrighted for PS. Any use by the client shall only be possible after prior approval by PS and after an agreement on a license fee has been reached.
4. PS shall be entitled to document the production on image and sound carriers of every kind and to distribute or publish all photographs, videos and film recordings as well as other technological reproductions for the purposes of self-promotion or for editorial purposes and to do so without any restriction of the scope in terms of area, subject matter or time. PS reserves a right of objection with regard to any use and distribution of image and sound carriers of any type by the client or by third parties exceeding the framework of the contract.

### **VII. Final provisions**

1. In the event that individual or several provisions of the contract are or should become ineffective, this shall not affect the effectiveness of the remainder of the contract. The parties to the contract shall replace the ineffective provision with an effective provision corresponding to the commercial purpose and intent of the contract.
2. Verbal ancillary agreements shall be considered not made. Amendments of the contract and supplements thereto shall require the written format.
3. This agreement and the entire legal relationship between the parties to the contract shall be governed by the laws of the Federal Republic of Germany.
4. In as far as admissible, the courts of law in Essen shall be the exclusive legal venue for all conflicts directly or indirectly connected with this contract, regardless of which of the two parties to the contract institutes legal proceedings.