

1. Applicability of the general terms and conditions

Upon placing an order, the Principal acknowledges the following General Terms and Conditions (GTC) of Xoio—here in after referred to as the "Agent." Generally, deviating general terms and conditions of the Principal do not apply. The GTC apply for the entire business transaction and any follow-up contracts.

2. Offer and order confirmation

- 2.1 The Agent is bound to its offers in accordance with the acceptance period stated in the cost estimate. Our offers are accepted by the customer's explicit declaration of acceptance or by conclusive action, such as by cooperating in the concept and design phase, by sending material, or by accepting a desired performance or partial performance.
- 2.2 The subject matter of the contract is the Agent's preparation of the scope of performance described in the offer.
- 2.3 Separate performances not included in this offer and/or results and components that are not connected to the stipulated performances do not form part of the contract and require a separate agreement.

3. Copyright, licenses

- 3.1 Each order places by the Agent is a copyright contract that is aimed at granting rights to use the work performance.
- 3.2 All drafts, final designs, and final drawings (hereinafter referred to as "works") are protected by copyright law. The provisions of German copyright law also apply if the originality required under Section 2 of the German Copyright Act (*Urhebergesetz*) is not reached.
- 3.3 The Agent assigns to the Principal the rights of use required for the respective purpose. Unless otherwise agreed, only the simple right of use limited to the territory of the Federal Republic of Germany will be assigned respectively. A transfer of the rights of use to third parties requires a written agreement. The rights of use shall only be transferred after the remuneration is paid in full.
- 3.4 There is freedom of design within the scope of the contract. Complaints with regard to artistic design are excluded. If the Principal desires changes during or after the production, the Principal is to bear the additional costs. The Agent reserves the right to remuneration for work already begun.
- 3.5 Proposals of the Principal or other cooperation by the Principal do not affect the amount of remuneration. They do not establish a joint copyright.
- 3.6 If the works are used later or on a larger scale than originally planned, the Agent is authorized to subsequently charge the remuneration for the use and/or to demand the difference between the higher remuneration for the use and the remuneration originally paid.

4. Obligations of the Agent

- 4.1 The Agent agrees to prepare the contractual performance on time.

- 4.2 The Agent agrees to provide to the Principal for the purpose of review a number (stipulated in writing) of trial proofs. The Principal will provide binding comments on such trial proofs within 4 days after receipt. Any resulting change requests will be taken into account and incorporated into the subsequent final result, provided it is within the stipulated time frame. Any resulting additional costs are to be borne by the Principal. The trial proofs must be of such a quality that they reflect the performance to be expected according to the course of the project.
- 4.3 Qualitative and quantitative deviations from the stipulated performance as a result of requests by the Principal for changes or supplements must be agreed in writing.

5. Obligations of the Principal

- 5.1 The Principal agrees to provide to the Agent all of the information necessary to fulfill the performance by the stipulated date and free of third-party rights. The Agent is not obligated to review the content provided by the Principal, especially not with regard to whether it is suitable to achieve the purpose pursued with the performance of the contract.
- 5.2 The Principal is obligated to meet the stipulated deadlines. In the event that the performance of the contract is delayed because of reasons, for which the Principal is responsible, the Agent may demand a reasonable increase in the remuneration. In case of intent or gross negligence, the Agent may also assert claims for damages. The assertion of additional claims for default damages remains unaffected.
- 5.3 Upon completion, the Principal is obligated to accept the performances rendered, inasmuch as the performance has no significant defects.
- 5.4 The Principal is to notify the Agent in writing of any defects without undue delay.
- 5.5 If the Principal does not accept the performance either within 10 days after delivery or after a grace period has been granted, the risk of accidental loss of the performance passes to the Principal. The Agent is entitled to demand compensation for damages.
- 5.6 In the event that the Principal rescinds a contract issued, the Agent may—independent from the possibility of asserting higher damages actually incurred—demand 10% of the stipulated price for costs incurred and loss of profit for processing the offer. The Principal is free to demonstrate that lower damages were incurred.
- 5.7 The Principal agrees to electronically take receipt of the performance rendered by the Agent.

6. Remuneration

- 6.1 The remuneration becomes due for payment in accordance with the price list at the time of invoicing at latest upon acceptance of performance and is payable within 10 days of becoming due for payment.
- 6.2 The remunerations are net amounts, payable in addition to the statutory VAT and without deductions.
- 6.3 In the event that circumstances, for which the Agent is not responsible, result in additional performance and expenses, the parties shall stipulate an individual hourly remuneration in addition to 19% statutory VAT. This also applies in the case of lost earnings due to delays, for which the Principal is exclusively or largely responsible.

7. Designation of authorship, use by the author

- 7.1 The designer has the right to be named as author on copies. A violation of the right to be named as the author entitles the Agent to compensation for damages. In the absence of proof that higher damages were incurred, the compensation for damages is 50% of the stipulated remuneration or the normal remuneration in accordance with the SDSt/AGD (Selbständige Design Studios e.V./Alliance of German Designers) collective agreement for design services. The right to claim higher damages upon proof shall remain unaffected.
- 7.2 The Agent is authorized to use all works for purposes of advertising and acquisition, including naming the Principal and other third parties involved. In particular, the Agent is authorized to designate all works as reference and make them publicly available on the Internet to do so.

8. Special and third-party performances

- 8.1 Costs and expenses for travel taken in connection with the contract will be invoiced if the trip was agreed with the Principal.
- 8.2 The Agent is authorized to order the third-party performances necessary to fulfill the contract on behalf and for the account of the Principal. Inasmuch as the Principal has not expressly reserved a right to have a say, the selection of the third party is to be made taking into account the principle of a balanced relationship of efficiency and best possible success for the benefit of the Agent. As far as contracts for third-party services are concluded on behalf and for the account of the Agent in an individual case, the Principal is obligated vis-à-vis the Agent to hold the latter harmless internally from all liabilities that result.
- 8.3 External costs that are paid by third-party service providers will be charged to the customer with receipt of the invoice with a service fee of 15%.

9. Liability and warranty

- 9.1 The liability of the Agent and its representatives and vicarious agents is excluded for slightly negligent breaches of duty, with the exception of the violation of fundamental contractual obligations (so-called cardinal obligations), injury to life, body, or health, or claims on the basis of the German Product Liability Act (*Produkthaftungsgesetz*). Fundamental contractual obligations are such, the fulfillment of which enable proper performance in the first place and on the adherence to which the customer may rely.
- 9.2 The Agent agrees to search for and lead its vicarious agents with care. In addition, the Agent is not liable for its vicarious agents. Inasmuch as the Agent contracts necessary third-party performances, the respective subcontractors are not vicarious agents of the Agent; the Agent is only liable for its own culpability and only for intent and gross negligence.
- 9.3 The Agent is not liable for the permissibility of contents under competition and trademark law.
- 9.4 The Principal warrants that it is authorized to use all of the templates provided to the Agent. If, in spite of this warrant, the Principal is not authorized to use, the Principal is to hold the designer harmless from all claims of third parties for compensation.
- 9.5 The Principal is also liable for acquiring and obtaining the rights of use of text, images, and 3D models vis-à-vis third parties and is to hold the Agent harmless from any liability. Any liability of the Agent is excluded for drafts, texts, final designs, and final drawings that are approved by the Principal.

9.6 Complaints of any kind are to be asserted in writing to the Agent within 14 days after the work has been delivered. After that, the work is deemed accepted free of defects.

9.7 Inasmuch as defects of a performance by the Agent can be remedied, the Agent shall only then become obligated to pay damages for such defects if the Principal communicates the objected defect to the Agent in writing and the Agent has not remedied the defect within ten business days. Any compensation for damages that exceeds the material value is excluded.

10. Termination of the contractual relationship

10.1 The contract can be terminated in writing for cause.

10.2 In particular, an important reason exists if the Principal commits a sustained breach of its obligations to cooperate in accordance with Number 5 or does not fulfill its payment obligations in accordance with Number 6.

11. Miscellaneous

11.1 The contractual language is German. In doubt, the German original version shall apply in the case of translations.

11.2 The law of the Federal Republic of Germany, excluding the laws on the international purchase of movable goods, shall apply.

11.3 Stipulations or supplements that deviate from these GTC must be made in writing and require the written consent of the Agent to be valid. This also applies for amendments to this written form requirement.

11.4 In the event that a provision of these general terms and conditions are or become invalid, the validity of the other provisions shall remain unaffected. In this case, the contractual partners will replace the invalid provisions with a provision that most closely matches the economic purpose of the invalid provision.

11.5 The place of performance and jurisdiction is Berlin, Germany.