



Lieblingsagentur GmbH
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1. General, Field of Application

The services and offers of Lieblingsagentur GmbH (hereafter referred to in brief as "Lieblingsagentur") are provided exclusively on the basis of these Terms and Conditions of Business (hereafter referred to as "Terms and Conditions"). These Terms and Conditions form the basis for and are part of any contract concluded with Lieblingsagentur, unless otherwise agreed in detail. They also apply to all future business relations, even if they are not expressly agreed once again. Lieblingsagentur does not accept any General Terms and Conditions of the Principal, unless Lieblingsagentur has specifically agreed to their validity in writing.

2. Services to be provided by Lieblingsagentur

- 2.1. Lieblingsagentur deals with the presentation of live communication measures, in particular marketing events, promotions and incentives (hereafter referred to in brief as "communication measures"). The services comprise advice on communications, the development of communication strategies, the conception, planning, performance and a check of the success of individual communication measures or integrated programmes. The specific services to be provided by Lieblingsagentur in the individual services are shown in the respective individual agreements concluded between the Principal and Lieblingsagentur (hereafter referred to in brief as the individual contract). Individual contracts must be submitted in writing to be legally effective.
- 2.2. The communication measure as such, in particular the services to be provided by third-party companies within the framework of the communication measure, is not however the responsibility of Lieblingsagentur.
- 2.3. Unless otherwise stipulated in the individual contract, the obligations of Lieblingsagentur with respect to the commissioning and activities of third party companies are restricted to their due and proper selection and supervision.
- 2.4. If and insofar as Lieblingsagentur is obliged according to the respective individual contract to conclude insurance for the communication measure, Lieblingsagentur shall conclude such insurance only within the framework of what is legally possible and only for such risks which are identifiable by Lieblingsagentur prior to the execution of the communication measure.

3. Compensation, Reimbursement of Expenses, Budget, Offset

- 3.1. For the services which it is to perform (agency services), Lieblingsagentur shall receive the agency fee agreed in the respective individual contract plus VAT at the applicable rate. Unless otherwise stipulated, the agreed fee is due immediately after the performance of the service and is to be paid without deduction within 10 calendar days of the date of invoice.
- 3.2. Subject to alternative individual written agreements, Lieblingsagentur shall be entitled to part-payments with respect to the agreed agency fee in accordance with the respective performance status. This also applies to benefits in kind which are not covered by the agency fee. The part-payments shall be paid within 10 calendar days of the invoice date.
- 3.3. Lieblingsagentur has an entitlement to the reimbursement of expenses for services to be provided by third-party companies which have been commissioned by Lieblingsagentur on behalf of the Principal in conjunction with a communication measure. This entitlement includes all domestic or foreign taxes and other duties incurred by Lieblingsagentur in connection with this assignment. Lieblingsagentur is entitled to demand an advance payment from the Principal for the expenditure which is to be reimbursed by the Principal. Insofar as in the respective individual contract the parties have agreed fixed amounts for the services to be provided by third-party companies, Lieblingsagentur shall be exempt from the obligation of submitting invoices.
- 3.4. Insofar as in the individual contract the parties have agreed a budget for the communication measure, Lieblingsagentur shall make every effort to ensure compliance with the budget; however, the claims of Lieblingsagentur shall not be restricted by the agreement of a budget. Lieblingsagentur shall inform the Principal as soon as it becomes apparent that the budget cannot be complied with due to the agreed scope of services. The parties will then reach an agreement in writing on a change to the budget or a change to the scope of services.
- 3.5. Unless otherwise agreed in writing in the individual contract, any costs incurred within the context of a communication measure may only exceed the estimates of Lieblingsagentur or third-party companies by a maximum of 10%.
- 3.6. Services of Lieblingsagentur which are not included in the individual contract and which are performed additionally at the request of the Principal, or services which become necessary or are caused by incorrect or incomplete information from the Principal or by delays in transport for which Lieblingsagentur is not responsible, or due to the unpunctual or improper preliminary work or services of third-party companies - provided that these are not vicarious agents of Lieblingsagentur - shall also be paid by the Principal according to the applicable rates of payment of Lieblingsagentur in each case or the corresponding third-party companies.
- 3.7. Insofar as in conjunction with the execution of the contract, Lieblingsagentur is commissioned with engaging freelance artists etc., Lieblingsagentur shall comply with the obligations associated with the artists' social security system. Any resulting duties will be invoiced to the Principal. This arrangement also includes GEMA (Society for Musical Performing and Mechanical Reproduction Rights) fees, withholding tax for foreign artists and similar duties.
- 3.8. Insofar as Lieblingsagentur learns only after the receipt of a statement of account, in particular on the basis of a company value-added tax audit, that Lieblingsagentur is not entitled to deduct input tax with respect to services performed by third-party companies, the compensation for third-party services shall be calculated on the basis of the gross compensation. Lieblingsagentur shall then be entitled to the additional payment of the difference to the amount that has already been invoiced.
- 3.9. Insofar as Lieblingsagentur learns only after the receipt of a statement of account, in particular on the basis of a company value-added tax audit, that services to be provided by Lieblingsagentur are subject to value-added tax, the agency fee and/or compensation for third-party services shall be increased to include the value-added tax at the applicable rate. Lieblingsagentur shall then be entitled to the additional payment of the difference to the amount that has already been invoiced.



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3.10. The limitation period for claims of Lieblingsagentur for the additional payment of the difference referred to under the two preceding paragraphs shall begin at the earliest upon Lieblingsagentur becoming aware that it is not entitled to deduct input tax or that it is liable for value-added tax.

3.11. The Principal is only entitled to offset amounts or exercise rights of retention with or with respect to an uncontested or legally established counter-claim.

4. Commissioning of Third-party Companies

The commissioning of third-party companies whose services are required or requested by the Principal for the planning, preparation, execution or dismantling of a communication measure shall be carried out - depending on the specifications of the individual contract - on Lieblingsagentur's own behalf or on behalf of the Principal. If and insofar as the commissioning of third-party companies is agreed on behalf of the Principal, Lieblingsagentur shall be authorised to commission the third-party company.

5. Industrial Property Rights, Intellectual Property

5.1. Unless otherwise agreed in writing, all industrial property rights (in particular copyrights and ancillary copyrights, trademark rights, patent rights) created by Lieblingsagentur, its employees or by outside companies commissioned by Lieblingsagentur - also on behalf of the Principal in conjunction with the services to be provided by Lieblingsagentur - shall remain exclusively with Lieblingsagentur. Changes to concepts, designs and similar protectable services may only be carried out by Lieblingsagentur or third parties authorised to do so by Lieblingsagentur.

5.2. Upon conclusion of the contract, the Principal shall receive a single and unique right to use the services provided by Lieblingsagentur. In temporal, material and spatial terms, the right of use shall only apply insofar as this is required for the execution of the respective communication measure.

5.3. Lieblingsagentur is entitled to record the communication measure and use the recording together with background information about the communication measure for the purposes of documentation and the promotion of its own services. However, insofar as Lieblingsagentur is under an obligation to maintain confidentiality on the basis of a written agreement, the use of the documentation for self-promotion purposes is prohibited.

5.4. Insofar as services are provided by Lieblingsagentur in accordance with information or documents specified by the Principal, the Principal shall be responsible for ensuring that the services to be provided by Lieblingsagentur do not infringe the industrial property rights of third parties. Lieblingsagentur is not obliged to check whether as a result of the information or documents specified by the Principal for the provision of the services, the industrial property rights of third parties are - or may be - infringed. Insofar as services provided by Lieblingsagentur which are performed in accordance with information or documents specified by the Principal infringe the industrial property rights of third parties, the Principal shall indemnify Lieblingsagentur for any resulting claims of third parties.

6. Principal's Obligations to Cooperate

6.1. The Principal shall provide Lieblingsagentur with all information which is of significance for the planning, organisation and execution of the respective communication measure. The Principal is solely responsible for the accuracy, completeness and quality of the information to be provided. By providing the information, the Principal submits an undertaking that he/she/it is entitled to disclose such information. The Principal warrants that the information supplied by him/her/it complies with applicable law. The Principal hereby exempts Lieblingsagentur from all liabilities incurred by Lieblingsagentur resulting from the infringements of rights committed by the Principal relating to the information or content supplied by him/her/it.

6.2. Insofar as further information or documents are required in the opinion of Lieblingsagentur, the Principal shall also provide these immediately at the request of Lieblingsagentur.

6.3. Insofar as according to the provisions of the specific contract, the Principal is to provide individual services him/her/itself or make items available for the execution of the respective communication measure, he/she/it shall fulfil these obligations voluntarily and in good time. Measures resulting from any default on the part of the Principal shall be paid for by the Principal.

6.4. The Principal shall designate a contact person to Lieblingsagentur who is responsible on the part of the Principal for the execution of the respective communication measure. The Principal shall ensure that the contact person is available at all times. Insofar as the contact person changes, the Principal shall notify Lieblingsagentur of this fact immediately in writing.

7. Notice of Defects

7.1. The Principal is obliged to check the services of Lieblingsagentur and all third-party companies commissioned by it in conjunction with the communication measure and submit a written notice of defects without delay, i.e. not later than within 7 working days after the completion of the respective provision of services, to Lieblingsagentur. If in spite of a careful check being carried out, a defect only becomes apparent at a later time, this must be notified to Lieblingsagentur in writing without delay, i.e. not later than within 7 working days of its discovery. Insofar as no notice of defects is submitted by the Principal, the service shall be deemed to have been correctly provided in this respect.

8. Liability

8.1 Lieblingsagentur is liable without limitation for intent and gross negligence, as well as injury to life, body or health.

8.1.1 The liability of Lieblingsagentur for the slightly negligent breach of essential contractual obligations (i.e. obligations whose fulfilment is essential for the due and proper execution of the contract and compliance with which the contractual partners can normally rely on) is limited to the loss or damage which is foreseeable and typical for this type of contract and limited in terms of its overall total to the amounts of coverage of the third-party liability insurance of Lieblingsagentur.



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Upon request, Lieblingsagentur shall inform the Principal of the conclusion of corresponding insurance and the level of the amount insured. Insofar as the loss or damage is covered by insurance concluded by the Principal (with the exception of insurance for a specified amount, such as accident insurance), Lieblingsagentur shall be liable - notwithstanding sentence 1 of this paragraph 8.1.1. - only for any associated disadvantages experienced by the Principal, e.g. higher insurance premiums or interest disadvantages, until the settlement of claims by the insurance.

- 8.1.2 The limitation of liability pursuant to the above paragraph applies to both contractual and tort claims against Lieblingsagentur. Claims of the Principal against Lieblingsagentur based on mandatory statutory liability, in particular upon the assumption of a guarantee, shall remain unaffected.
- 8.1.3 A claim for damages can only be asserted within a cut-off period of one year after the Principal has become aware of the event substantiating the claim for loss or damage, but no later than within two years of the event substantiating the claim.
- 8.1.4 The claim shall lapse unless legal action is initiated within a period of six months from the date of the written rejection of the payment of compensation and Lieblingsagentur has pointed out this consequence.
- 8.2 The right to plead the statute of limitations remains unaffected.
- 8.3 Sections 8.1 and 8.2 apply mutatis mutandis in the case of liability on the part of Lieblingsagentur for its legal representatives, employees and vicarious agents.
- 8.4 Unless otherwise agreed above, liability on the part of Lieblingsagentur is excluded.
- 8.5 Under no circumstances shall Lieblingsagentur be liable for the proper provision of services for which the third-party companies are responsible. This also applies if the third-party companies are commissioned by Lieblingsagentur in its own name; in this case, however, at the request of the Principal, Lieblingsagentur shall assign the claims against the third-party companies to the Principal.
- 8.6 Under no circumstances shall Lieblingsagentur be liable for factual statements made in conjunction with the respective communication measure by the Principal about products and services of the Principal.
- 8.7 Insofar as the specific communication measure is an advertising event or an event of an advertising nature, the Principal shall bear the risk of the legal admissibility of the communication measure. This applies in particular to cases where the communication measure infringes rules of competition law or copyright law. However, Lieblingsagentur shall point out such legal risks as soon as Lieblingsagentur becomes aware of them. Nevertheless, Lieblingsagentur does not assume any obligation to check the legal admissibility of the communication measure.
- 8.8 Insofar as third parties assert claims for damages against Lieblingsagentur for which the latter is liable in the internal relationship between Lieblingsagentur and the Principal, the Principal shall be obliged to exempt Lieblingsagentur from these claims for damages.

9. Obligation to Maintain Confidentiality, Secrecy, Data Protection

- 9.1 Lieblingsagentur shall treat the information that is transmitted to it or received by it from the Principal in conjunction with its work as company secrets that have been entrusted to it and use it only for the purpose of the design, planning, execution and check of the success of the respective communication measure. Lieblingsagentur shall ensure that its employees / vicarious agents and third-party companies commissioned by it are informed of this confidentiality obligation and shall commit them accordingly to an obligation to maintain secrecy.
- 9.2 The non-disclosure obligation shall not apply to confidential information which is or becomes generally or publicly known, unless this results from an infringement of the contract by Lieblingsagentur or which can be shown to have been developed or created independently by Lieblingsagentur, or the contents of which Lieblingsagentur is obliged to disclose by law or pursuant to an order of a court or public authority, or has been released for disclosure in writing by the Principal.
- 9.3 Lieblingsagentur is authorised to process - or have processed by others - personal data with which it has been entrusted in conjunction with its work. Lieblingsagentur shall only make use of this data in conjunction with the performance of this contract of the communication measure.

10. Written Form

Insofar as the written form has been agreed or is provided for in these General Terms and Conditions, this is deemed to have been complied with by a facsimile or email.

11. Miscellaneous Provisions

These General Terms and Conditions and all legal relationships between Lieblingsagentur and the Principal are subject exclusively to the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

The place of performance is the headquarters of Lieblingsagentur. The exclusive place of jurisdiction for all disputes arising either directly or indirectly from this contractual relationship between Lieblingsagentur and the Principal shall be the court responsible for the registered office of Lieblingsagentur, provided that the Principal is a registered merchant under German law; however, Lieblingsagentur is entitled to sue the Principal at his/her/its (place of residence) registered office. Insofar as a provision of these General Terms and Conditions is or becomes invalid, this shall not affect the validity of the remaining provisions. In place of the ineffective provision, a legally permissible provision shall be agreed which comes closest in economic terms to what the parties evidently intended and would reasonably have agreed in accordance with the meaning and purpose of this contract (Section 315 German Civil Code (BGB)) if they had been aware of the invalidity of the provision concerned.