

**General Terms and Conditions of Contract for Lawyers**  
**Client is a consumer**

**1. Applicability**

- 1st1st The Terms and Conditions of Contract shall apply to all activities carried out and all representation provided in courts and public authorities and out of court under the contractual relationship between the lawyer/law firm (hereinafter referred to as the "Lawyer") and the Client (hereinafter referred to as the "Client-Lawyer Relationship").
- 1st2nd Unless otherwise agreed in writing, the General Terms and Conditions of Contract shall also apply to new Client-Lawyer Relationships.

**2. Retainer agreement and power of attorney**

- 2nd1st The Lawyer is entitled and obliged to represent the Client to the extent necessary or useful for fulfilling the contractual relationship. If the legal situation changes after termination of the Client-Lawyer Relationship, the Lawyer shall be under no obligation to inform the Client about changes or consequences resulting therefrom.
- 2nd2nd Upon request, the Client shall sign a written power of attorney for the Lawyer. The power of attorney may either cover specific, individual legal acts or all potential legal transactions and legal acts.

**3. Principles of representation**

- 3rd1st The Lawyer shall provide the representation sought in accordance with the law and represent the Client's rights and interests to everyone with diligence, loyalty and conscientiousness.
- 3rd2nd As a matter of principle, the Lawyer is entitled to render his services at his own discretion and to take any and all steps, including but not limited to employing means of attack and defence in any way, unless this is in conflict with the Client's instruction, his conscience or the law.
- 3rd3rd If the Client gives the Lawyer an instruction which is incompatible with the principles of proper professional conduct of lawyers based on the law or other professional rules (e.g. the Austrian Guidelines on Practising as a Lawyer [RL-BA 2015] or the line of action of the Supreme Appellate and Disciplinary Commission for Lawyers and Trainee Lawyers [*"Oberste Berufungs- und Disziplinarkommission für Rechtsanwälte und Rechtsanwaltsanwärter"*], now called the Appellate Panel and the Disciplinary Panels for Lawyers and Trainee Lawyers at the Austrian Supreme Court [der Berufungs- und die Disziplinarsenate für Rechtsanwälte und Rechtsanwaltsanwärter beim Obersten Gerichtshof]), the Lawyer shall refuse to follow the instruction. If, from the Lawyer's point of view, instructions are not expedient or even detrimental to the Client, the Lawyer shall inform the latter of any potential negative consequences before acting on his behalf.

3rd4th In the case of imminent danger the Lawyer is entitled to take or refrain from taking actions that are not expressly covered by or are even contrary to the instruction given if this seems to be urgently required in the Client's interest.

#### **4. Client's duty to provide information and to cooperate**

4th1st After he has retained the Lawyer, the Client shall immediately provide the Lawyer with all information and the facts that may be relevant in connection with the latter's work on behalf of the Client and make accessible all necessary documents and evidence. The Lawyer is entitled to assume that information, facts, documents, records and means of evidence are accurate, unless inaccuracy of the same is obvious. The Lawyer shall seek to obtain complete and accurate information on the facts and circumstances by asking the Client specific questions and/or by other suitable means. As regards accuracy of supplementary information the second sentence of Clause 4.1 shall apply.

4th2nd As long as the Client-Lawyer Relationship validly exists the Client shall inform the Lawyer about all changed or newly occurring circumstances that could be of relevance in connection with the Lawyer's work on behalf of the Client immediately after they have become known to him.

4th3rd If the Lawyer acts as draftsman of a contract, the Client shall provide the Lawyer with all information required for self-calculation of land acquisition tax, the registration fee and real estate income tax. If the Lawyer does the self-calculation on the basis of information provided by the Client, the Lawyer shall in any case be released from any liability to the Client. The Client, on the other hand, shall indemnify and hold the Lawyer harmless from and against pecuniary disadvantages in case the information provided by the Client turns out to be wrong.

#### **5. Obligation to maintain secrecy; Conflict of interests**

5th1st The Lawyer shall keep secret all matters confided to him and any other information which becomes known to him in his professional capacity, in case the confidentiality is in his Client's interest.

5th2nd The Lawyer is entitled to ask all staff to handle matters within the scope of applicable laws and guidelines, provided that the staff has been informed about the obligation to maintain secrecy in a manner that can be evidenced.

5th3rd The Lawyer shall be released from his obligation to maintain secrecy only to the extent that this is necessary for pursuing the Lawyer's claims (including but not limited to the Lawyer's fee) or for defending himself against claims raised against him (including but not limited to claims for damages raised against the Lawyer by the Client or third parties).

5th4th The Client is aware of the fact that due to statutory orders the Lawyer may in some cases be obliged to provide information or to make reports to public authorities without having to obtain the Client's approval; particular reference is made to the statutory provisions on the prevention of money laundering and terrorist financing and to tax-law provisions (e.g. the Austrian Statute on Account Registers and Inspection of Accounts [*"Kontenregister- und Konteneinschaugesetz"*], the Austrian Act on Common Reporting Standards [*"Gemeinsamer Meldestandard-Gesetz"*], etc.).

5th5th The Client may release the Lawyer from his obligation to maintain secrecy at any time. No release from the obligation to maintain secrecy by his Client shall release the Lawyer from the obligation to check whether his statement is in line with the Client's interest. If the Lawyer acts as a mediator, he shall exercise his right to maintain secrecy despite having been released from the obligation to maintain secrecy.

5th6th The Lawyer shall examine whether the execution of a mandate entails the risk of a conflict of interests with regard to the provisions set by the Code of Conduct for Lawyers.

## **6. Lawyer's reporting duty**

6th1st The Lawyer shall orally or in writing reasonably inform the Client of the actions taken by him in connection with representation of the Client.

## **7. Delegation of powers**

7th1st The Lawyer may have himself represented by a trainee lawyer employed by him or by any other lawyer or that lawyer's qualified trainee lawyer [*Unterbevollmächtigung*]. If the Lawyer is not available, he may delegate the job or specific actions to any other lawyer [*Substitution*].

## **8. Fee**

8th1st Unless otherwise agreed, the fee is calculated according to the „*Rechtsanwaltstarifgesetz*“ (RATG – Lawyers' Fees Act) and the „*Allgemeine Honorar-Kriterien für Rechtsanwälte*“ (General Fee Criteria for Lawyers).

8th2nd If the Lawyer and the Client agree on an hourly rate or a flat rate the fee shall be calculated according to the „*Verbraucherpreisindex 2020*“ (Consumer Price Index 2020 ) or a comparable index replacing it. The starting month is the month in which the fee agreement was made. If a current value adjustment is not claimed by the Lawyer, this shall not constitute that the Lawyer abandons his right to enforce the value adjustment in the future.

8th3rd Value-added tax at the statutory rate, any necessary and reasonable expenses (e.g. travel expenses, costs of phone, fax or copies) and the out-of-pocket expenses paid by the Lawyer on behalf of the Client (e.g. court fees) shall be added to the fee payable to/agreed with the Lawyer.

8th4th Any and all costs of courts and public authorities and any expenses (e.g. for purchased third-party services) arising in connection with the Client-Lawyer Relationship may, at the Lawyer's discretion, be submitted to the Client for direct payment.

8th5th Even if a flat rate or billing by the hour has been agreed, the Lawyer is at least entitled to the amount of reimbursement of the costs obtained from the opponent in excess of the agreed fee, provided that such amount can be recovered; otherwise he is entitled to the agreed flat rate or hourly fee.

- 8th6th The Client acknowledges that an estimate made by the Lawyer of the expected amount of fees which has not been explicitly defined as binding shall be non-binding and not be considered a binding quotation (as defined in Section 5 (2) of the Austrian Consumer Protection Act [*"Konsumentenschutzgesetz"*]), as the amount of work to be rendered by the Lawyer cannot be reliably assessed in advance due to its nature.
- 8th7th Unless otherwise agreed, the time and effort required for letters to the client's auditor at the client's request, in which, for example, the status of pending cases, a risk assessment for the formation of provisions and/or the status of outstanding fees as of the balance sheet date are stated, shall be charged to the Clients bill.
- 8th8th If the Lawyer is retained by several Clients in one case, they shall be jointly and severally liable for all resulting claims of the Lawyer to the extent that the Lawyer's services rendered under the Client-Lawyer Relationship cannot be divided and that they were not rendered clearly for one specific client only.
- 8th9th Claims for reimbursement of costs of the Client against the opposing party are hereby assigned to the Attorney in the amount of the Attorney's fee claim as soon as they arise. The lawyer shall be entitled to inform the opposing party of the assignment at any time.

## **9. Billing**

- 9th1st The Lawyer shall be entitled to submit fee notes or ask for advances on fees at any time.
- 9th2nd The Client shall not be charged the costs of billing and preparation of fee notes. However, this shall not apply to the costs of translating the list of performed services into a language other than German if requested by the Client. Unless otherwise agreed, the Client shall be charged for preparation of letters to the Client's auditor at the Client's request stating, for instance, the status of pending cases, a risk assessment for setting up provisions and/or the status of outstanding fees as at the closing of accounts date.
- 9th3rd The Client agrees to electronic billing.
- 9th4th A properly itemised bill of fees sent to the Client shall be deemed approved unless the Client objects thereto in writing within one (1) month of receipt. The Lawyer shall inform the Client of the consequences of not submitting an objection while billing.

## **10. Lawyer's liability**

- 10th1st In the case of damage caused by slight negligence, the Lawyer's liability for incorrect advice or representation shall be limited to the sum insured that is available for the specific case but shall at least be the sum insured stated in Section 21a of the Austrian Lawyers' Code [Rechtsanwaltsordnung/RAO] as amended. Currently, this is EUR 400,000 (in words: four hundred thousand euros); in the case of law firms organised in the form of a limited liability company this is EUR 2,400,000 (in words: two million four hundred thousand euros).
- 10th2nd The maximum amount applicable according to Clause 9.1. shall cover all claims against the Lawyer for incorrect advice and/or representation, including but not limited to claims for damages and price reduction. The maximum amount shall not include claims of the Client for refund of fees paid to the Lawyer. Deductibles, if any, shall not reduce liability. The maximum amount applicable according to Clause 9.1 shall apply to one in-

sured event. If there are two or more competing harmed persons (Clients), the maximum amount for every single harmed person shall be reduced pro rata the amount of the claims.

10th3rd If a law firm is retained, the liability limits of Clauses 9.1. and 9.2. shall also apply to all lawyers who work for the law firm (as its shareholders or partners, managing directors, employed lawyers or in any other capacity).

10th4th The Lawyer shall be liable for third parties whom he instructed to render specific services under the Client-Lawyer Relationship with the Client's knowledge and who are neither employees nor shareholders or partners (in particular external experts) only in the case of negligence in selection.

10th5th The Lawyer shall be liable only to his Client and not to third parties. The Client shall expressly inform third parties who come into contact with the Lawyer's services because of the Client's actions of the fact stated above.

10th6th The Lawyer shall be liable for knowledge of foreign law only in the case of a written agreement or if he offered to review foreign law. EU law shall never be deemed foreign law; however, the law of the Member States shall be deemed foreign law.

## **11. Client's legal expenses insurance**

11th1st If the Client has taken out legal expenses' insurance, he shall immediately notify the Lawyer thereof and present the required documents (if available). However, independent thereof the Lawyer shall, without being requested to do so, obtain information about whether and to what extent legal expenses insurance has been taken out and ask that his services be covered by the insurance.

11th2nd When the Client informs the Lawyer that he has taken out legal expenses insurance and the Lawyer ensures that his services are covered by the insurance this shall not affect the Lawyer's entitlement to his fee payable by the Client and shall not be regarded as an agreement on the part of the Lawyer to settle for the fee paid under the legal expenses' insurance.

11th3rd The Lawyer is not obliged to directly claim the fees from the legal expenses insurer but may claim the total fees from the Client.

11th4th 11.4. In particular, the client will compensate for the work done and expenses incurred by the lawyer in making a cover request for any legal protection insurance for the client (e.g. for conferences, telephone calls, letters, studying files or preparing draft lawsuits or applications), if no cover is provided by legal protection insurance or if the client dissolves the client relationship that is the subject of the cover request without important reason. In the absence of a different agreement, the settlement of the lawyer's expenses is determined in accordance with section 8.1.

## **12th Termination of the Client-Lawyer Relationship**

12th1st The Client-Lawyer Relationship may be terminated by the Lawyer or by the Client at any time without notice and without stating reasons. The Lawyer's fee entitlement shall not be affected thereby.

12th2nd In the case of termination by the Client or by the Lawyer the latter shall continue to represent the Client for a period of fourteen (14) days insofar as this is necessary to protect the Client from legal disadvantages. This duty shall not apply if the Client rescinds the Client-Lawyer Relationship and expresses that he does not want the Lawyer to continue his activities.

12th3rd 12.3. The parties put on record that the Client-Lawyer Relationship has, in principle, been entered into for an indefinite period of time and even in excess of the death of the Client, unless it is terminated by the Client or the Lawyer in accordance with Clause 11 of the General Terms and Conditions of Contract.

### **13. Duty to surrender documents**

13th1st After termination of the Client-Lawyer Relationship the Lawyer shall, upon the Client's request, return original documents to the Client. The Lawyer is entitled to retain copies of such documents.

13th2nd If, after termination of the Client-Lawyer Relationship, the Client again asks for (copies of) documents which he already received in the course of the Client-Lawyer Relationship, the costs shall be funded by the Client.

13th3rd The Lawyer shall retain files for a period of five (5) years from termination of the Client-Lawyer Relationship and, if necessary, provide the Client with copies during that period. As regards the costs Clause 12.2. shall apply. If the law provides for longer retention periods they shall be observed. The Client agrees to destruction of files (including original documents) after expiration of the retention period.

Additionally to the obligation to preserve records, it is agreed that the lawyer shall voluntarily retain files for a period of seven (7) years from the termination of the mandate and the Client consents to such retention of records. The Clients' consent may be revoked by the client in writing at any time. However, any statutory retention obligations shall remain unaffected by such revocation. As long as the lawyer keeps files for the Client, he shall hand over copies to the client if required. Clause 13.2 shall apply to the allocation of costs.

### **14th Choice of law and out-of-court dispute resolution**

14th1st These General Terms and Conditions of Contract and the Client-Lawyer Relationship regulated by them shall be subject to Austrian law excluding its conflict of law rules of international private law.

14th2nd In the case of disputes between the Lawyer and the Client over the fee the Client shall be free to ask for a review of the fee by the competent Bar Association; if the Lawyer agrees to a review by the Bar Association, the fee shall be reviewed for its reasonableness out of court and free of charge. In the case of disputes between Lawyers and Clients the Conciliation Board for Consumer Transactions shall act as an out-of-court conciliation board ([www.verbraucherschlichtung.or.at](http://www.verbraucherschlichtung.or.at)). The Client acknowledges that the Lawyer is not obliged to call in that Board for dispute resolution or to submit to it and that the Lawyer will decide whether he will only agree to out-of-court conciliation proceedings or not if and when there is a dispute with the Client.

## 15. Final provisions

15th1st Unless otherwise agreed, the Lawyer may correspond with the Client in any way that seems appropriate to him, including via email, using the email address which the Client has advised to the Lawyer for communication purposes. If the Client sends email messages to the Lawyer from other email addresses, the Lawyer shall also be allowed to use those email addresses to communicate with the Client, unless the Client expressly objects thereto in advance. Unless otherwise provided, statements or declarations to be made in writing under these General Terms and Conditions of Contract may also be made via fax or email. Unless the Client has given other written instructions, the Lawyer is entitled to communicate with the Client by email in an unencrypted form. The Client represents that he is aware of the risks involved (in particular access, secrecy, alteration of messages in the course of transmission) and of the possibility to use TrustNetz and, being aware of such risks, agrees to email correspondence in an unencrypted form.

Client may communicate with Lawyer by post, email or fax. The current data suitable for this can be found on Lawyer's website (<https://rechtampunkt.at/en/contact-us>). Communication via social media channels or SMS is not permitted; such declarations are deemed not to have been received by Lawyer.

15th2nd Unless otherwise instructed by the client in writing, the lawyer shall be entitled to handle the e-mail correspondence with the client in a non-encrypted form. The client declares that they have been informed about the risks involved (in particular access to and secrecy of messages, possible modification of messages in the course of transmission) and about the possibility of using TrustNetz, and that, being aware of these risks, they agree that the e-mail traffic shall not be carried out in encrypted form.

15th3rd If the Lawyer is included in the carbon copy of an e-mail from the client or the client's sphere, the Lawyer is not obliged to read the e-mail without being instructed explicitly. However, if the Lawyer reads the e-mail, he is entitled to a fee according to an explicit agreement for comparable services or according to the "Rechtsanwaltstarifgesetz" (RATG - Lawyers' Fees Act) or the "Allgemeine Honorar-Kriterien für Rechtsanwälte" (General Fee Criteria for Lawyers).

15th4th The Client expressly agrees that the Lawyer will process, make available or transmit (as defined by the Austrian Data Protection Act ("*Datenschutzgesetz*") personal data concerning the Client and/or his business insofar as this is necessary or expedient for rendering the services requested from the Lawyer by the Client or as this is required by statutory or professional obligations of the Lawyer (e.g. using electronic legal communication [ERV], etc.).

15th5th Any amendments or additions to these Terms and Conditions of Contract shall only be valid if made in writing.