

VORTUM s. r. o. General Terms and Conditions  
effective from March 15, 2017

**This is an informative translation only. The Czech original is binding.**

I. Introductory Provisions

- 1.1. VORTUM s. r. o., company ID: 05917174, company VAT ID: CZ05917174, registered office at Rybná 716/24, Staré Město, 110 00 Prague 1, is a company duly registered in the Company Register kept by the Municipal Court in Prague, Section C, File 272963 (hereinafter only referred to as the "**Author**"). The company creates original works including, without limitation, advertising concepts and communication strategies; implements these concepts and strategies; creates textual content that promotes and/or informs; runs an editorial office; creates original content and audiovisual commercials; and provides other content management, editorial, and promotional services.
- 1.2. The Author issues these General Terms and Conditions (hereinafter the "**GTCs**") pursuant to Sec. 1751 of Czech Act No. 89/2012 Sb., the Civil Code, as amended; the GTCs are an integral part of any and all contracts specified in 3.1 hereof. If a provision contained in a different contract contradicts the provisions hereof, the provision contained in the different contract prevails.
- 1.3. The aim of the GTCs is to make provision for legal relations that arise between the Author and the Client; this includes, without limitation, specification of the basic terms used by the Contractual Parties, definition of how Contracts are entered into, prices and payment conditions, scope and term of performance, rights and obligations of the Contractual Parties, and rules that apply after a contractual relationship has terminated.

II. Specification of Basic Terms

- 2.1. VORTUM s. r. o., company ID: 05917174, company VAT ID: CZ05917174, registered office at Rybná 716/24, Staré Město, 110 00 Prague 1, a company duly registered in the Company Register kept by the Municipal Court in Prague, Section C, File 272963, is the **Author**.
- 2.2. Any corporate entity and any sole trader that enters into a contract with the Author is referred to as the **Client**.
- 2.3. The Author and the Client are jointly referred to as the **Contractual Parties**.
- 2.4. The **GTCs** are these General Terms and Conditions that specify the contractual relationship between the Author and the Client.
- 2.5. An **Order** is any request by means of which the Client asks the Author to create a specific original work and which contains at least specifications and content of the work,

characterization of the results of such work, identification details of the Client (name, address/registered office, company/sole trader ID, contact details including, but not limited to, telephone number and email address), requested delivery date, and background information and documents (if required for the purposes of the specific work).

- 2.6. A **Work** is an original work created in accordance with a contract that is entered into after an Order has been accepted.
- 2.7. Any contract that is executed after an Order as defined in 3.2 hereof has been accepted is a **Contract**.

### III. Contractual Relationship

- 3.1. If the Client is interested in having a Work created by the Author, the Client must send the Author an Order which states all of the Client's requirements; such an Order may be sent by regular mail, or it may be sent electronically to an email address that is associated with the domain vortum.cz (i.e. [name]@vortum.cz). The Author assesses such requirements and provides the Client, in a paper-based letter or email, with an offer; such an offer includes a fee for creating such a Work and granting a licence as well as the scope of such a licence, a delivery date, and all other facts and circumstances, if any, related to the Order in question.
- 3.2. A contractual relationship (i.e. a Contract) commences the moment an Order is unconditionally accepted by the Author, or the moment the Client unconditionally accepts an offer from the Author. Should the Author not accept an Order from the Client unconditionally, or should the Client fail to accept an offer from the Author unconditionally, no contractual relationship is formed. Supposing the Author responds to an Order (or a contract proposal) with a counterproposal, or the Client responds to an offer with a counterproposal, a contractual relationship only occurs when the other party has agreed thereto. A Contract which is entered into electronically is valid and effective.
- 3.3. By accepting an offer or a final counterproposal (i.e. by executing a Contract) the Client declares he is familiar with the content of these GTCs and agrees herewith.
- 3.4. The Client agrees to means of long-distance communication being used to execute a Contract.

### IV. Creating and Handing Over a Work

- 4.1. The Author undertakes to ensure any and all Works are created to be original and to comply with all the requirements agreed upon in a Contract, all the specifications requested by the Client, these GTCs, and all the applicable Czech legislation and standards.
- 4.2. The Author is obliged, while creating a Work, to follow the Client's artistic and organizational instructions. Additionally, the Author must, while creating a Work, utilize all of their professional knowledge and expertise. A Contract may contain additional conditions applying to the process of creating a Work including, without limitation, an

obligation of the Author to cooperate with other authors and/or persons and/or an obligation of the Author to ask the Client, on a regular basis in the course of creating a Work, to approve of any changes made to the Work and/or an obligation of the Author to have the Work proofread, etc.

- 4.3. The Client agrees to cooperate with the Author so as to ensure the Author is able to comply with any and all obligations arising out of, and in connection with, a Contract; this includes, but is not limited to, an obligation to provide the Author with all the necessary information and documents that the Author requires to perform the Contract.
- 4.4. If the Client provides the Author with a faulty project brief, faulty specifications or a faulty instruction to create a Work (the definition of "faulty" includes, but is not limited to, the fact that makes it impossible for the Author to exercise all of the Author's professional care required by a statute and/or to comply with all the applicable legislation), the Author must notify the Client of such a fault; the Author may reject such a faulty project brief or instruction.
- 4.5. The Author must inform the Client about any circumstances which the Author discovers in the course of creating a Work under a Contract and which may result in the Contract (or an Order) being modified or a Client's Order being further specified. The Author may only deviate from a Contract (or Work specifications agreed upon) on condition such a deviation is in the best interest of the Client and the Author is unable to acquire the Client's consent thereto in time despite making the best efforts possible to do so. If this is the case, the Author must notify the Client thereof as soon as possible.
- 4.6. The Author undertakes to provide the Client with a Work or a Work part (if this is what has been agreed upon) within delivery dates stated in a Contract; if the Contract fails to include a delivery date, the Work or the Work part must be handed over to the Client within three (3) months of Contract execution.
- 4.7. A completed Work or a part thereof (if this is what has been agreed upon) which the Author hands over to the Client must always be in an electronic form and in format which is able to be edited. While a Work is typically to be handed over electronically such as by an email or a download link (sufficiently long expiration time and security are required), other forms are also acceptable provided this is what has been agreed upon in the Contract.
- 4.8. If a created Work is to be handed over electronically, the Client must respond to the email without undue delay and confirm the Work or the part thereof has been received. The Work or the part thereof is considered to be complete when the Client has received all that they are entitled to receive under the Contract and there are no defects or outstanding works. If the Work is to be handed over to the Client using a physical data carrier, a hand-over report must be executed by the Contractual Parties; the physical data carrier is transferred from the Author to the Client the moment it is handed over.
- 4.9. Each of the Contractual Parties agrees not to use any confidential or business-related information that they have received and that makes it possible for them to create a Work, for their own benefit or for the benefit of third parties including, but not limited to, persons

who are competitors of the Client and/or persons whose products/services compete with the Work being created.

- 4.10. Should a Work fail to comply with the Client's requirements and/or prove defective in another way, the Author must ensure compliance with the Client's requirements and rectify all defects within a reasonable deadline specified by the Client.
- 4.11. On occasion the Author fails to create the Work within a deadline agreed upon, the Client is entitled to receive liquidated damages amounting to 0.05 % of the agreed-upon fee for creating the Work (excl. VAT) for each day the Work remains incomplete.

## V. Fee and Payment Conditions

- 5.1. The Client undertakes to pay the Author a fee for creating a Work and for granting a licence to use it within a scope agreed upon in a Contract. A fee for creating a specific Work is to be agreed upon in a relevant Contract.
- 5.2. The fee agreed upon is fixed and final and includes a licence granting fee (a licence is granted within a scope that has been agreed upon). Unless a relevant Contract states otherwise, one third of the total fee stipulated in such a Contract is what is being paid for creating the Work while two thirds of such a fee is what is being paid for granting the licence. The following was taken into consideration when calculating the fee: the purpose of the licence to be granted, the way the Work is to be used and under what circumstances, the territory on which such a licence to use the Work is granted, the period of time such a licence is valid, and the quantitative aspects of the licence.
- 5.3. A fee may also include additional proofreading and corrections to the Work as requested by the Client as well as updates, technical support (if necessary), and all other costs the Author incurs so as to comply with all of their contractual obligations including settlement of licences granted, if any, and acquiring consent from third parties. A list of specific tasks (and the scope thereof) which have been performed and which are included in the fee must always be specified in the fee details contained in the Contract in question.
- 5.4. The Author may request that a reasonable portion of the fee for creating a Work is paid in advance in which case the Client is obliged to make an advance payment without undue delay. Failure to do so results in the Author being entitled to withdraw from a Contract.
- 5.5. Unless a Contract stipulates otherwise, the Author may – once a Work has been completed and handed over – issue an invoice (tax invoice, if applicable) stating the fee agreed upon in the Contract in question; such an invoice, which is due 14 days after the day the Client receives it, is to be paid using wire transfer into the Author's account provided in the relevant invoice. If an advance payment is due in accordance with 5.4. hereof, or it is agreed upon in a Contract, the Author issues a pro forma invoice.
- 5.6. Supposing the Client fails to pay the Author the fee, a daily contractual penalty of 0.05 % of the amount due applies; such contractual penalties are liquidated damages. The Author may also interrupt performance (i.e. the process of creation of a Work or a part thereof is

discontinued) of the relevant Contract and/or any other Contract, if any, the Author and the specific Client have previously entered into, and only continue performing once all amounts due have been paid.

## VI. Licence

- 6.1. The Author grants the Client an exclusive and unlimited licence to use any Work (or any part thereof) that has been created in accordance with a Contract; such a licence becomes effective on the day the Work (or the part thereof) is handed over to the Client, allowing the Client to use the Work or a part thereof with no restrictions.
- 6.2. Such a licence granted remains effective for as long as the Author's intellectual property rights to the Work remain effective; no territorial or quantity restrictions apply – the licence applies to all known methods of using the Work (whether those methods have, or have not, yet been employed).
- 6.3. The Author hereby gives the Client consent to use the Work as a whole or only a part thereof, to process and modify the Work, to have the Work finished by a third party, to combine the Work with another work, to include the Work in another work (including an audiovisual work) and to use the Work in such a way provided compliance with restrictions stipulated in 6.2. hereof is ensured.
- 6.4. The Author gives the Client consent to publish the Work as well as use it without identifying its author. The Client may include the following copyright notice in the Work: >> ©, the Client's business name or a licence assignee's business name or an exclusive sublicensee's business name, year of issue <<. Granting of consent is included in the fee for creating the Work.
- 6.5. The Client is not obliged to use the licence and may sublicense, partially or fully, the rights arising out of, and in connection with, the licence to a third party (with or without consideration); the Client may also assign the licence, or a part thereof, to a third party (with or without consideration).
- 6.6. The Author represents and guarantees the Work is original and it does not infringe on the rights of any third parties (including, without limitation, intellectual property rights and personal rights); the Author also declares no rights of any third party will be infringed on if the Work is used, pursuant to VI. hereof, by the Client or any other person deriving their rights from the Client. In the event of any of the representations contained in 6.6. hereof proving false and/or any of the guarantees contained in the same article hereof being breached, the Author is liable for any damages the Client suffers. The preceding sentence does not apply to those portions of the Work that consist of such data and documents provided by the Client (for the purpose of having the Work created) whose compliance with the applicable legislation was to be ensured by the Client; additionally, the preceding sentence is not applicable should the Client fail to acquire rights to include such data and

documents in the Work and use them as part of the Work despite it being the Client's responsibility.

- 6.7. If a Work is an audiovisual recording, the licence as defined in 6. hereof also applies, in its entirety, to all original works and artists' performances included in such an audiovisual recording; if the Author is not the creator or originator of such works or performances, the licence hereunder is in fact a sublicense and the Author gives the Client a guarantee that the Author will, in its own name and on its own behalf, acquire all the rights that are being provided to the Client by a sublicense hereunder.

## VII. Termination of a Contract

- 7.1. The Contractual Parties may agree to terminate a Contract; alternatively, a Party thereto may withdraw from a Contract in cases defined by a statute and/or a provision contained in these GTCs and/or a provision contained in the Contract in question.
- 7.2. Each Contractual Party may withdraw from a Contract in the event of the other Contractual Party failing to comply with the conditions of the Contract in question and to rectify such a failure, despite being notified thereof, without undue delay (or within a reasonable time provided by the other Party); a Contractual Party may also withdraw from a Contract if any of the representations of the other Contractual Party contained in a Contract prove false.
- 7.3. If the Author is, or might be, prevented from fulfilling its obligations stated in IV. hereof by a force majeure event, the Author must notify the Client thereof immediately as well as provide evidence that such an event has taken place. This gives the Client the right to withdraw from the Contract in question. If the Author complies with the first sentence of 7.3. hereof (i.e. duly notifies the Client of a force majeure event and provides, without undue delay, evidence thereto), the Client is not entitled to receive damages.
- 7.4. If the Client chooses to withdraw from a Contract, the Client may decide whether such a withdrawal also applies to the provisions related to the granting of a licence, or whether the provisions pertaining to the granting of a licence (VI. hereof) remain effective; the Client is obliged to include such a notice in their letter of withdrawal or inform the Author about their decision just after they have withdrawn from a Contract (i.e. without undue delay).
- 7.5. If a Contract is withdrawn from under 7.4. hereof, the Author is entitled to receive a portion of the fee for creating a Work and/or for granting a licence (if such a withdrawal does not apply to the provisions related to the granting of a licence) that corresponds to the portion of the entire Work that has actually been created.

## VIII. Confidentiality



- 7.6. Each Contractual Party must keep all the information and circumstances that they have become familiar with while performing a Contract confidential; this also applies to the content of the Contract in question.

## IX. Notifications

- 9.1. All notices and other notifications required or permitted by a Contract must be in writing and will only be considered to be duly delivered if they have been hand delivered and receipt has been acknowledged, if they have been sent by a registered letter, fax, or email; all such notices and other notifications must be addressed as follows:

Author: VORTUM s. r. o.  
Address: Rybná 716/24, 110 00 Prague 1  
attention: Mrs Jana Kneschke, Executive Director  
e-mail: jana@vortum.cz

Client: The Client's identification and contact details stated in an Order/Contract will be used.

- 9.2. If contact details provided in 9.1. hereof change while a Contract is still effective, the Contractual Party whose details have changed undertakes to notify the other Contractual Party thereof. The other Contractual Party must start using the new address as stated in the notification as soon as it has received it; this is without prejudice to the provisions contained in 9.1. hereof.

## X. Personal Data Protection

- 10.1. Matters related to personal data protection are addressed in a separate document to ensure compliance with the General Data Protection Regulation (GDPR) effective from May 25, 2018.

## XI. Final Provisions

- 11.1. These GTCs become effective on the day stated in the header of the GTCs. Unless hereinafter stated otherwise, these GTCs become binding on the Contractual Parties when a Contract has been executed.

- 11.2. The Author may modify these GTCs anytime. Unless hereinafter stated otherwise, the contractual relationship that occurs out of, and in connection with, a specific Contract continues to be governed by the version of the GTCs that was valid on the day this specific Contract was entered into, or the latest version of the GTCs that became effective pursuant to the following rules (hereinafter referred to as the "Original version of the GTCs"). If the Author notifies the Client of the GTCs having been modified and the Client does not refuse the new version of the GTCs within 30 (thirty) days from the date of receipt of the notification thereof, it is conclusively presumed that the Contractual Parties have both agreed that their Contract will be governed by the new and previously announced version of the GTCs. Such a new version of the GTCs becomes effective on the day following the last day on which the Client was still entitled to refuse the new GTCs. If the Author states in the notification that the new version of the GTCs is to become effective later than the day following the last day on which the Client was still entitled to refuse the new GTCs, the Contract in question will only start to be governed by the new and previously announced version of the GTCs on this day. This paragraph is without prejudice to the Client's right to withdraw from a Contract if the Client refuses the new and previously announced version of the GTCs. If the Client withdraws from a Contract in the course of the period of time during which the Client is entitled to refuse the new GTCs, it is conclusively presumed the Client thereby also refuses the new version of the GTCs; in such a case the contractual relationship continues, for the duration of the notice period, to be governed by the Original version of the GTCs. A notice period of 30 days applies in the case described above.
- 11.3. A Contract is always executed for the entire duration of the Author's property rights to a Work created.
- 11.4. Neither of the Contractual Parties is entitled to set off unilaterally a claim that they have as a result of a contractual relationship or a Contract against the other Contractual Party's claim that they have as a result of a contractual relationship or a Contract without the prior written consent thereto of the other Contractual Party; in addition, neither of the Contractual Parties may assign any of its monetary or non-monetary claims against the other Contractual Party to a third party or assign any of the rights and obligations arising out of, and in connection with, a Contract to a third party.
- 11.5. If any of the sections, articles, or provisions of a Contract prove invalid and/or unenforceable, this does not compromise the validity or enforceability of the remaining sections, articles and provisions of the Contract. Should a section, article, or provision thereof become invalid for any reasons including, without limitation, the fact that it violates the applicable legislation, the Contractual Parties are bound to discuss, and agree upon, a legally acceptable method of implementing the intentions contained in the specific parts of the Contract that have become invalid.
- 11.6. A Contract may only be modified or supplemented in writing (this includes email communication) subject to the consent of both Contractual Parties; that is, the provisions related to how a Contract is to be executed (contained in Article III of these GTCs) are to

be applied analogically. If the Contractual Parties choose to change the compulsory written form, this must also be done in writing.

- 11.7. The Contractual Parties represent they have made no additional oral agreements or assurances.
- 11.8. A Contract contains the entire understanding and agreement between the Contractual Parties as far as the content of such a Contract is concerned.
- 11.9. Those rights and obligations of the Contractual Parties that are not expressly made provision for in a Contract or the GTCs are governed by the relevant provisions of Czech Act No. 89/2012 Sb., the Civil Code, as amended, and Czech Act No. 121/2000 Sb., on Copyright and Rights Related to Copyright and on Amendment to Certain Acts (the Copyright Act), as amended.
- 11.10. Should any dispute arise out of, or in connection with, a Contract, the Contractual Parties undertake to strive for an amicable settlement first. On occasion the Contractual Parties fail to settle a dispute amicably and they do not agree upon otherwise, the Contractual Parties must submit the dispute to a Prague District Court (CZ: Obvodní soud) having territorial jurisdiction based on the Author's registered office, or to the Municipal Court in Prague (CZ: Městský soud v Praze) if this "regional" court has primary jurisdiction; the competent court resolves the dispute finally. The Client and the Author declare their decision to accept these GTCs is made in a free way and not under duress or unfavourable circumstances.

In Prague on March 15, 2017



VORTUM s. r. o.

Mrs. Jana Kneschke, Executive Director