

TERMS AND CONDITIONS

of the company

Tour de pub s.r.o.,

ID No.: 07878737, with its registered office at Kaprova 42/14, Staré Město, 110 00 Prague 1, registered in the Commercial Register maintained by the Municipal Court in Prague, Section C, Insert 309086 (hereinafter referred to as the "**Provider**").

1. INTRODUCTORY PROVISIONS

- 1.1 These Terms and Conditions (hereinafter referred to as "**Terms and Conditions**") regulate, in accordance with the provision of Section 1751(1) of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter referred to as "**Civil Code**"), the mutual rights and obligations of the parties arising in connection with a contract for the provision of marketing services or otherwise named contract, the subject of which is the provision of marketing services and related services, concluded between the Provider and a third party (hereinafter referred to as "**Customer**"). The Provider and the Customer are hereinafter also referred to as the "**Parties**".
- 1.2 These Terms and Conditions govern the terms and conditions under which the Provider will provide consultations and services in the field of marketing automation and marketing (hereinafter referred to as the "**Services**") to the Customer, pursuant to partial contracts for the provision of marketing services.

2. ORDERING OF SERVICES

- 2.1 The content of the Services to be ordered shall be determined either: (i) in a **separate written contract** concluded between the Provider and the Customer, (ii) in the Customer's **order** and in the Provider's order confirmation, (iii) or in the Provider's **offer** confirmed by the Customer.
- 2.2 A **separate written agreement** for the provision of the Services shall become binding when executed by all Parties. Such agreement may also be concluded by electronic means (including email).
- 2.3 **The order** becomes binding for both Parties after the Provider confirms it. Such confirmation of the order constitutes a legally binding agreement between the Parties (contract for the provision of services).
- 2.4 The Provider is entitled to accept an order with an amendment or deviation that does not substantially change the terms of the order, in accordance with Section 1740(3) of the Civil Code. If the Customer does not reject such acceptance within one working day, it is deemed to accept the order with the amendment or deviation.
- 2.5 The Provider is obliged to inform the Customer as soon as possible whether or not it accepts the order. The Provider is entitled to reject the Order, in particular (but not exclusively) if it is unable to provide the requested Services, if the requested Services are not provided by the Provider within the scope of its business or if the requested Services are contrary to the law, the Provider's policies or these Terms and Conditions. In the event that the Provider does not expressly accept the order but provides the Customer with the Services specified in the order, the Provider shall be deemed to have accepted the order.

- 2.6 **The offer** becomes binding for both Parties after the Customer confirms it. Such confirmation of the offer constitutes a legally binding agreement between the Parties (contract for the provision of services). The Customer is not entitled to accept an offer with an amendment or deviation within the meaning of Section 1740(3) of the Civil Code. An expression of will by the Customer which contains additions, reservations, limitations or other changes shall constitute a rejection of the offer and shall be deemed to be a new offer which shall be binding between the Parties only if the Provider accepts it.
- 2.7 The rights and obligations of the Parties shall be governed by the contents of the contract for the provision of services (hereinafter also referred to as the "**contract**") and these Terms and Conditions. Any deviating provisions in the contract shall prevail over the wording of these Terms and Conditions.

3. **PROVISION OF SERVICES**

- 3.1 The Provider provides the Services only on working days, unless otherwise expressly agreed with the Customer.
- 3.2 The Provider undertakes to provide the Services with professional care, properly and on time. In particular, the Provider undertakes to:
- (a) act at all times in the best interests of the Customer and use best endeavours to promote and protect the interests of the Customer and do nothing to prejudice those interests; and
 - (b) provide the Services in accordance with the contract, these Terms and Conditions and applicable law.
- 3.3 The Parties shall provide each other with all necessary cooperation to fulfil the purpose of the contract. In particular, the Customer shall provide the Provider without delay with all necessary information and materials required for the proper provision of the Services. In the event that the Customer fails to provide the Provider with the necessary cooperation to fulfil its obligations under the contract, the Provider shall not be liable for any delay caused by the Customer's failure to provide such cooperation.
- 3.4 The Customer is responsible for the content of the information and materials provided to the Provider (including compliance of their content and form with legal regulations and third party rights). The Customer shall, at its own expense, secure for the Provider all rights to use the said information and materials by the Provider for the implementation of the agreed performance.
- 3.5 Unless otherwise specified in the specific concluded contract, if the Provider does not receive the documents in the required form and quality without undue delay after the conclusion of the contract, the Provider is entitled not to start providing the Services or it is entitled to obtain the documents independently and at its own discretion, for example, to prepare them on the basis of information provided on the Customer's website.
- 3.6 The Customer is obliged to consult with the Provider in advance any interventions, repairs, extensions or other changes concerning the result of the Services, while being obliged to respect those conditions that the Provider determines to be essential for maintaining the reliable function of the result of the Services.
- 3.7 The Provider is entitled to use the services of a subcontractor to fulfil its obligations towards the Customer.

4. REMUNERATION

- 4.1 The remuneration for the Services provided will generally be set out in the contract. If not specified in the contract, the Customer is obliged to pay the Provider the remuneration according to the Provider's price list or (if price list is not available) the usual remuneration.
- 4.2 In the event that the remuneration is determined according to the scope of work on an hourly basis, the Provider shall provide the Customer with an account statement after the end of the relevant period (usually after the end of the month) indicating the hours spent providing the Services, unless otherwise agreed between the Parties.
- 4.3 Unless expressly stated otherwise in the contract, all prices are exclusive of value added tax. The price will be subject to value added tax at the statutory rate applicable at the time of the taxable supply.
- 4.4 The Provider shall be entitled to require payment of a deposit prior to the provision of the Services, in the amount and under the conditions specified in the contract. The relevant amount of the advance payment must be credited to the Provider's account prior to the commencement of the provision of the Services. If the payment is not credited to the Provider's account in due and timely manner, the Provider shall be entitled to withdraw from the contract.
- 4.5 The remuneration under the contract will be paid to the Provider by the Customer on the basis of a tax document (invoice) issued by the Provider, by wire transfer to the Provider's bank account specified on the invoice. The respective remuneration is payable within 14 days from the issue of the tax document (invoice), unless otherwise specified in the contract.
- 4.6 The Customer agrees to issuance and delivery of the tax document in electronic form. The tax document may be sent to the Customer electronically to the Customer's email address.
- 4.7 The remuneration for the provision of the Services is paid on the date when the amount corresponding to this remuneration is credited to the Provider's bank account. Payments must be marked with the variable symbol indicated on the invoice.
- 4.8 In the event of the Customer's delay in payment of any performance to the Provider, the Provider shall be entitled to withdraw from the contract or suspend or not provide the Service, while the period of the Customer's delay in such payment shall extend the deadline for the provision of the Services. The Provider shall also be entitled not to transfer the result of the provision of the Services to the Customer until the Customer's full payment of all obligations to the Provider.
- 4.9 In the event of the Customer's delay in payment of the remuneration under the contract, the Provider is entitled to demand a contractual penalty of 0.1% for each day of delay.

5. LIABILITY

- 5.1 The Provider shall not be liable for any damages caused as a result of the Services or their results that have been unlawfully interfered with by the Customer without the Provider's prior written consent.
- 5.2 The Provider's total liability for damages or non-pecuniary loss arising in connection with the provision of the Services is limited to the amount corresponding to the price of the Services (excluding VAT). However, the Provider shall not be liable for loss or distortion of data, loss of profit, loss of business opportunity or any indirect or consequential damages.
- 5.3 The right to claim compensation for damages or non-pecuniary damage shall be time-barred within one year from the date on which the right could have been exercised for the first time.

- 5.4 The Provider is not responsible for the results and returns of marketing campaigns if they are provided as part of the Services.
- 5.5 The Provider shall not be liable for breach of the contract if the breach is caused by force majeure or caused by the Customer's own actions or the unavoidable actions of a third party.
- 5.6 Unless otherwise expressly agreed, the Provider shall provide the Services exclusively to the Customer. The Provider shall not be liable for any damage caused to third parties.

6. RIGHTS FROM DEFECTIVE PERFORMANCE

- 6.1 The Customer shall have the rights arising from defective performance as provided by law, unless otherwise agreed in these Terms and Conditions or the contract.
- 6.2 The Customer is obliged to exercise the rights from defective performance (warranty claim) with the Provider without undue delay after receipt of the performance, but no later than within 3 calendar days. The Customer is obliged to exercise the rights from defective performance in writing (including by e- mail).
- 6.3 The Provider shall assess the claim without undue delay, but no later than within 30 days after the claim is filed. If the Provider accepts the complaint as justified, he shall repair the defective performance without undue delay, provide replacement performance, or provide the Customer with a reasonable discount.

7. OBLIGATION OF CONFIDENTIALITY

- 7.1 The Parties undertake to maintain the confidentiality of all information of which they become aware in connection with the provision of the Services and which are of a commercially confidential nature, and of facts the disclosure of which to the outside world could in any way prejudice the business interests or reputation of any of the Parties, their clients or their business partners.

8. PROCESSING OF PERSONAL DATA

- 8.1 The Provider fulfils its information obligation towards the Customer and other Data Subjects within the meaning of Article 13 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter referred to as the "**Regulation**") by means of a special document called "Privacy Policy" available [here](#).
- 8.2 In the event that Personal Data is processed by the Provider for the Customer in the course of the provision of the Services, this Article shall apply in its entirety and shall constitute a legally binding Contract for the Processing of Personal Data within the meaning of Article 28 of the Regulation.
- 8.3 For the purposes of this Article, the definitions of Personal Data, Personal Data Breach, Data Subject and Processing set out in Article 4 of the Regulation shall apply.
- 8.4 For the purposes of this Article, the Controller shall mean the Customer and the Processor shall mean the Provider.
- 8.5 The purpose of Processing is to provide the Services under the contract.
- 8.6 The Processor shall Process Personal Data for the duration of the contract.

- 8.7 Unless otherwise stated in the contract, the Processing concerns in particular the following Personal Data: name, surname, date of birth, residence, place of business, identification number, tax identification number, network identifiers, email and telephone.
- 8.8 Unless otherwise provided for in the contract, the Processing concerns the following categories of Data Subjects: potential or current clients of the Controller and employees, members of the Controller's bodies or associates.
- 8.9 The Processor undertakes to carry out the Processing of Personal Data in accordance with applicable law, taking into account the nature of the Processing, and to properly perform all its obligations relating to the Processing of Personal Data. The Processor is aware that it will be in the position of a "personal data processor" (as that term is defined by applicable data protection legislation) in relation to the Personal Data and declares that it is able to comply with all the obligations associated with the position of "personal data processor".
- 8.10 The Processor undertakes to ensure the security of the Personal Data through appropriate technical and organisational measures to ensure an adequate level of security of the Personal Data as required by applicable law. In particular, the Processor undertakes to take technical and organisational measures to such an extent that a Personal Data Breach cannot occur.
- 8.11 Taking into account the state of the art, the cost of implementation, the nature, scope, context and purposes of the Processing, as well as the differently likely and differently serious risks to the rights and freedoms of natural persons, the Processor shall implement appropriate technical and organisational measures to ensure a level of security of Personal Data appropriate to the risk involved, including, where applicable: (a) the pseudonymisation and encryption of Personal Data; (b) the ability to ensure the ongoing confidentiality, integrity, availability and resilience of Processing systems and services; (c) the ability to restore the availability of and access to Personal Data in a timely manner in the event of physical or technical incidents; and (d) a process for regularly testing, assessing and evaluating the effectiveness of the technical and organisational measures in place to ensure the security of Processing.
- 8.12 The Processor shall take measures to ensure that any natural person who acts on the Processor's behalf and has access to Personal Data shall only process such Personal Data on the Controller's instructions, unless the Processor is already required to process such Personal Data by applicable law.
- 8.13 The Controller hereby grants consent to the Processor to involve other processors in the Processing. The Processor declares that if it transfers Personal Data to a third party, it will ensure that it complies with all obligations required by applicable law (including obligations relating to the transfer of Personal Data to third countries) and will bind the third party by a written contract to protect the Personal Data to at least the same level as the Processor has committed to in this Personal Data Processing Agreement. If the said further processor fails to fulfil its data protection obligations, the Processor shall remain fully responsible to the Controller for the fulfilment of the obligations of the further processor concerned. The Controller is entitled to request from the Processor a list of the further processors involved in the Processing and to object to the further processors involved.
- 8.14 The Processor is not entitled to use the Personal Data for its own use without the prior written consent of the Controller.
- 8.15 The Processor undertakes to maintain the confidentiality of the Personal Data to the maximum extent provided by applicable law.

- 8.16 The Parties declare that they will provide each other with all necessary cooperation in connection with the exercise of the rights of the Data Subjects and the performance of the obligations set forth in the contract and applicable laws. In particular, the Processor shall be obliged to assist the Controller in dealing with requests for the exercise of the Data Subjects' rights by means of appropriate technical and organisational measures in such a way that the time limits for their processing under applicable law are met. The Processor shall also assist the Controller (taking into account the nature of the Processing and the information available to the Processor) in ensuring compliance with the obligations under Articles 32 to 36 of the Regulation.
- 8.17 The Processor undertakes to provide the Controller, without undue delay, upon written request of the Controller, with all information and documents necessary to demonstrate that the Processor is complying with the obligations set out in the contract and the legal regulations and to facilitate and contribute to audits, including inspections, carried out by the Controller or any other auditor commissioned by the Controller.
- 8.18 The Processor undertakes to Process Personal Data only on the basis of documented instructions from the Controller, including the transfer of Personal Data to a third country or an international organization, unless such Processing is already required by the laws of the European Union and/or the Czech Republic, in which case the Processor is obliged to inform the Controller of this legal requirement before Processing, unless such laws prohibit such information for important reasons of public interest. The Processor shall inform the Controller without delay if, in its opinion, an instruction violates applicable data protection legislation.
- 8.19 The Processor declares that it is aware that if it determines the purposes and means of the Processing in contravention of applicable law and the contract, it will be considered a "data controller" in relation to such Processing within the meaning of applicable data protection legislation.
- 8.20 Upon termination of the contract, the Processor shall, in accordance with the Controller's decision, either delete the Personal Data or return it to the Controller without delay. In such case, the Processor shall erase all existing copies and records of the Personal Data in the possession of the Processor or other persons to whom the Personal Data has been provided, unless applicable law requires the storage/archiving of the Personal Data in question.
- 8.21 The Processor undertakes to notify the Controller of the Personal Data Breach without delay, but no later than 48 hours after becoming aware of the Personal Data Breach. In the event of a Personal Data Breach, the Processor shall maintain written documentation of the Personal Data Breach, which it shall provide to the Controller upon request, without undue delay, but no later than 48 hours after the Processor receives the Controller's request for such documentation.

9. DURATION AND TERMINATION OF THE CONTRACT

- 9.1 Unless otherwise stated in the contract, the contract is concluded for the period necessary for the provision of the Services.
- 9.2 If the contract has been concluded for an indefinite period of time, it may be terminated by written notice by either Party without the need to state the reason. The period of notice shall be 2 months and shall commence on the first day of the month following delivery of the notice to the other Party.
- 9.3 Either Party shall be entitled to withdraw from the contract (with effect from the date of delivery of the notice of withdrawal to the other Party) if the other Party materially breaches any of its obligations under the contract or these Terms and Conditions and fails to remedy such breach even within a reasonable period of time provided in writing by the other Party.

- 9.4 The Provider shall be entitled to withdraw from the contract (with effect from the date of delivery of the notice of withdrawal to the Customer) if the Customer is declared bankrupt in insolvency proceedings, enters into liquidation, is the subject of execution proceedings or enforcement of a judgment against its assets, or otherwise proves its inability to meet its obligations.
- 9.5 In the event of withdrawal from the contract by the Provider due to Customer's breach of its obligation, the Provider is not obliged to return the performance already provided to the Customer.

10. FINAL PROVISIONS

- 10.1 The Provider is entitled to change these Terms and Conditions at any time. The Provider is obliged to notify the Customer of such change no later than 15 days before the effective date. In such case, the Customer is entitled to terminate the contract with 30 days' notice. The notice must be delivered to the Provider no later than the day preceding the effective date of the change. Until the expiry of the notice period, these Terms and Conditions shall apply in their original wording.
- 10.2 These Terms and Conditions and the contract are governed by the laws of the Czech Republic.
- 10.3 All disputes arising out of and in connection with the contract shall be finally decided by the Court of Arbitration of the Czech Chamber of Commerce and the Czech Chamber of Agriculture according to its rules by one arbitrator appointed by the President of the Court of Arbitration.
- 10.4 These Terms and Conditions are effective as of 1 May 2022.