



THE PEOPLE UNDERSTANDING COMPANY



GENERAL TERMS AND CONDITIONS



Happy Thinking People AG | Lavaterstr. 83, CH-8002 Zürich | Tel: +41 (44) 204 16 26 | Fax: +41 (44) 204 16 27

happythinkingpeople.com

Geschäftsführung: Dipl.-Psych. Thomas Schindlbeck, Alain Messerli | MWST-Nr.: CHE-109.261.228

Bankverbindung: Zürcher Kantonalbank, 8010 Zürich, Konto-Nr.: 1100-0491.464 | IBAN: CH79 0070 0110 0004 9146 4 | SWIFT: ZKBKCHZ80A



1. FIELD OF APPLICATION

- a. These General Terms and Conditions are applicable to all market-research and consulting services of Happy Thinking People AG (hereinafter the Contractor). This means, among other things but not exclusively: preparation of quotations, organisation of studies, rooms, suppliers, recruitment of study participants, execution, travel and coordination as well as evaluation, analysis and presentation, and advising. By placing the order with the Contractor, the Client declares his agreement to the Terms and Conditions of the Contractor.
- b. Deviating, conflicting or supplementing General Terms and Conditions of the Client shall only become a constituent part of the contract if the Contractor has explicitly consented to their application. This reservation of consent shall also apply if the Contractor executes the order unconditionally, despite knowledge of the General Terms and Conditions of the Client.
- c. Special agreements, made with the Client in individual cases, shall have priority.

2. PROFESSIONAL CODE OF CONDUCT

- a. The Contractor is a member of ESOMAR, the worldwide association of market and opinion researchers with more than 4,500 members in over 100 countries.
- b. The Contractor undertakes to comply with the International Code for Market and Social Research ICC/ ESOMAR. The Code is based on all agreements related to the performance of market research studies. More detailed information is available at <http://rat-marktforschung.de/icesomarkodex/>



3. RELIABILITY AND REPRESENTATIVE STATUS OF THE RESEARCH RESULTS

- a. All results, forecasts and recommendations of the Contractor are the result of thorough evaluation, verification and analysis of qualitative and / or quantitative data and they are subject to the general subjective interpretations of data.
- b. Results, forecasts and recommendations of the Contractor contain references and decision-making aids, but do not exclude deviating conclusions. These results, forecasts and recommendations are not to be understood as the only ones that are correct and completely accurate.


4. VALIDITY OF THE QUOTATION

- a. With national and international projects, the Contractor's quotation is binding for 2 months. The period shall begin upon receipt of the quotation by the Client who must acknowledge receipt to the Contractor immediately in writing.
- b. In the event of retrospective requests for supplementary services or alterations to the services, the costs shall be revised accordingly.
- c. The Client undertakes to provide the Contractor with all information that could influence the services to be provided by the Contractor, in particular from a financial point of view. If the Contractor calculates costs – based on information provided by the Client – that subsequently turn out to be inaccurate, the Contractor reserves the right to invoice the Client for all additional costs arising as a result.
- d. Meetings and on-site appointments at the Client's location that go beyond those explicitly specified in the quotation and which, – in the estimation of the Contractor – necessitate travel by employees of the Contractor, will be invoiced separately by time and travel expense in addition to the agreed remuneration.

5. PAYMENT MODALITIES AND CHARGES

I. Due date



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- a. An amount of 50% of the Contractor's remuneration is payable upon placing of the order. The balance of 50% will be invoiced upon completion of the order, i.e. following submission of the report, presentation or availability of the data.
 - b. The balance is payable within 30 days of receipt of the invoice without any deductions whatsoever. The Client shall be in default upon expiry of this 30-day period without the need for a further reminder.
 - c. Offsetting against counterclaims of the Client or the retention of payments based on such claims is only permitted if the counterclaims are undisputed or have been established by declaratory judgment.
 - d. In the event of default on payment by the Client, the outstanding amounts shall be subject to interest of 10% p.a. as from the due date; the assertion of farther-reaching damages, in particular additional costs of a debt-collection company appointed by the Contractor, shall remain unaffected.
 - e. All costs are to be understood as excluding value-added tax and subject to any additional statutory charges applicable.
 - f. The Client undertakes to provide the Contractor with bank and account details as well as with the internal order or project numbers required for the settlement process. This information must be provided automatically and immediately upon placing of the order.

II. Foreign currency

- a. Invoices will be settled in the currency stated *in the quotation*. Foreign currency transfer charges will be borne by the Client and the Contractor in equal shares. Any further transfer charges incurred will be borne exclusively by the Client.
- b. In the event of exchange rate fluctuations in excess of +/- 5% between the time of receipt of the quotation and placing of the order, the costs shall be revised accordingly.

III. Cancellation and delay charges


- a. In the event of cancellations or delay on a project, the costs specified below shall be payable if the reasons for this are attributable to the Client or are within his sphere of risk.
- b. Delay means postponement of the field phase by a maximum of 4 weeks, assuming availability (as agreed upon). If, at the time of cancellation of the agreed date, it is not possible to fix a binding new date simultaneously, cancellation charges must be asserted instead of delay charges.
- c. The percentage calculation below is applied to all direct Happy Thinking People services and costs including travel expenses and supervision as well as costs for the reservation of technical equipment.
Third party suppliers (such as data/field services, viewing facilities, supplier of technical hire equipment, simultaneous translators) might apply different cancellation and delay fees – which will be forwarded at costs and as they have incurred up to the day of cancellation/delay.
- d.

Time of cancellation	Cancellation	Delay
0 – 3 working days prior to the start of the field work	100%	100%
4 – 5 working days prior to the start of the field work	75%	50%
6 – 7 working days prior to the start of the field work	50%	25%
as from 3 rd working day following placing of the order	25%	10%

- e. This shall not apply if the Client demonstrates that no damage at all or significantly lower damage has been incurred.

6. CONFIDENTIALITY

- a. The Contractor has obliged his employees to maintain confidentiality in their contracts of employment. At the request of the Client, the



Contractor can *also* oblige participants to ensure confidentiality in writing.


- b. The Contractor and the Client hereby undertake to maintain secrecy at all times concerning all business and company matters of a confidential nature, marked in writing or indicated verbally as such or which are obviously confidential. This applies above all to information concerning finance, industry secrets, business ideas, marketing activities and innovations.

7. INTELLECTUAL PROPERTY, PUBLICATIONS AND RIGHTS OF USE

- a. Study results, presentations, data and reports shall not become the property of the Client until following settlement of all outstanding claims of the Contractor against the Client. The Client hereby gives an undertaking to the study participants that he will protect and safeguard their anonymity and personal rights as well as the intellectual property of the Contractor. This shall apply in particular for pictures of persons in a private environment and their ideas.
- b. The Client accepts that all quotations, methods, models, techniques, software as well as guidelines, study designs, lists of participants, prepared or developed by the Contractor or his authorised parties, will be treated as confidential and shall remain the intellectual property of the Contractor. The Client therefore undertakes not to forward quotations of the Contractor and their content to third parties or to use these himself – irrespective of the purpose.

8. PERIODS OF KEEPING FOR DOCUMENTS AND FILES

- a. The Contractor undertakes to comply with the following periods of keeping:
 - General business documents: 10 years
 - Project description, results and presentations: 6 years
 - Screeners/ Questionnaires: 2 years
 - Video and audio recordings: 6 months

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- b. All other materials will be disposed of immediately following completion of the study.
 - c. If the Client would like other periods of keeping, these must be agreed separately and in writing with the Contractor.

9. LIABILITY AND EXCLUSION OF LIABILITY

I. Liability of the Contractor

- a. The Contractor assumes no liability for delays or cancellations of field work and/or the delivery of reports and presentations caused by war, strike, outbreaks of violence, delay and cancellation of flights or public transport, terrorist attacks, natural disasters, fire, Act of God, statutory regulations, closures, restrictions and/or prohibitions, whether of a local, national or international nature.
- b. The Contractor shall only be liable for damages if the damage has been caused intentionally or through gross negligence by him, his executive bodies or auxiliary personnel. In cases of slight negligence, the Contractor shall only be liable for damage resulting from injury to life, limb or health.
- c. In the event of any form of problems, the intention of the Contractor is always to achieve a constructive solution in the interests of all parties.



II. Test material

- a. The Contractor hereby assures the Client that he will treat all test material with care.
- b. In the event of damage to test samples/dummies/mock-ups, liability of the Contractor shall be limited to a maximum of 5,000.00 CHF. Point 9.I.a shall remain unaffected.

III. Product tests

- a. With product tests, the Client shall be solely and fully responsible for ensuring that the test products are suitable for the use or consumption envisaged in the test and fulfil prescribed safety and hygiene regulations. The Client undertakes furthermore to provide the Contractor with a complete list of the constituent substances, so as to enable exclusion of any allergic persons.c
- b. The Client shall assume full responsibility for all damage and resulting claims that are demonstrably attributable to the product test, and shall indemnify the Contractor in this respect.


IV. Delays

In all projects, it is the constant aim of the Contractor to deliver the study results on the date agreed in the quotation. Any foreseeable delays will be advised in good time. The Contractor shall only be liable for damage caused by delay if he has caused this intentionally or through gross negligence.

10. PLACE OF JURISDICTION

The legal relationships between the Client and the Contractor as well as the present General Terms and Conditions shall be governed by Swiss law.

Conflict of law rules as well as the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply. Exclusive place of jurisdiction for all disputes arising from and in connection with the business relationship between the Client and the Contractor is Zurich. The Contractor is also at liberty to take legal action at the Client's statutory place of jurisdiction if



he so wishes. Mandatory statutory provisions concerning exclusive places of jurisdiction shall not be affected by this ruling.

11. SEVERABILITY CLAUSE

Should individual provisions of the present contract be invalid or unfeasible, or become invalid or unfeasible subsequent to conclusion of the contract, the validity of the remainder of the contract shall not be affected. The invalid or unfeasible provision should be replaced by the valid and feasible ruling whose effects correspond as closely as possible to the economic objectives pursued by the contract parties through the invalid or unfeasible provision. The above provisions shall apply accordingly in the event of loopholes in the contract.