

General Terms and Conditions

The following General terms and conditions shall apply to any legal transaction and/or offer that up4distribution GmbH concludes with its contractual partners (customer) regarding the services offered.

1. Introduction

up4distribution GmbH offers services and products against payment as well as free of charge. Detailed information about the services offered and specific user conditions can be found in the current brochures, offers and the website of up4distribution GmbH.

2. Scope

These terms & conditions are legally valid and the base for all subsequent documents, including the declaration of intent and confidentiality. The letter of intent constitutes the contract. The conclusion of a contract with up4distribution GmbH is the final step in the creation of an order.

up4distribution GmbH reserves the right to make changes to the GTC, the confidentiality and privacy policy and the user conditions at any time, provided that the current version is made available.

3. Contract

The contract is concluded by an offering and a letter of intent. Detailed information on specific prices, contractual obligations, deadlines and conditions can be found in the terms and conditions and the letter of intent.

Unless otherwise specified in the offer, it shall remain valid for 20 days from the date of issue.

Changes and additional agreements are only valid if they are agreed upon in signed by both parties.

In case of a breach of contract on the part of up4distribution GmbH, up4distribution GmbH is fully liable for proven damages, unless up4distribution GmbH proves that up4distribution GmbH is not at default.

3.1. Forms of order

3.1.1. Simple order OR 220 Art. 394

As a result of a Simple Order, the customer is the leading force. The up4distribution GmbH acts according to the instructions of the customer and provides the service agreed upon in the contract without guarantee of success.

3.1.2. Contract for work OR 220 Art. 363

Within the framework of a contract for work and services, up4distribution GmbH owes the customer a completed work.

3.1.3. 3.1.3 Contract of brokerage OR 220 Art. 412

The contract of brokerage is governed by the thirteenth title of the Swiss Code of Obligations (OR) and is a commission. The payment is on a commission basis.

4. Prices

up4distribution GmbH provides the described range of goods and services at the current offered and published prices and conditions, in compliance with due diligence and the required legal provisions.

All price quotations are in any case exclusive of value added tax.

5. Payment

5.1. Means of payment

The customer can pay via PayPal, credit card or monthly invoice.

5.2. Payment deadlines and late payments

Customers are responsible for the timely payment of the purchased services and are liable for reminder and collection fees.

In case of late payment and consequently after the second reminder, the customer will compensate up4distribution GmbH with a default interest of 3%.

6. Duties of the customer

The customer confirms with a signed declaration of intent that he has read and understood these Terms and Conditions, the non-disclosure agreement and the rights of use.

6.1. Exercise of rights of use

The customer undertakes to exercise the use of the up4distribution GmbH web software only to the extent granted. Detailed information can be obtained from the Terms of Use.

6.2. Obligation to cooperate

Depending on the form of the contract, the customer himself is responsible for the progress of the mission. up4distribution GmbH acts exclusively as an instrument and accompaniment. Excluded from this is the brokerage contract agreed upon in a letter of intent.

The customer agrees to fully support the work of up4distribution GmbH and to take all precautions necessary to carry out the mission. This includes, among other things, providing all relevant information and documents.

The customer is obliged to cooperate fully. The customer is responsible for the correctness of the documents submitted. He is subject to the legal obligation to cooperate and provide information.

Disturbances are to be reported immediately.

7. Obligations of up4distribution GmbH

7.1. Service obligation

up4distribution GmbH fulfills the agreements set forth in the contract. The services may be provided on-site or remote.

7.2. Contractual obligation

The Terms and Conditions, the non-disclosure agreement and the letter of intent are legally valid for up4distribution GmbH. Changes to the letter of intent must be announced, read and confirmed by all parties.

8. Technical requirements

The up4distribution GmbH does not take any responsibility for consequential damages caused by technical software or programming problems.

It is the customer's responsibility to create the technical requirements to use the up4distribution GmbH software or any other web software.

9. Resignation

Unless otherwise agreed, the notice period is 30 working days. The notice must be submitted in writing, with the date of receipt applies in the inbox of up4distribution GmbH.

In case of cancellation by the customer, already correctly made expenditures are to be fully paid. Payments made in advance by the customer will be refunded to the customer pro rata temporis.

Withdrawal at inappropriate times is not permitted.

up4distribution GmbH is entitled to discontinue the operation of the BEMboard web software without good reason with a 30 working days' advance notice.

10. Ownership

10.1. Retention of title

In case of repeated default of payment, access to software products will be blocked. Access will only be unblocked again after the outstanding invoices have been paid.

Further or other services rendered will only be handed over to the customer after all outstanding invoices have been settled.

10.2. Intellectual property

All rights to existing or created intellectual property remain with up4distribution GmbH or the authorized third parties.

11. Warranty and liability

11.1. Warranty

up4distribution GmbH endeavors to guarantee the up4distribution GmbH web software and associated services at the highest possible availability.

As the owner, up4distribution GmbH operates various web software products and fixes any technical faults that occur within the location-dependent operating hours of the development team.

A full guarantee of success for the provision of consulting and services is excluded from any warranty provision. This does not include services in the form of a contract for work and services. Here, the customer receives the work agreed in the declaration of intent.

The up4distribution GmbH does not guarantee a trouble-free and uninterrupted operation of the up4distribution GmbH web software products or the associated services.

11.2. Haftung

up4distribution GmbH assumes no liability for consequential damage, lost profits and loss of data. This also applies to damages occurring

- as a result of a download made available by up4distribution GmbH
- through the use of the web software provided by up4distribution
- on the website of up4distribution GmbH.

In addition, up4distribution GmbH shall not be liable for:

- spamming
- malicious software
- hackers, spyware or phishing attacks
- disturbances or interruptions of the up4distribution GmbH web software

In case of any impairments or damages caused by the use of up4distribution GmbH web software products or the up4distribution GmbH website on customer devices, up4distribution GmbH is completely and explicitly excluded from any subsequent performance, warranty and/or compensation.

If customers use the up4distribution GmbH web software products or related services for collaboration and/or for the provision of services to third parties, up4distribution GmbH is not a contractual partner and therefore explicitly excludes any liability for damage, consequential damage or claims for collection.

11.3. Force Majeure

up4distribution GmbH shall not be liable if the provision of services or the operation of up4distribution GmbH web software products and related services is interrupted due to force majeure and if services cannot be provided.

Force majeure includes, but is not limited to, power outages, unexpected employee absences, construction work, the occurrence of malicious software (virus attack) or natural obstacles caused by nature that prevent the resumption of operations.

11.4. Negligence

up4distribution GmbH shall not be liable for damages that already show slight negligence. The customer is responsible for legal and contractual use of the up4distribution GmbH web software.

The customer is liable for any lack of conformity with:

- Hacking and unauthorized intrusion attempts.
- Attempts to spy on other up4distribution GmbH users and their data (pishing).
- Damage or endangerment of the up4distribution GmbH infrastructure by dangerous and malicious software (maleware),

If customers violate intellectual property rights against up4distribution GmbH, the customers have to hold up4distribution GmbH harmless and are responsible themselves.

12. Severability Clause

Should a provision of these terms and conditions be void or ineffective, the remaining provisions remain unaffected. Instead of the void or ineffective provision, a regulation or provision that comes closest to what was intended and corresponds to the sense and purpose of these Terms and Conditions, will be effective.

These terms and conditions enter into force as from 01/01/2021.