EUTEMA RESEARCH SERVICES GMBH
KARL TOLDT-WEG 6D
A-1140 WIEN

AGB Terms and Conditions 1.1.2025

1. General Terms and Conditions / Scope

1.1 All legal transactions between the Principal and the Agent (Management Consultant EUTEMA RESEARCH SERVICES GMBH) – hereinafter referred to as Agent – shall be exclusively subject to these General Terms and Conditions. The version valid at the time the Contract is executed shall be applicable.

1.2 Any conflicting General Terms and Conditions on the part of the Principal shall be invalid unless they have been explicitly accepted in writing by the Agent.

1.3 If any provision of these General Terms and Conditions is or becomes invalid, the other provisions and any contracts executed pursuant to these provisions shall not be affected thereby. The invalid provision shall be replaced by a provision which best corresponds to the intention and economic purpose of the invalid provision.

2. Scope of consulting assignments / representation

2.1 The scope of each particular consulting assignment shall be individually agreed by contract.

2.2 The Agent shall be entitled to subcontract, in whole or in part, the services for which the Agent is responsible to third parties. Payment of said third parties shall be effected exclusively by the Agent. No contractual relationship of any kind shall exist between the Principal and said third party.

2.3 During the validity of this Contract and for a period of one year after termination thereof, the Principal shall agree not to enter into any kind of business transactions with persons or organisations the Agent employs to perform the Agent's contractual duties. In particular, the Principal shall not employ said persons or organisations to render consulting services the same or similar to those offered by the Agent.

3. Principal's obligation to provide information / declaration of completeness

3.1 The Principal shall ensure that during the performance of the consulting assignment, organisational conditions in the Principal's place of business allow the consulting process to proceed in a timely and undisturbed manner.

3.2 The Principal shall, in a timely manner and without special request on the part of the Agent, provide the Agent with all documents necessary to fulfil and perform the consulting assignment and shall inform the Agent of all activities and conditions pertinent to the performance of the consulting assignment. This includes all documents, activities and conditions that become known or available during the performance of the consulting assignment.

3.3 The Principal shall ensure that all employees as well as any employee representation (works council) provided by law, if established, are informed of the Agent's consulting activities prior to the commencement of the assignment.

4. Maintenance of independence

4.1 The Contracting Parties shall be committed to mutual loyalty.

4.2 The Contracting Parties shall be obligated to take all necessary measures to ensure that the independence of all persons working for the Agent and/or of any third parties employed by the Agent is not jeopardized. This applies particularly to any employment offers made by the Principal or the acceptance of assignments on their own account.

5. Reporting / obligation to report

5.1 The Agent shall be obligated to report to the Principal on the progress of services performed.

5.2 The Agent shall not be bound by directives while performing the agreed service and shall be free to act at the Agent's discretion and under the Agent's own responsibility. The Agent shall not be required to work in a particular place or to keep particular working hours.

6. Protection of intellectual property

6.1 The Agent shall retain all copyrights to any work done by the Agent and/or by persons working for the Agent and/or by third parties employed by the Agent (including but not limited to tenders, reports, analyses, expert opinions, organization charts, programmes, performance descriptions, drafts, calculations, drawings, data media, etc.). During the contract period and after termination thereof, the Principal may use these materials exclusively for the purposes described under the Contract. Therefore, the Principal shall not be entitled to copy or distribute these materials without the explicit consent of the Agent. Under no circumstances, shall the Agent be liable to third parties, in particular for the accuracy of the material, in the event of unauthorised copying/distribution of the material.

6.2 In the event of any violation of these provisions by the Principal, the Agent shall be entitled to immediate termination of the contract relationship and to assert any other statutory claims, in particular claims for omission and/or damages.

6.3 Notwithstanding the provisions of clause 6.1, where the work results of this consulting mandate form part of a Horizon Europe project and are subject to the open access obligations set out in the applicable Grant Agreement (including Article 17 of the Horizon Europe Model Grant Agreement), the corresponding rights of use shall transfer in full to the Principal and/or the project consortium to the extent required to fulfil such obligations. The Agent shall retain all rights in and to pre-existing background knowledge, methods, tools, and templates that were developed independently of this Contract.

6.4 For the avoidance of doubt, and without limiting the generality of Clause 6.1, the Agent's proprietary structure, methodology, and process for drafting, organising, and presenting Horizon Europe proposals — including but not limited to the narrative architecture, section logic, argumentation framework, drafting conventions, and presentation techniques applied to Section 2 (Impact) and Section 3 (Implementation) of the standard Horizon Europe proposal template, as well as to any other non-technical sections of the proposal (e.g. administrative, management, dissemination, exploitation, and communication sections) — constitutes pre-existing background know-how and proprietary intellectual property of the Agent within the meaning of Clause 6.3. Such structure and methodology shall not transfer to the Principal or the project consortium, whether under the open access obligations of the Horizon Europe Model Grant Agreement or otherwise, and the Principal shall not reproduce, adapt, or reuse it beyond the specific proposal for which it was created without the Agent's prior written consent.

6.5 Clause 6.4 shall not apply to, and the Agent asserts no proprietary claim over, any annexes to the proposal containing technical, scientific, or clinical content specific to the Principal's project (including, without limitation, clinical trial annexes, ethics annexes, and technical work packages/Section 1 Excellence content authored by the consortium), which remain governed by Clause 6.3 and transfer to the Principal/consortium to the extent required for the Grant Agreement's open access obligations.

7. Warranty

7.1 The Agent shall be entitled and obligated, regardless of fault, to correct any errors and/or inaccuracies in the Agent’s work which have become known subsequently. The Agent will immediately inform the Principal thereof.

7.2 This right of the Principal expires six months after completion of the respective service.

8. Liability / damages

8.1 With the exception of personal injuries, the Agent shall be liable to the Principal for damages only to the extent that these are the result of serious fault (intention or gross negligence). Correspondingly, this also applies to damages resulting from third parties employed by the Agent.

8.2 Any claim for damages on the part of the Principal may only be enforced by law within six months after they have gained knowledge of the damage and the liable party, but no later than three years after the incident upon which the claim is based.

8.3 The Principal shall furnish evidence of the Agent’s fault.

8.4 If the Agent performs the required services with the help of third parties, any warranty claims and claims for damages which arise against the third party shall be passed on to the Principal. In this case, the Principal shall primarily refer to the third party.

8.5 The Agent does not guarantee the success of the proposal, its timely submission, or its compliance with all formal requirements.

9. Confidentiality / data protection

9.1 The Agent shall be obligated to maintain complete confidentiality concerning all business matters made known to the Agent in the course of services performed, especially trade and company secrets and any other information concerning type and/or scope of business and/or practical activities of the Principal.

9.2 Furthermore, the Agent shall be obligated to maintain complete confidentiality towards third parties concerning the content of the work completed, as well as any information and conditions that contributed to the completion of the work, particularly concerning data on the Principal's clients.

9.3 The Agent shall not be obligated to maintain confidentiality towards any person working for the Agent or representatives of the Agent. However, the Agent is required to obligate such persons to maintain complete confidentiality and shall be liable for any violation of confidentiality on their part in the same way as if the Agent had breached confidentiality.

9.4 The obligation to maintain confidentiality shall persist indefinitely even after termination of this Contract. This shall not apply in case the Agent is legally required to disclose information.

9.5 The Agent shall process any personal data entrusted to the Agent solely for the purposes of the services performed and in accordance with the applicable data protection legislation, in particular the General Data Protection Regulation (EU) 2016/679 (GDPR) and the Austrian Data Protection Act (DSG). The Agent shall ensure that all necessary technical and organisational measures are implemented and, where required, that declarations of consent are obtained from the data subjects concerned.
Where the Agent makes use of AI-supported tools as part of its internal quality assurance and efficiency processes, the Agent warrants that such tools are limited to solutions that do not retain, reuse, or process any input data for the purpose of training the underlying AI models. No confidential information of the Principal shall be entered into AI systems that do not meet this requirement.

9.6 The Principal shall equally treat as strictly confidential all information, methodologies, tools, templates, working documents, and internal processes of the Agent that become known to the Principal in the course of the cooperation, and shall not disclose such information to any third party without the prior written consent of the Agent. This obligation shall persist for a period of three (3) years after termination of this Contract.

10. Remuneration

10.1 After completion of the services agreed upon, the Agent shall receive remuneration agreed upon in advance between the Agent and the Principal.

10.2 The Agent shall render accounts which entitle to deduct input tax and contain all elements required by law.

10.3 In the event that the work agreed upon is not completed due to reasons on the part of the Principal, or due to a premature termination of contract by the Agent for cause, the Agent shall be entitled to claim payment in full of the remuneration agreed upon in advance, less expenses not incurred. In the event that an hourly fee had been agreed upon, the Principal shall pay for the number of hours expected to be required for the entire contracted assignment, less expenses not incurred. Expenses not incurred shall be calculated as a lump sum consisting of 30% of the fee required for those services that the Agent did not perform by the date of termination of the agreement.

10.4 In the event that intermediate invoices are not paid, the Agent shall be released from the Agent's commitment to provide further services. This shall be without prejudice to any further claims resulting from default of payment.

11. Electronic invoicing

11.1 The Agent shall be entitled to transmit invoices electronically. The Principal explicitly agrees to accept invoices transmitted electronically by the Agent.

12. Duration of the contract

12.1 This Contract shall terminate upon the submission of the proposal to the European Commission and the settlement of all outstanding remuneration claims, including any success fees as agreed in the individual offer. Where a success fee has been agreed, the obligations relating to its payment shall survive the termination of this Contract until such fee has been paid in full.

12.2 Apart from this, this Contract may be terminated for good cause by either Party at any time without notice. Grounds for premature termination include the following:

- A Party breaches major provisions of the Contract; or
- A Party is in default of payment after insolvency proceedings have been opened; or
- A Party has substantiated concerns regarding the other Party's creditworthiness, without any insolvency proceedings, and such other Party does not make any advance payments upon request of the Agent/provide any suitable guarantee in advance upon request of the Principal, and such negative financial circumstances have not been known to the other Party at the time of execution of the contract.

13. Final provisions

13.1 The contracting parties declare that all information contained herein is accurate and made in good conscience; and they shall be mutually obligated to immediately inform the other party of any changes.

13.2 Modifications of and amendments to this Contract or these General Terms and Conditions shall be made in writing; this shall also apply to a waiver of this requirement. Subsidiary agreements have not been executed.

13.3 This Contract is governed by the substantive law of the Republic of Austria, excluding the conflict-of-law rules of international private law and CISG. Place of fulfilment is the registered place of business of the Agent. The court at the Agent's registered place of business shall be competent in any disputes.

13.4 In the event that any disputes, which cannot be solved by mutual agreement, arise from this Contract, the Parties to the contract agree to engage a listed mediator (Austrian Civil Rights Mediation Law (ZivMediatG)) specialized in business mediation from the list of the Austrian Ministry of Justice in order to reconcile these out of court. Should no mutual agreement regarding the selection of the business mediator or with regard to content be possible, legal measures shall be initiated no sooner than one month after the negotiations fail.

13.5 In the event that mediation could not be held or was discontinued, any litigation initiated shall be subject to Austrian law.
As agreed, all necessary costs incurred due to previous mediation, particularly for legal advisors consulted, may be claimed in litigation or arbitration as "pre-trial costs".