

General Terms and Conditions of Service of the Konradin Publishing Group (March 2022)

For reasons of readability, these General Terms and Conditions do not employ both the masculine and feminine language forms. All references to persons apply to all genders.

1. Scope

- 1.1 These Terms and Conditions only apply vis-à-vis entrepreneurs (Section 14 German Civil Code (BGB)), legal entities under public law or special funds under public law.
- 1.2 These Terms and Conditions apply exclusively. We are not bound by the customer's additional or deviating terms and conditions.

2. Conclusion of contract

- 2.1 Unless they are explicitly designated as binding all our offers are always subject to confirmation. The contract is concluded upon receipt of our confirmation of order in text form or upon provision of the ordered services.
- 2.2 The conclusion of the contract is subject to deliveries made to us, including in those cases in which our services depend on advance performance by third parties (e.g. work services). This does not apply if we are at fault for non-delivery or failure to obtain advance performance, including but not limited to cases in which we have not concluded a congruent covering transaction. We will inform the customer immediately about any such unavailability and will refund any consideration paid without delay.

3. Services

- 3.1 The scope of the actual services we provide is specified in our confirmation of order. Any changes to, including but not limited to additions to the scope of such services, must be agreed in writing. We are at liberty to provide the agreed scope of services in the manner of our choosing and are entitled to engage subcontractors.
- 3.2 The scope of our services only includes obtaining the necessary official permits, licenses or other approvals, including customs formalities in the case of services abroad, if this has been expressly agreed.

Details of dates and deadlines for services are non-binding unless, by way of exception, a deadline or date has been expressly promised as binding. In all cases, compliance with dates and deadlines presupposes that all commercial and technical questions between the parties have been clarified and that the customer has fulfilled all its obligations to cooperate and to provide work and services. If this is not the case, dates and deadlines shall be extended accordingly. We shall only ever be in default if a written reminder is issued after the due date.

4. Customer's work and services, cooperation, approvals, templates

- 4.1 Our services require the close cooperation of the customer. The customer must provide the necessary work and services and must cooperate as required in good time (e.g. delivery of texts or images, releases, workstations, sufficient internet connection, access data) for the services to be performed. Items must be delivered to us or to the place specified by us carriage paid on the agreed date. Return delivery will be made carriage forward from the place of use at the risk of the customer. If the customer fails to fulfil its cooperation obligations in good time or fulfils them inadequately, we shall be relieved of our obligation to provide the services. Any costs incurred by us as a result shall be borne by the customer.
- 4.2 Proposals, drafts, test versions or similar that the customer receives from us must be examined quickly and carefully by the customer – in particular if releases are required for the continuation of the services. The customer must communicate any complaints and requests for changes to us without delay or grant the releases. The customer's release is a declaration that our performance is in accordance with the contract.
- 4.3 If the customer provides us with drafts, samples or other templates, it shall indemnify us against any claims that are asserted against us for infringement of the rights of third parties as a result of the use of the templates.
- 4.4 The customer must on request nominate a contact partner to be available during the performance of the services to answer questions, to assume responsibility on the customer's side for the execution of the contract and to make and accept valid declarations on the customer's behalf.

5. Acceptance, passage of risk

- 5.1 If acceptance has been agreed for services, the customer must accept our services after they have been performed. The customer may only refuse acceptance if the performance has material defects. A service shall be deemed to have been accepted if the customer has not given notice of a material defect in text form within one week of provision of the service or notification of readiness for acceptance.
- 5.2 If the customer uses the service in whole or in part and unless notice of a defect that precludes acceptance has been previously given in text form, acceptance shall be deemed to have been taken place with the act of use.
- 5.3 If the service cannot be made available to the customer for reasons for which the customer is responsible, the risk shall pass to the customer upon receipt of the notice of completion.

6. Remuneration, terms of payment

- 6.1 Unless otherwise agreed, we shall invoice our remuneration on the basis of time spent and submission of proof of activities; travel times shall also be invoiced. One daily rate corresponds to eight hours of work. The objection to a proof of activity must be received by us in text form within two weeks after invoicing, otherwise the proof of activity shall be deemed to have been approved; this shall only apply if we have specifically pointed this out to the customer when submitting the proof of activity.
- 6.2 Expenses and other ancillary costs shall be invoiced additionally according to the expenditure incurred.
- 6.3 Unless otherwise agreed, we are entitled to send an electronic invoice (e.g. as a PDF document) to the customer by e-mail. We may, at our discretion, also send paper invoices.
- 6.4 Statutory value-added tax is payable on all the net amounts stated.
- 6.5 Services not estimated in the offer, but which are carried out at the request of the customer, will be invoiced to the customer additionally. This also applies to additional expenses arising because the customer has provided incorrect or incomplete information, due to preliminary work or services provided by the customer or other third parties that have not been provided on time or in a professional manner, insofar as such third parties are not our vicarious agents.
- 6.6 The customer is only entitled to offset counterclaims if these are legally final and binding or not disputed. This shall not apply to a counterclaim based on a defect arising from the same contractual relationship as that on which our claim is based. The customer is only entitled to exercise a right of retention if the customer's counterclaim arises from the same contractual relationship.
- 6.7 If the customer uses our work results again or to a greater extent than originally agreed, the customer shall be obliged to pay remuneration for the additional use, calculated on the basis of the ratio of the additional use to the original use.

7. Delivery, transport

Unless otherwise agreed, our deliveries are EX WORKS – EXW, our premises, (Incoterms 2020). Once shipment has been agreed, the risk of accidental loss and accidental deterioration – even if we make the delivery, assume the shipping costs or carry out the installation or commissioning – shall pass to the customer upon dispatch. In the absence of instructions from the customer in text form, the mode of dispatch, route and packaging shall be chosen at our discretion.

We only take out transport insurance at the request and in the name of the customer.

The customer shall inspect the delivery for transport damage upon receipt. The customer shall inform the transport person immediately of any transport damage and have the damage note signed on the consignment note, forwarding order or delivery note. The customer shall also inform us immediately of the transport damage by providing a damage report.

8. Property rights, rights of use

8.1 Unless expressly agreed otherwise, all industrial property rights (in particular copyrights, ancillary copyrights, trademark rights, patent rights) arising in connection with services to be provided by us, our employees or third parties commissioned by us shall remain with us.

8.2 We only grant the customer rights of use to all work results. Work results are both final results and intermediate results (such as plans, drafts and drawings). The customer only receives a simple, non-transferable right of use for the respective contractual purpose. An exclusive right of use can only be granted by express written agreement; even in this case, however, we shall remain entitled to use, and in particular to process and reproduce, work results within the scope of our own advertising.

8.3 The customer may not change or remove our copyright designations or other identification features or those of third parties. We must be named as the author on all reproductions.

8.4 In the event of a culpable breach of the aforementioned obligations, the customer shall pay us a contractual penalty of up to 50% of the agreed remuneration to be determined by us at our reasonable discretion and to be reviewed by the competent court. We reserve the right to enforce any further claims for damages.

8.5 Until such time as the remuneration has been paid in full any rights of use granted remain revocable.

8.6 Our legal liability for defects of title applies pursuant to clause 9.

9. Liability for defects

9.1 The customer is obliged to inspect our services for recognisable defects upon delivery or acceptance and to notify us of these immediately in text form. If, despite careful inspection, a defect only becomes apparent later, this must be reported immediately in text form. If the customer is a merchant and violates these obligations, the relevant defect shall be deemed to have been approved. Notifications of defects must provide the most detailed description possible of the defect. As far as reasonable, the customer shall provide us with information and documents relating to the notification of defects.

- 9.2 The customer must give us an opportunity to investigate notifications of defects, including from third parties. If the notification of defect is unfounded and the customer has recognised this or negligently failed to recognise this, the customer is obliged to compensate us for the expenses incurred for the inspection.
- 9.3 If our services are defective, we shall either remedy a defect or, at our discretion, provide a new service (subsequent performance). If an attempt to remedy fails or cannot be reasonably expected, or if subsequent performance is refused, the customer shall be entitled to reduce the remuneration or – in the case of a substantial defect – withdraw from the contract and/or claim damages under the liability clause (clause 10).
- 9.4 We shall only accept responsibility for expenses arising if subsequent performance of the service is made at a location other than the agreed place of performance if this has been agreed as such.

10. Liability

- 10.1 Our liability for damages and reimbursement of costs for slight negligence – including but not limited to breach of contractual obligations and from tort – is excluded, unless we have breached a material contractual obligation, i.e. an obligation the fulfilment of which is a prerequisite for the proper performance of the contract or on fulfilment of which the contracting party may regularly rely. In this case, our liability is limited to the damage typical for the contract and which we must have anticipated at the time of conclusion of the contract on the basis of the circumstances known to us.
- 10.2 However, we bear unlimited liability for damages arising from injury to life, limb or health, for intent and gross negligence, for the absence of a guaranteed quality and under the Product Liability Act.

11. Limitation period applying to claims for defects and damages

The limitation period for claims of the customer derived from defects is reduced to one year. The limitation period shall also be one year for the customer's claims for damages and reimbursement of costs that are not based on a defect. However, these reduced limitation periods shall not apply to claims of the customer arising from injury to life, limb or health or to claims arising from an intentional or grossly negligent breach of duty.

12. Retention of title, security interests

We reserve title to deliveries until full payment of all claims, including future claims, arising from the entire business relationship, including all ancillary claims.

13. Termination

13.1 Both contracting parties shall be entitled to terminate the contract for good cause without due notice.

13.2 Unless otherwise agreed, the customer may terminate a contract without good cause. In this case, we shall be entitled to remuneration for the services rendered up to the end of the contract. Furthermore, we may demand the agreed remuneration for services not yet rendered less expenses saved.

13.3 If we terminate a contract for good cause, we shall be entitled to invoice the services rendered up to the termination of the contract and to claim compensation for the services not rendered less expenses saved. We reserve the right to assert a claim to higher damages.

13.4 Notice to terminate only has legal force if made in writing.

14. Confidentiality

14.1 The customer must treat all commercial and technical information of which he becomes aware through the business relationship with us as a trade secret and must only use such information for the purposes of cooperating with us, for as long as and to the extent that it is not or has not become generally known, in particular all information marked as "secret", "confidential" or similar. The information must be stored carefully and protected from unauthorised access by third parties. This shall apply in particular to the customer's vicarious agents (including employees). These must be committed accordingly in writing; such commitments must be submitted to us upon request.

14.2 Unless already prohibited by copyright or other law, the customer is not permitted to obtain a trade secret by observing, examining, dismantling or testing products or items provided.

15. Data protection

We collect and process personal data of our business partners in particular for the fulfilment of a contract or for the implementation of pre-contractual measures (Art. 6 para. 1 sentence 1 lit. b GDPR). Further information on the processing of personal data and in particular on the rights of data subjects can be found in our data protection statement for business partners of the Konradin Publishing Group at <https://privacy.konradin.de/datenerhebung/>.

16. Final provisions

16.1 If one or more of these provisions are or become invalid, this shall not affect the validity of the remaining terms.

16.2 German law shall apply.

16.3 If the customer is a merchant, a legal entity under public law or a special fund under public law, the place of jurisdiction for all disputes arising from and in connection with the contractual relationship shall be our registered place of business or, at our discretion, the registered place of business of the customer. The same shall apply if the customer has no general legal venue in Germany, if the customer has moved its domicile or customary place of residence abroad after the conclusion of the contract or if neither the domicile nor the customary place of residence of the customer are known at the time when legal action is initiated.

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