

# General Terms and Conditions of **diesigner konzept GmbH, Wendelstein**

## § 1 Object of Contract

- (I) The **diesigner konzept GmbH** provides services within design concept, planning and manufacturing and/ or production of hotel, object property and office furnishings. The efforts take place on the basis of respective service and / or sales contract. Details on the scope of services are given arising from the individual contractual arrangements as well as from the general terms and conditions.
- (II) The general terms and conditions of the respective contractual items extend to all contracts with the customer, its affiliates or successor companies to be completed or have been completed.
- (III) The **diesigner konzept GmbH** is also entitled to instruct a subcontractor to carry out the service or performance of the purchase contract.

## § 2 General Coverage

- (I) The provision of the respective service and / or the sale of goods on offer is only on the following conditions.
- (II) When the contract partner utilizes its own terms and conditions, these are only valid when they are in accordance in that regard in which they coincide with the present conditions. The terms and conditions of our business partners do not form a part of the contract unless this has been expressly consented by us in writing.
- (III) The Terms and Conditions of **diesigner konzept GmbH** apply even if they concluded the contract without reservation with knowledge of conflicting and / or deviating conditions of the contracting party.

## § 3 Proposals and Orders

- (I) Our proposals, prices and other information are subject to change unless the offer is in writing or anything else has been expressly determined in writing.
- (II) The customer's orders shall not be deemed adopted if they were written, or written by telex from us, confirmed by sending the goods or by sending the invoice.
- (III) Plans, plan sketches and drawings are binding if they have been finalized and approved by the customer. The **diesigner konzept GmbH** reserves rights on these copyrights. A disclosure to third parties or any other use is only permitted only with the prior written consent of **diesigner konzept GmbH**.

## § 4 Remuneration of Services

- (I) The amount of remuneration is derived from the individual contract. This is according to the agreement in a settlement for a time set or at a fixed price. The specified number of hours or daily rates as assessment of the effort has been made to the best knowledge of **diesigner konzept GmbH** and is not binding. The respective expenses may include as part of the implementation of the services to the said object, upward deviations. Should this be observed, **diesigner konzept GmbH** will notify the customer immediately. The cost estimates in the estimated expenditure of costs which were offered as remuneration foreseeable in contract, may be exceeded only in an acceptable manner, corresponding to the object involved and at a reasonable amount. Any further increase requires further agreement, which the customer must approve in writing.
- (II) All payment rates do not include the VAT. VAT will be calculated separately and is presented at the time of invoicing.
- (III) The remuneration of the service is due at the time of billing. As far as a fixed price is agreed, the due date occurs with the provision of the contractually agreed services. If the services are taken in parts, a corresponding partial remuneration is payable upon acceptance of this section of services or as agreed. If the service recipients are in arrears, we are entitled to demand statutory default interest.
- (IV) The deduction of discounts is only allowed with a special agreement.
- (V) The resulting material expenses will be reimbursed as incidental expenses separately.

## § 5 Consequences of Default of Payment / Offsets and Retentions

- (I) In case of default and justified doubts regarding the solvency of the customer, **diesigner konzept GmbH** is without prejudice to any other rights, entitled to demand advance payment for not performed services, to revoke granted payment periods and all claims arising from the business relationship due immediately. The obligation to provide the provision of services due is suspended as long as the customer is with a payment in arrears. The defaulting party shall reimburse all justified costs for payment reminders, debt collection charges and investigation and information fees.
- (II) In this case, the cancellation of the contract remains open to us.

- (III) The offsetting or the right of retention is excluded, unless they are legally established or expressly acknowledged by us.

## § 6 Obligation to Cooperate with the Service Provider

The client agrees to take all necessary actions to ensure that the service can be rendered properly.

## § 7 Prices and Conditions of Payment for Sales Contracts

- (I) Unless we designate otherwise, all prices are effective from the warehouse of **diesigner konzept GmbH**.
- (II) The statutory VAT is not included in the price quoted and presented separately at the time of invoicing.
- (III) The purchase price is due upon delivery of the goods immediately and without deduction. An alternative agreement is possible, as far as this is done explicitly and in writing.
- (IV) If the buyer defaults on payment, we are entitled to demand statutory default interest.
- (V) The agreement accepting checks to solely in fulfilment of the amount of the purchase price unless the order confirmation clearly states otherwise, subject to clearance.

## § 8 Delivery and the Delay of Purchased Goods

- (I) The delivery occurs either by shipment or by delivery or transfer to our business premises.
- (II) The delivery dates specified, and unless otherwise agreed, are non-binding. The duration of the transportation and the timely arrival to the buyer are not guaranteed. Delivery dates are furthermore, dependent upon the customer fulfilling all its obligations from the contractual relationship in a timely fashion with regard to agreed-upon payments, particular documents, permits etc. in sufficient time. Any changes made by the customer after the release of the latest plans and samplings, postpones the delivery.
- (III) Agreed delivery deadline or delivery period is extended or postponed accordingly if unforeseen obstacles beyond the control of the parties (acts of God). These include in particular, but not limited to: strikes, lock-outs, delay in delivery due to the raw material, regardless of whether the obstacles are caused by **diesigner konzept GmbH** or their suppliers or subcontractors. In such circumstances **diesigner konzept GmbH** is not liable if they are already in default.
- (IV) Compensation is available to the customer only if the damage is due to intentional or grossly negligent breach of duty or has arisen from not only a minor breach of an obligation under the assumption of a procurement risk or a guarantee. The level of these claims for damages is limited to damages that are typical foreseeable at contract conclusion.
- (V) After the expiration of stated delivery period, the customer is entitled to provide **diesigner konzept GmbH** an appropriate extension in writing starting from the date of written notice thereof from the customer - to set a date for delivery and if deadline is not met to withdraw from the contract. In addition, claims for damages due to delivery delay - except for intentional or grossly negligent causation of delay or infeasibility – are excluded.
- (VI) Should the purchaser be in default of acceptance, we are entitled to claim the damages incurred to us including any additional expenses. In this case, the risk of accidental loss or accidental deterioration of the goods passes to the buyer.

## § 9 Transfer of Risk

- (I) If not stated otherwise in the order confirmation, the delivery from the warehouse of **diesigner konzept GmbH** is agreed.
- (II) When it is a contract between businesses for the purpose of § 14 BGB, the following applies: if the shipment of the goods to the purchaser, or at his behest to a third party has been agreed, the goods shall be after the handover to the transport company at purchaser's risk. On our part a proper transport packaging and proper ordering of a carrier is entirely provided for. Further liabilities regarding the dispatch of goods do not exist.
- (III) Delivered goods, even if they contain insignificant defects, the customer irrespective of the rights of §11 accepts and receives them.

## § 10 Warranty with Purchase

- (I) In so far as a contract with an entrepreneur for the purpose of § 14 BGB is, the warranty rights of the purchaser provided that it has duly complied under §§ 377, 378 HGB with its obligation to examine and reproof accordingly.
- (II) The warranty period is 24 months valid from delivery if **diesigner konzept GmbH** makes no additional guarantees.

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- (III) The warranty obligations of the supplier do not exist for such errors that have been caused by incorrect handling, use and installation of the object purchased by the customer or third parties.
- (IV) In so far as under §13 not otherwise stated, further claims of the customer, for whatever legal reasons, are excluded. diesigner konzept GmbH is not liable for damages not incurred on the delivery object itself; in particular not liable for lost profits or other financial damages of the purchaser.
- (V) The above limitations do not apply if the damage was caused by an intentional or gross breach of duty or of damage to a not only a minor breach of an obligation under the assumption of a procurement risk or a guarantee incurred or in the event of damage from injury of bodily harm or health are claimed.
- (VI) If we neglect a contractual obligation, we are liable for compensation for the foreseeable damage.
- (VII) If the merchandise is not defective or the actual defects are not attributable to us, we are entitled to charge the customer for this purpose the inspection and freight costs.

## § 11 Retention of Title

- (I) All goods are delivered under reservation of proprietary rights. Ownership shall only be passed over to the purchaser when all prevailing payables to us have been made. This also applies even if payment has been made on certain specified goods by the purchaser. The privileged property acts as a security for the settlement claim on the invoice outstanding.
- (II) The General Terms and Conditions of the purchaser are not acknowledged if they are contradictory to the reservation of propriety rights; in particular contained protective clauses are not covered by the contract.
- (III) The purchaser is obliged to treat the goods delivered with care; in particular it is obliged at his own expense to sufficiently insure the articles for the duration of the reservation of title against any damages from fire, water and theft.

## §12 Consequences of Default of Payment / Offsettings and Retentions at Purchase

The provisions under §5 are correspondingly applicable to the conclusion of the sales contract, mutatis mutandis.

## § 13 Total Liability

- (I) The limitation of liability in the subject of guaranteeing is regulated under §10.
- (II) The limitation of liability under §10
- (III) applies mutatis mutandis, to the extent the damages is excluded or limited, also for all claims resulting from a fault in terms of concluding the contract, the breach of secondary obligations and other claims for compensation; this applies in particular to claims arising from tortious acts.
- (IV) The regulation of paragraph II shall not apply in cases where diesigner konzept GmbH due to legal regulations mandatory liable; in particular for claims under §1,4 ProdHaftG.
- (V) If the liability of diesigner konzept GmbH is excluded or limited, this also applies to the personal liability of our staff, workers, employees, representatives and agents.
- (VI) Potential liability for loss of data and consequential damage is excluded.

## § 14 Place of Jurisdiction - Place of Delivery – Applicable Law

- (I) If the contractual partner is an entrepreneur, our place of business is also the place of jurisdiction; however, diesigner konzept GmbH is entitled also to sue the contractual partner at his place of jurisdiction or place of business.
- (II) Unless the order confirmation states otherwise, the place of business is also the place of performance.
- (III) The contracting parties agree the exclusive application to the German law.

## § 15 Final Provisions

- (I) Any amendments in the above terms and conditions shall only be valid in writing.
- (II) Any amendments in the final provisions shall be also valid in writing.
- (III) In the event that one or more of the General Terms and Conditions herein or in a contract become invalid in full or in part or are infeasible, validity of the remaining provisions will remain untouched. Such a provision will be replaced by an appropriate regulation, as the contractual parties had taken when concluding the contract in regard to the ineffectiveness of the provisions laid down.

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## Data Protection Privacy Policy (as of December 2017)

For the purposes of the credit check, CRIF Bürgel GmbH, Radlkofenstraße 2, 81373 Munich will provide us with the address and credit data stored in your personal database, including those which are determined on the basis of mathematical-statistical procedures, provided we have our legitimate interest for the requested data.

Status: December 2017