

General Terms and Conditions of Werbebaugesellschaft mbH

I. General

Our deliveries of goods and provision of services are exclusively on the basis of our general terms and conditions, and in compliance with the contract work law according to BGB (German Civil Code).

To be legally binding, verbal agreements must be in writing. Client conditions that deviate from those of the general terms and conditions shall be invalid unless these conditions are recognized by Werbebaugesellschaft mbH prior to the signing of the contract. If the conditions are known from an earlier business relationship, or if such knowledge can be assumed, these conditions shall apply also in cases of non-service.

II. Bid and Confirmation of Order

All bids are without obligation and subject to confirmation provided the contrary is not stipulated in writing. Contracts are legally binding only after Werbebaugesellschaft mbH has provided its written confirmation. Orders are valid only after their confirmation by Werbebaugesellschaft mbH. Additional work and services extending beyond the scope of the order must be ordered in writing.

III. Prices

Our prices are based on product costs at the time of the submission of the bid. Unforeseen increases in costs, whether owing to changes in rates or price increases by our suppliers, shall be reimbursed against proof. Design work, planning, preparation of samples shall be billed according to bid or outlay.

IV. Industrial Property Rights

Designs, drawings, models or workshop and assembly drawings prepared by Werbebaugesellschaft mbH shall, together with all rights, remain the property of Werbebaugesellschaft mbH. The transfer of ownership or copyright shall require written form. Unless it is agreed otherwise, we are entitled to advertise our work. The Client shall be responsible for ensuring that our performance of the order does not violate any third party rights. The Client undertakes to exempt Werbebaugesellschaft mbH without delay from any third party claims for damages and to adequately compensate any damages resulting from the violation of industrial property rights.

V. Delivery and Delivery Date

Our services are delivered ex place of performance. Delivery date is the date stipulated in the confirmation of order. Cases of force majeure – such as industrial disputes, jurisdiction actions, disruptions of traffic, bad weather, catastrophes and similar – that obstruct performance according to plan, exempt us from the performance of the order for the duration of the obstruction, also in cases when such obstructions affect our subcontractors and suppliers. In such cases the ordering party is not entitled to withdraw from the contract or to file any claims for damages. Failure by us to meet delivery dates shall entitle the Client to withdraw from the contract.

Claims for damages extending beyond this shall be excluded. Additional expenditure for wages and material resulting from obstructions for which we are not to blame must be reimbursed by the Client according to outlay. This shall also apply to additional services arising from modified specifications, improper previous performance by third parties, performance difficulties etc. If special measures are required to meet the performance deadline or to remedy obstructions during construction or dismantling work, Werbebaugesellschaft mbH shall be entitled to bill the Client for these special measures. Construction parts belonging to the Client that are used must be delivered on time to the site at the Client's own risk.

The return deliveries, unless explicitly stated otherwise, shall be carriage forward and at Client's own risk. The Client shall be responsible for appropriate transport security. With the handing over at the place of destination, the responsibility shall be transferred to the Client.

Upon receipt of our work and services, any obvious deficiencies shall be reported in writing without delay. Work and services shall be regarded as performed and accepted once these have been used. Deficiencies that arise later must be reported in writing. The Client must give us the possibility to check the complaint. If the complaint is justified the deficiency will be repaired or replaced under the warranty.

In case where we earnestly and finally refuse performance, where we refuse to eliminate the deficiencies or perform the work again because of disproportionate costs, where the re-performance of the work has failed or is unreasonable for the Client, the Client can at his discretion only demand that the compensation be reduced (reduction) or the contract annulled (withdrawal) and compensation for damages paid within the scope of the limitation on liability (see item VII of our terms and conditions) instead of performance. The Client shall be entitled to such redress only after the unsuccessful expiry of a reasonable period determined by him combined with the declaration that he rejects the elimination of the deficiencies after the expiry of the period, provided the setting of such a time limit is not dispensable according to the legal regulations. In the cases of only slight infringements of the contract, in particular in the case of only minor deficiencies, the Client shall have no right to withdraw from the contract. In cases where Werbebaugesellschaft mbH is not responsible for an infringement of the contract inherent in deficiency, the Client shall not be entitled to withdraw from the contract. Rights of the Client arising from deficiencies that do not relate to a structure and/or a work for which planning and supervising services are provided by Werbebaugesellschaft mbH, shall lapse after a period of one year from the date of acceptance of the structure and/or the delivery of the service.

The short limitation period shall not apply if we are guilty of gross negligence or in the case that we are responsible for bodily harm or harm to health or in the event of that the Contractors dies. The provisions of the product liability law also remain unaffected.

In the case of fraudulent concealment of deficiencies or the assumption of a warranty for the quality of the performance, additional claims shall remain unaffected. Guarantees in the legal sense are not provided by us to the Client.

VII. Liability and Insurance

In the case of slightly negligent breaches of obligation our liability shall be limited to the foreseeable, contract typical, immediate average damages for the type of structure in question. This shall apply also to slightly negligent breaches of obligation by our legal representatives or other persons working on our behalf. Vis-à-vis companies we shall not be liable in the case of slightly negligent breaches of immaterial contract obligations. The aforementioned liability limitations do not affect Client's claims arising from product liability. In addition, the limitations to liability do not apply to bodily harm or harm to health for which we are responsible or for the event that we are responsible for the Client losing his life.

The Client shall be liable up to the amount of the repurchase value for all materials provided to him on a rental basis. The Client shall be obligated to insure our property against loss and damage. Any temporary transfer of ownership and the herewith associated values requested by the Client shall only be permissible if this is legally permissible for us. Required insurance coverage shall be arranged by the Client.

VIII. Terms of Payment

Unless otherwise agreed, 50% of the contract amount shall be paid upon award of contract and 50% upon acceptance. In the event of complaints that are recognized by us, only the appropriate percentage of the payment may be withheld. Should the Client fail to meet the aforementioned or contractual payment targets, we shall be entitled to bill company's interest in the amount of 8% over the respective discount rate and to bill consumer's interest in the amount of 5% over the basic discount rate. We shall also be entitled to claim further damages as a result of default. If the Client fails to meet his payment obligations or if we learn of circumstances which, after a due assessment of the business circumstances, permit us to question his creditworthiness, all our claims shall become due without delay, also to the extent that we have accepted bills of exchange. In such cases we shall only be obligated to further delivery conditions if the Client has made advance payments.

Upon termination of an already awarded order, we will bill all incurred costs up to that date. These shall also include in particular costs for organization, planning, procurement and assembly of materials; already produced parts shall also be charged, as shall cancellation fees for already booked travel, flights, trucks and hotels.

We are allowed to subsequently correct invoices with a false tax rate. The resultant back duty or draw back will be debited and accordingly credited to the customer.

IX. Reservation of Title

In the case of contracts with consumers we retain the ownership of the goods up until the complete payment of the agreed compensation. In the case of contracts with companies we retain the ownership of the goods up until the complete settlement of all claims arising from a current business relationship.

The Client is obligated to handle the goods with care. The Client is obligated to inform us without delay of any third party access to the good, as for instance in the event of a seizure, or of any damage to or destruction of the goods. The Client must inform us without delay of any change in ownership of goods or of any change in the company/domicile. Should the Client behave in a manner contrary to the terms of the contract, in particular with regard to delay in payment or infringement of one of the aforementioned contractual obligations, we shall be entitled to withdraw from the contract and demand that the goods be returned to us. The Client shall be entitled to resell in an ordinary business transaction the goods that were transferred to him. He assigns to us already all claims in the amount of the invoice sum that he obtains from a reselling of the goods to a third party. We accept the assignment. After the assignment the Client is entitled to collect the claim. We reserve the right to collect the claim ourselves in the event that the Client does not properly fulfil his payment obligations and falls into arrears. The working and treating of the goods by the Client is always in our name and on our commission. If goods are worked with goods not belonging to us we obtain a co-ownership to the new object in the proportion to the value of the goods delivered by us to the other worked objects. The same shall apply in the event that the goods are mixed with other objects not belonging to us.

X. Place of Performance, Jurisdiction and Concluding Provisions

The law of the Federal Republic of Germany shall apply exclusively. Place of performance for all work and services are the domicile of our company. Exclusive place of jurisdiction for all disputes arising out of this contract is the domicile of our company. This agreement on jurisdiction applies only if the contractual parties are merchants, juristic persons of public law or special public funds.

Should individual provisions of the contract, including these general terms and conditions be or become completely or partly invalid shall be replaced by provisions of the contract. The provision that is completely or partly invalid shall be replaced by a provision that comes as close as possible to the business purpose of the invalid provision.