

GENERAL TERMS AND CONDITIONS OF TRADE OF KMB CREATIVE NETWORK AG

1. SCOPE

1.1. These terms and conditions apply for all declarations of intent, contracts and legal or quasi-contractual activities of KMB Creative Network AG, located at Am Nordbahnhof 3, D-10115 Berlin (hereafter referred to as "KMB") with its clients (hereafter referred to as the "Client"). The scope of these GTCT is limited to declarations of intent to and/or legal transactions with people who are not deemed to be consumers in accordance with § 13 BGB (German civil code).

1.2. Any general terms and conditions of trade of the Client are secondary to the GTCT of KMB. Only these general terms and conditions of trade apply for declarations of intent by or to KMB or for legal transactions concluded with KMB unless otherwise agreed in writing between the respective parties. It is irrelevant here whether the Client is aware of any deviation from these general terms and conditions of trade in the terms and conditions of trade of the Client if the Client submits a declaration of intent to KMB or concludes legal transactions with KMB.

1.3. The absence of a commercial letter of confirmation either from KMB or from the client is deemed to be a declaration of intent.

2. OFFERS AND CONTRACTUAL CONTENT

2.1. The scope and content of the services owed by KMB are respectively defined by individual contracts. As long as they are signed by both parties the decisive factor here is the contract formed in writing between KMB and the Client and in the absence of such a contract it is the offer submitted by KMB unless an objection has been made to the same.

2.2. Sending and receipt by the Client by e-mail are deemed to constitute receipt of an offer in the above sense. 2.3. The services owed by KMB in accordance with 2.1. are hereafter denoted consistently as the "object of performance". If it has not been explicitly agreed, KMB is not responsible for achievement of a specific economic success as a result of its services.

2.4. In addition to the services owed according to 2.1., KMB regularly commissions contractors such as artists, musicians and craftspeople in its own name but for the account of the Client to provide services to the Client. KMB shall inform the Client of the commissioning of such contractors. The Client may object to the commissioning on own account if there is significant cause for doing so.

3. OBJECT OF PERFORMANCE

3.1. Unless explicitly agreed otherwise by individual contract, the object of performance owed by KMB is the agreed service of which the scope in case of doubt is the service offer from KMB. By contrast, performance successes are neither agreed nor owed. KMB therefore guarantees neither publication of an article nor its content for example in the case of provision of media contacts.

3.2. If KMB has agreed a fixed monthly fee with the client, then there is a fundamental obligation to employ appropriate staff for the agreed hours each month. KMB is however entitled within reason to carry forward unaccrued hours or overtime worked to subsequent months.

3.3. KMB shall provide information about the status of the services on request by the Client to a reasonable extent and within acceptable periods. The compilation of comprehensive written reports, especially for presentation to third parties, will be agreed respectively in the individual case.

3.4. KMB is entitled to employ subcontractors for the performance of its services. KMB is responsible for selection of the employees entrusted with performance of the services. This includes the right to replace individual employees or an entire team or even subcontractors in the course of a project with consideration for the legitimate interests of the Client.

3.5. If the agreed object of performance is the provision of part of the showroom of KMB then KMB is obliged to display the desired exhibits of the Client on the metres of rail rented by the Client.

3.6. Each party shall nominate a project manager for the other party who takes full responsibility for performance of the contractual services as planned but who can submit or receive no declarations of intent on behalf of KMB which remains the preserve of the authorised representative board member of KMB. The respective project manager can essentially be replaced by KMB at any time without the need to justify this separately to the Client. On request by the Client, the project manager can be replaced only if KMB agrees to it.

4. PRICES / PRICE CHANGES

4.1. The prices specified in the contract or uncontested offer are deemed to have been agreed. All prices are understood to be exclusive of the value added tax applicable at the time of performance.

4.2. The price for provision of the showroom is based upon the rail metres used and the price specified and agreed for this by KMB.

4.3. External costs incurred by KMB for subcontractors employed will be reimbursed 100 % by the Client but with no additional charge.

4.4. Travel expenses for staff employed by KMB will be reimbursed by the Client. Travel expenses here specifically include the costs of transport (aeroplane, taxi, hire car or train) and accommodation. For flights the costs can be reimbursed only for the use of economy class, for trains only for first class and for accommodation only for a four-star hotel if the employee is not accommodated in a hotel of the customer.

5. DUE DATE FOR THE SERVICE AND CONSIDERATION

5.1. The due date for the services of KMB is based upon mutual agreements between KMB and the Client which will as far as possible produce and if necessary, adjust a joint timetable.

5.2. KMB will notify the Client immediately of delays and adjustment requirements that emerge with respect to the timetable.

5.3. If there are performance delays for which KMB is responsible, the duration of the statutory extension to be set by the Client is set at four weeks which begin on receipt of the extension notice by KMB.

5.4. Unless specified otherwise by individual contract, the payment entitlement of KMB is due respectively at the end of the month although no earlier than two weeks after the invoice date.

6. COOPERATION OBLIGATIONS

6.1. The Client is obliged to provide the necessary information to KMB for performance of the services. If delays occur for which the Client is responsible, KMB is entitled to extend the ongoing services or the scope of the services by the fee hours incurred.

6.2. The information provided by the Client serves as the essential basis for the consultancy and planning services of KMB. The provision of incorrect or incomplete information shall be at the expense of the Client.

6.3. On acceptance of concepts, texts or other services, the information is deemed to have been provided correctly and in full. If a concept or other service has to be amended owing to correction of information already provided or as a result of the subsequent submission of information, it is always deemed to be an extension of the scope of service.

6.4. If the Client fails to fulfil the information obligation, KMB must request in writing that the Client rectify this within a reasonable period. If the Client fails to fulfil the information obligation despite a deadline having been set, KMB is entitled to provide its service on the basis of the information already available or to withdraw from or terminate the contract. KMB may moreover demand compensation for

all expenses that have been incurred by KMB in the course of the contractual relationship and that have been futile or had to be incurred in addition as a result of the breach of duty by the Client. Further entitlement to compensation for damages as a result of the breach of duty or under § 642 BGB remains unaffected.

6.5. If KMB identifies during production that the object of performance needs to be modified in view of requirements and properties presented since then, the Client shall indicate this immediately and submit alternative proposals to the same.

6.6. The same duty of information exists if KMB identifies that information or requirements from the Client are incorrect, incomplete, unclear or objectively unsuitable for performance.

7. FREEDOM FROM THIRD-PARTY RIGHTS

7.1. KMB does not guarantee that the object of performance is free from property rights or other third-party rights. This applies especially in the event that KMB creates or distributes descriptions, texts, images, names or similar in the creation of the object of performance.

7.2. If the Client provides materials to KMB for performance of the contract, the Client guarantees that these are free from property rights or other third-party rights that restrict or exclude the contractual use. The Client exempts KMB from all claims of third parties against KMB on account of existing rights to the materials introduced. The Client specifically assumes all obligations with respect to copyright collection companies.

7.3. The parties will inform each other immediately in writing and/or by e-mail if claims are asserted against them for violation of property rights.

8. RECISSION OF CONTRACTS

8.1. If a contract is terminated or effectively challenged by the Client before the start of its performance or if the Client withdraws from the contract for reasons for which KMB is not responsible, KMB shall charge a flat fee of 25 % of the order total for expenses incurred unless the Client proves that no damages or significantly lower damages have been incurred.

8.2. If a contract is terminated or effectively challenged by the Client before the start of its performance or if the Client withdraws from the contract for reasons for which KMB is not responsible, then KMB is entitled to demand the agreed payment.

8.3. The right to assert a further claim for damages or payment by KMB remains reserved.

9. GUARANTEE

If a performance success is agreed and owed on the basis of individual contractual provisions, the following provisions apply:

9.1. The Client must give notice in writing of any defects in the service immediately after becoming aware of such. If rectification is possible and feasible at reasonable expense, then KMB has the right to rectify the defects for which it is responsible.

9.2. In the case of refusal, impossibility, failure or unreasonable delay in the rectification, the Client may choose to demand rescission of the contract or reduction of the payment.

9.3. Guarantee claims of the Client expire within a period of one year after completion of the services concerned.

9.4. KMB is liable for consequential damages only in accordance with no. 10 below. This liability exemption does not apply however if a property guarantee was in place which includes the consequential damages that have occurred and if the damages that have occurred are based upon the absence of this property.

10. LIABILITY

10.1. Unless specified further in the remaining provisions, KMB is liable for compensation for damages as a result of violation of contractual or extra-contractual obligations in the case of intent and gross negligence of its legal representatives, senior employees and vicarious agents.

10.2. In cases of simple negligence KMB is liable for violation of essential contractual obligations.

10.3. In the case of intent or gross negligence and in all cases of simple negligence liability that exists accordingly is limited in amount to the damages typically foreseeable for the contract. Beyond this, the liability for each individual claim is limited in sum to 30 % of the total net fee level and a maximum of EUR 150,000.00.

10.4. Contractual damage compensation claims of the Client against KMB expire within a period of two years from when they arise and come to the attention of the Client.

11. RIGHTS TO WORK RESULTS

11.1. The Client is permitted to use the results of the services of KMB only for the contractually agreed purposes and not to publish them without explicit prior consent from KMB. Publications must always take place with specific statement of the complete description from KMB; any change compared with the original documents from KMB requires explicit prior written consent. Disclosure of the results of the services to third parties also requires explicit prior written consent.

11.2. If copyrights are created through services from KMB, KMB is entitled to these.

12. FORCE MAJEURE

12.1. Force majeure or other unforeseeable events for which KMB is not responsible which significantly impede provision of the contractual services or temporarily render them impossible and which also include strike, lockout and official directives, will entitle KMB to defer the performance of its services for the duration of the hindrance plus a reasonable start-up period. KMB will immediately inform the Client of the occurrence of such performance hindrances. If the delays arising as a result of an event in accordance with clause 1 above exceed a period of six weeks, both parties to the contract are entitled to withdraw from or terminate the contract with respect to the scope of service affected. Damage compensation claims are excluded in such a case.

13. CONTRACTUAL TERM, TERMINATION

13.1. The contractual term and the timetable for the service from KMB are determined by the respective individual contract.

13.2. The notice period is likewise determined by the respective individual contract. Notice of termination must be given in writing.

13.3. The following payment provision applies for contracts with a specified contractual term. In the case of premature contract termination by the Client that is not attributable to a factor for which KMB is responsible, the full payment must be made for the services provided until termination of the contract. For the services no longer to be provided following the termination, the payment is cancelled to the extent to which KMB has saved on expenses and/or generated income or maliciously neglected to generate income from other use of resulting available capacity.

14. APPLICABLE LAW

14.1. The contractual relations between KMB and the Client are exclusively subject to the law of the Federal Republic of Germany.

14.2. If the Client is a business, legal entity or special fund under public law, the place of jurisdiction for all claims arising from the contract is the head office of KMB. The right of KMB to sue the Client at the general place of jurisdiction of the same remains unaffected.

15. FINAL PROVISIONS

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Stephan Boris Erbe

15.1. Amendments and additions to the contract including the present written form clause must be made in writing.

15.2. This contract and all legal relations of the parties are subject to the law of the Federal Republic of Germany to the exclusion of UN sales law (CISG).

15.2. Should individual provisions of this contract or these terms and conditions be invalid, or should the contract contain loopholes, this shall not affect the validity of the remaining provisions. In place of the invalid provisions, a provision must be agreed which corresponds to the spirit and purpose of the invalid provision. In the case of loopholes, a provision must be agreed which corresponds to that which would reasonably have been agreed in accordance with the spirit and purpose of this contract if the issue had been considered from the outset.