

General Terms and Conditions of ADWORK Designagentur GmbH

1. Scope

- a. These General Terms and Conditions shall apply exclusively. Other terms and conditions shall apply only to the extent that ADWORK Designagentur GmbH has expressly agreed to them in writing. Orders shall be carried out within the framework of a corresponding contract in accordance with the following terms and conditions. Any deviating provisions must always be set out in writing.
- b. These General Terms and Conditions apply only to business-to-business transactions with a trader within the meaning of Section 14 of the German Civil Code (BGB).

2. Quotation, Conclusion of Contract

- a. Our quotation is subject to change without notice, unless otherwise stated in the order confirmation.
- b. A contract is concluded between the parties when the customer accepts the offer made by ADWORK Designagentur GmbH verbally, in writing or implicitly by making use of the services provided by ADWORK Designagentur GmbH. ADWORK Designagentur GmbH shall, as a rule, confirm any agreements reached in writing.

3. Services, Time of Performance, Outsourcing to Third Parties, Complaints

- a. The scope and content of the services are set out in particular in the order confirmation issued by ADWORK Designagentur GmbH.
- b. The start of the service period specified by ADWORK Designagentur GmbH is subject to the clarification of all technical and artistic issues.
- c. ADWORK Designagentur GmbH's compliance with its obligation to provide services is further subject to the timely and proper fulfilment of the customer's obligations. In particular, the customer must ensure that all documents necessary for the execution of the order are provided to ADWORK Designagentur GmbH in good time and that it is informed of all processes and circumstances that may be relevant to the execution of the order.
- d. If the customer is in default of acceptance or culpably breaches other obligations to cooperate, ADWORK Designagentur GmbH shall be entitled to claim compensation for the loss incurred as a result, including any additional expenses. The right to assert further claims is reserved.
- e. Provided that the conditions set out in sub-clause d. are met, the risk of accidental loss or accidental deterioration of the service shall pass to the customer at the point in time at which the customer is in default of acceptance or in default of payment.
- f. ADWORK Designagentur GmbH is entitled to commission the external services necessary for the fulfilment of the order in the name and on behalf of the customer. The customer hereby grants the necessary authorisation for this purpose. Insofar as, in individual cases, contracts for third-party services are concluded in the name and on behalf of ADWORK Designagentur GmbH, the customer is obliged, in the internal relationship, to indemnify ADWORK Designagentur GmbH against all liabilities arising from the conclusion of the contract. This includes, in particular, the assumption of costs.
- g. We reserve the right to charge for over- or under-deliveries resulting from the production process, up to 10 per cent of the quantities ordered, in accordance with industry practice.
- h. Partial performance is permitted to a reasonable extent.
- i. Complaints regarding delivered printed matter must be notified in writing without delay, at the latest within three days of receipt of the goods.

4. Prices, Terms of Payment

- a. Unless otherwise stated in our order confirmation, our prices are quoted ex our agency's registered office, excluding transport costs (such as courier and delivery services); these will be invoiced separately.
- b. Statutory value added tax is not included in our prices. It is shown separately on the invoice at the statutory rate applicable on the date of invoicing. The use of artistic services provided by ADWORK Designagentur GmbH may be subject to social security contributions. The artists' social security contribution ("Künstlersozialabgabe") must be paid separately for this.
- c. The deduction of a cash discount requires a specific written agreement.
- d. Unless otherwise stated in the order confirmation, our invoices are due for payment immediately without deduction. From the due date, we are entitled to charge interest on arrears at a rate of 9 percentage points above the applicable base rate for outstanding payments. If the commissioned work is accepted in instalments, a corresponding partial fee is due upon acceptance of each instalment and the issuance of the relevant invoice.
- e. If an order extends over a longer period or requires significant upfront financial investment from ADWORK Designagentur GmbH, appropriate instalment payments shall be made; namely, one third of the total remuneration upon placing the order and one third upon completion of half of the work.
- f. Subsequent changes requested by the customer shall be invoiced separately (author's corrections).
- g. Special services, such as the revision or amendment of technical drawings, copywriting, supervision of printing and lithography, and approval of proofs, shall be invoiced separately on a time-and-materials basis.
- h. Expenses for technical ancillary costs, in particular for special materials, the production of hand-drawn samples, photographs, interim photographs, reproductions, phototypesetting, printing, etc., shall be reimbursed by the customer.
- i. Costs and expenses for travel undertaken in connection with the commission shall only be invoiced if the travel has been agreed with the customer.

5. Liability for defects, rights of set-off, rights of retention

- a. Upon approval of designs, final artwork or working drawings by the customer, the customer assumes responsibility for the accuracy of images and text. ADWORK Designagentur GmbH accepts no liability whatsoever for designs, final artwork or working drawings approved by the customer.
- b. ADWORK Designagentur GmbH accepts no liability for the admissibility of the designs under competition and trade mark law, nor for their registrability. ADWORK Designagentur GmbH does not carry out any legal review – in particular, no review under competition law – in connection with its services. The source materials provided by the customer (e.g. photographs, texts, models, samples, etc.) are used by ADWORK Designagentur GmbH on the condition that the customer is entitled to their use.
- c. Insofar as ADWORK Designagentur GmbH commissions necessary third-party services on behalf of and for the account of the customer, the respective contractors/contractual partners are not its vicarious agents. Liability for the services or work results of such contractors/contractual partners is excluded, unless otherwise required by law.
- d. ADWORK Designagentur GmbH shall be liable for damages and for reimbursement of wasted expenditure within the meaning of Section 284 of the German Civil Code (BGB) due to defective or delayed delivery or performance, as well as for breaches of other contractual and non-contractual obligations, in particular arising from tort, only in cases of wilful misconduct or gross negligence. The above limitation of liability shall not apply in the event of injury to life, limb or health; where a guarantee has been given or a procurement risk assumed; in the event of a breach of fundamental contractual obligations; or in the event of liability under the Product Liability Act. Compensation for breach of material contractual obligations is limited to compensation for such losses which ADWORK Designagentur GmbH should have foreseen as a possible consequence at the time the contract was concluded, based on circumstances apparent to it, unless there is intent or gross negligence, or liability arises from injury to life, limb or health, or from the assumption of a guarantee or a procurement risk. Where liability for damages against ADWORK Designagentur GmbH is excluded or limited, this shall also apply with regard to the personal liability for damages of our employees, staff, representatives and vicarious agents.

- e. In the event of a faulty delivery, ADWORK Designagentur GmbH reserves the right to rectify the fault and/or provide a replacement delivery.
- f. The customer shall only be entitled to set-off rights if their counter-claims have been legally established, are undisputed or have been acknowledged by ADWORK Designagentur GmbH. The customer shall only be authorised to exercise a right of retention to the extent that their counter-claim is based on the same contractual relationship.
- g. Should the customer request that ADWORK Designagentur GmbH implement specifications or designs generated by the customer (for example, using AI systems), ADWORK Designagentur GmbH shall only be obliged to do so following a separate written instruction. In this case, ADWORK Designagentur GmbH accepts no liability for technical, legal or design-related defects resulting from the implementation of these customer specifications. The customer shall indemnify ADWORK Designagentur GmbH against all claims by third parties arising from the contractual implementation of such specifications or derivatives provided by the customer.

6. Ownership, Rights of Use

- a. ADWORK Designagentur GmbH reserves title to any physical items delivered (e.g. data storage media, samples, printed materials) until all payments under the supply contract have been received. In the event of late payment by the customer, ADWORK Designagentur GmbH shall be entitled, following a prior reminder and the setting of a deadline, to reclaim the goods subject to retention of title and to withdraw from the contract.
- b. Any of ADWORK Designagentur GmbH's own operational assets used to produce the contractual work products – in particular work files, raw data, data, negatives, lithographs, etc. – shall remain the property of ADWORK Designagentur GmbH, even if they are invoiced separately, and may only be used by ADWORK Designagentur GmbH. All designs, sketches, drawings, print templates, concepts, samples, etc. must be returned to ADWORK Designagentur GmbH, even if they are not put into production. Any further use, even if only in extract or in part, requires the written consent of ADWORK Designagentur GmbH.
- c. Insofar as designs, sketches, drawings, print templates, concepts or other work products of ADWORK Designagentur GmbH fulfil the requirements of a personal intellectual creation under Section 2 of the German Copyright Act (UrhG), the provisions of the Copyright Act shall apply. The provisions of this Clause 6 (in particular regarding the granting, scope and limits of rights of use, as well as the prohibition on unauthorised exploitation or disclosure) shall also apply in the relationship between the parties to such designs, concepts and work products which do not fulfil the requirements of a work under Section 2 of the German Copyright Act (UrhG). Unless otherwise agreed in writing, drafts and other design services provided as part of presentations or otherwise are intended exclusively for presentation and consultation purposes and must be treated as confidential (see also clause 8). If no order is placed following a presentation, all rights shall remain with ADWORK Designagentur GmbH. The customer is not entitled to use this material in any form whatsoever, to modify it (including as a template for seemingly parallel in-house developments) or to use it as a basis for producing their own material. If no order is placed, the customer must immediately return all presentation documents in their possession to ADWORK Designagentur GmbH. If no order is placed, ADWORK Designagentur GmbH shall be free to use the unrealised ideas, works, designs, etc. for other projects and customers.
- d. The copyright in the work products remains with ADWORK Designagentur GmbH. In the case of illustrations, drafts, working drawings and other documents, copyright notices may not be removed or altered, either in the original or in any reproduction, without express written consent. Any imitation, including of parts or details, is prohibited. The customer must obtain the express written consent of ADWORK Designagentur GmbH before passing such material on to third parties. The design work and the remuneration therefor do not entail any transfer of rights of use. Unless otherwise agreed in the contract, rights of use shall only be granted upon the customer's final approval of the respective design and full payment of the agreed remuneration. Insofar as no express contractual agreement has been made regarding the scope of the rights of use, ADWORK Designagentur GmbH grants the customer, following final approval and full payment, a non-exclusive right of use to the extent required by the specific purpose of the contract. Any transfer or sub-licensing of the rights of use by the customer to third parties requires prior written agreement.
- e. The uploading, feeding into or processing of designs and project files that have not been finally approved into artificial intelligence (AI) systems – in particular for training, reference or generation purposes – is only permitted with the prior express written consent of ADWORK Designagentur GmbH. The customer shall indemnify ADWORK Designagentur GmbH against all claims by third parties arising from the unauthorised uploading to AI systems or the unauthorised disclosure by the customer of stock or licensed material contained in such unapproved designs.
- f. Insofar as labelling in accordance with Regulation (EU) 2024/1689 (Artificial Intelligence Regulation) is legally required for the work products of ADWORK Designagentur GmbH and corresponding notices are included on the work products, the customer is obliged to reproduce these unchanged when reproducing or distributing the work products. The removal or alteration of these notices is prohibited. The customer shall indemnify ADWORK Designagentur GmbH against all claims, damages and regulatory sanctions arising from a breach of this obligation.

7. Retention and Return of Documents

ADWORK Designagentur GmbH shall retain for a period of 2 years the documents provided to it in connection with the performance of a commission, those produced by it, and the correspondence relating to the commission. Once its claims arising from the commission have been satisfied, ADWORK Designagentur GmbH shall, at the customer's request, surrender all documents which it has received from or on behalf of the customer in connection with its work on the commission.

8. Confidentiality

ADWORK Designagentur GmbH is obliged, in accordance with the law, to maintain confidentiality regarding all facts that come to its knowledge in connection with its work for the customer, whether these relate to the customer itself or its business dealings, unless the customer releases it from this duty of confidentiality. Likewise, the customer undertakes to treat all drafts, concepts and project files provided to them prior to final approval as confidential information. Unauthorised uploading to (cloud-based) AI systems in accordance with clause 6.e shall also be expressly deemed a breach of this duty of confidentiality.

In the event of any culpable breach of this duty of confidentiality, the customer undertakes to pay ADWORK Designagentur GmbH an appropriate contractual penalty, the amount of which shall be determined by ADWORK Designagentur GmbH at its reasonable discretion and, in the event of a dispute, may be reviewed by the competent court as to its reasonableness. Further claims for damages remain unaffected. However, any forfeited contractual penalty shall be set off against any claims for damages.

9. Final Provisions

- a. Where the customer is a trader, the place of jurisdiction shall be the registered office of ADWORK Designagentur GmbH.
- b. The law of the Federal Republic of Germany shall apply.
- c. Unless otherwise stated in the order confirmation, the place of performance shall be the registered office of ADWORK Designagentur GmbH.
- d. Should one or more of the above provisions be invalid, this shall not affect the validity of the remaining provisions.