



# ATELIER KONTRAST GENERAL TERMS AND CONDITIONS OF ATELIER KONTRAST GMBH & CO. KG

HEREINAFTER REFERRED TO AS THE "CONTRACTOR"

## 1. Validity

All deliveries and services are based on these terms and conditions. By placing an order, the client accepts the following terms and conditions. Deviating conditions of purchase or terms of delivery and payment of the client are not considered as agreed as long as they have not been accepted in writing by the contractor.

## 2. Contracts for Services or Contracts for Work

If a contract for service or a contract for work is signed between client and contractor to provide services, then any contrary regulations therein have priority over the contractor's General Terms and Conditions.

## 3. Offers

Price offers and other offers shall be non-binding. The information contained in printed matter, electronic media, other documents or given orally is not binding; it does not become legally binding until the order has been confirmed.

The information, properties and scope in the order confirmation shall always be considered as binding. The offer prices always apply only in the case of an entire order.

If offers have been prepared on the basis of details provided by the customer or third parties appointed by the customer or on the basis of documents submitted by the customer, the contractor is not liable for the correctness and the suitability of these documents unless their faultiness and unsuitability are not recognized as a result of willful or gross negligence.

Permanent employees of the contractor are not authorized to make supplementary agreements or commitments that go beyond the scope of the written contract.

Offers are – unless otherwise agreed – valid for 30 days.

## 4. Placing of Order

The order shall regularly be concluded by means of the written order confirmation. Orders issued by fax or by electronic media are also binding for the purchaser.

## 5. Fees

All specified fees – unless stated otherwise – are subject to the applicable rate of VAT.

All services are based on the following fee table:

Strategic consulting	1180,00 EUR
Art direction / Concept	980,00 EUR
Architect / Lighting designer	880,00 EUR
Project management	880,00 EUR or 15% of total commission
Graphic designer	780,00 EUR
Copywriter / Translator	680,00 EUR
Project assistance	580,00 EUR
Technician	380,00 EUR

The fees for services of similar content shall be based on these fee rates. In the event of providing services of different content – for example, programming, photography or video production – the contractor shall make a separate offer.

All fees in the area of graphic design and lighting planning are based on the AGD Collective Agreement on Fees for Design Services (Vergütungstarifvertrag Deutscher Designer (SDSt/AGD)) or on the fee schedule for architects and engineers (Honorarordnung für Architekten und Ingenieure (HOAI)).

## 6. Additional Expenses, Special Services

All fees are exclusive of expenses and travel costs.

The travel costs to the client's location or to the location of performance of service shall be billed separately.

A flat rate of EUR 42.00 per hour per person shall be billed for the travel time to and from the above location. Added to these are the cost of train tickets (DB, 2nd class) and public transport or taxi as a shuttle; reimbursement in each case on presentation of receipts.

Expenditure on ancillary technical costs – in particular, special materials, prints, scans or data storage media – shall be refunded by the client if these have been requested by the client; the contractor's applicable price list applies.

B/W printout	A4	0,10 EUR
	A3	0,30 EUR
Color printout	A4	0,25 EUR
	A3	1,50 EUR
Large format color printout	•A3	15,00 EUR
Data-CD / DVD		10,00 EUR



Additional costs arising as a result of the shipping type required by the client (for example, express, courier etc.) shall be borne by the client.

Costs of image reproduction rights shall be refunded by the client.

## 7. Scope of Services

The scope of services that comprises the object of the order in each case results from the service items in the offer or from the set of specifications associated with the offer.

Service obligations to the contrary are excluded.

## 8. Extension of Scope of Services

Additional services requested by the client, or deviations in the scope of the 'specification of services' and any ancillary services shall be billed separately and in accordance with the expense incurred.

These include deviations from the scope of corrections and changes listed in the offer as well as corresponding additional costs which, based on services determined during the course of the project to be required for achievement of the project purpose, exceed the scope of services described in the 'specification of services'.

Additional expenses that are due to erroneous details provided by the customer, to transport delays that are not the responsibility of either party, or to delays or unprofessional preparatory performances of third parties – if these are not vicarious agents of the contractor – shall be billed to the client in accordance with the current remuneration rates of the contractor.

We shall bill separately those services which are availed of without any separate written agreement.

## 9. General Property Rights

All services provided in the course of an order are subject to copyright law.

The customer shall be entitled to use the products and works of the contractor – concepts, designs, etc. – only in accordance with the purposes detailed in the agreement.

Transfer of work sketches, documents or products to third parties is only permitted in the framework of this contract. Any further rights require separate written permission from the contractor. In the event of unauthorized transfer to third parties, the client shall be liable for damages.

## 10. Exemption From the Property Rights of Third Parties

If orders are carried out according to specifications or documents submitted by the customer, then the customer shall guarantee that these documents do not infringe third-party property rights. The contractor is not obliged to verify whether the details or documents that have been provided by the customer to enable performance of services infringe or potentially infringe on the property rights of third parties. The customer shall be required to immediately indemnify and hold the contractor harmless with regard to any possible claims for damages by third parties and to pay for damages resulting from the infringement of property rights.

## 11. Usage Fees / Usage Rights

For all design services (or other services with creative extent for which property rights could be applied for in terms of copyright law), the contractor shall levy a usage fee in accordance with the AGD Collective Agreement on Fees for Design Services (Vergütungsstarifvertrag Deutscher Designer (SDSt/AGD)). The remuneration for granting usage rights shall be – unless otherwise agreed – determined separately in the offer and is based on utilization factors in accordance with the AGD Collective Agreement on Fees for Design Services (Vergütungsstarifvertrag Deutscher Designer (SDSt/AGD)).

In individual cases, the usage remuneration can be settled with the daily rates for design.

The utilization factors on which the usage fee is based regulate the usage rights of the customer to the products in each case.

## 12. Terms of Payment

Payment must be made in full within 10 days of receipt of invoice.

At the time the order is placed, the contractor is entitled to bill 50% of the total fees payable in each case as an advance payment. Further payments are to be made as the project progresses, the final installment of a maximum of 25% is to be billed following completion of the order.

In the event of payment delays, the contractor is entitled to suspend fulfillment of his own obligations until the outstanding payments have been effected. For services already rendered, the contractor is entitled, in the event of payment delays, to charge interest on arrears of 5% above the appropriate basic interest rate of the European Central Bank.

## 13. Partial Services and Billing Thereof

The contractor is entitled to perform partial services for the order and to bill these separately.

## 14. Third-Party Work

The contractor is entitled to have parts of the order implemented by third parties. Commissioning of third parties occurs in the name of and for the account of the contractor. In this case the contractor is not obliged to detail the performances of third parties in its invoices or provide invoices submitted by the commissioned parties.

The contractor assumes no liability for the correctness and quality of this third-party work. In the case of errors or defects, the customer is entitled to make claims for damages (which the contractor is entitled to) in their own name against third-party companies.

## 15. Guarantee / Liability

The contractor is only responsible for timely and high-quality performance of service if the client has duly met his contractual obligations, especially that of timely payment of invoices. The contractor is relieved of liability in the event of schedule postponements attributable to the client.

No liability is accepted for faulty or unsatisfactory deliveries or performances carried out by third-party companies that are appointed by the client.

Unless otherwise agreed, the contractor is not liable for items of the customer which are brought in as long as the agency has not caused damage to or loss of the items through intentional or grossly negligent acts.

Claims for compensation for damages of any kind, also for damages that have not arisen from the contractual item itself, for example, damages resulting from delay, damages resulting from the impossibility of performance, or any other breach of duty and illicit acts are excluded as long as the damages have not been caused by intentional or grossly negligent acts and as long as contract fulfillment is not endangered through the exclusion of the damage claims.

The limitation of liability applies in equal scope to the vicarious agents of the contractor.

Claims for damages in accordance with the Product Liability Act remain unaffected.



#### **16. Delivery, Delivery Dates, Delayed Acceptance**

Delivery always takes place ex works. Delivery is made on the account of and at the risk of the client. In the event of damages in transit or missing parts of a batch, a complaint should be made immediately to the freight forwarder, logistician or courier.

When the order is placed, the delivery dates are agreed with the client.

If the client does not accept the delivery at the agreed time, and if the delay is not due to any action on the part of the contractor, the client shall nevertheless make any payment conditional on delivery at the time the payment is due. The same applies if, at the request of the client, subsequent amendments or additions are carried out. Delays caused by the client do not entitle the client to delay payment.

#### **17. Complaints**

Complaints regarding our products and services must be notified in writing within 10 days. Deficiencies in one part of the delivery do not entitle the customer to withdraw from the contract. The customer is only permitted to withdraw from the contract if rework or re-performance is not carried out by the contractor after an appropriate period of notice has been given.

#### **18. Retention of Title**

The products delivered shall remain the property of the contractor and are subject to an extended retention of title until payment of all accounts receivable has been made in full. The insertion of individual claims in a current account and the determination of a balance and the acknowledgment thereof shall not affect the retention of title. The client is obliged to subject his customers to our retention of title.

#### **19. Exploitation Rights**

The contractor is entitled – unless otherwise agreed with the client – to create film and audio material from productions, to record events and use the records as well as background information about the project for purposes of documentation as well as company PR.

#### **20. Digital Data**

The contractor is not obliged – unless otherwise agreed in the offer – to issue files and other digital sources of supplied products to the client. In other cases, the client also receives only the final versions and not the working files and layouts.

#### **21. Customer Documents / Retention Obligation**

In the event that the client makes documents available to the contractor to enable service obligations to be performed (for example, images or CD-ROMs), the client is obliged – if the materials are originals – to first create duplicates of these materials.

All samples or templates given to the contractor shall be handled with care. If loss or serious damage occurs due to the fault of the contractor, the latter is liable up to a material value of EUR 300.00 in the event that the damages are due to negligence. Otherwise, liability is based on the statutory regulations.

On completion of the order, the contractor shall return documents made available to him by the client or he shall retain the documents associated with the order for a period of up to 3 months following completion of the order. The contractor assumes no liability for customer materials that have not been reclaimed by the customer within this time period.

#### **22. Offsetting and Assignment of Rights**

The client may only set off with undisputed or legally established counter-claims.

Any transfer of the rights of the customer arising from this contractual relationship shall require the prior agreement of the contractor.

#### **23. Acts of God**

If the contractor – or third parties appointed by him – is prevented from fulfilling obligations due to the occurrence of unforeseeable exceptional circumstances, which could not be averted despite all reasonable diligence in the circumstances of the case – for example, disruption of operations, intervention by authorities, power supply difficulties – the delivery period shall be extended by a reasonable period of time if the delivery or service does not become impossible as a result. If the delivery or service becomes impossible, the contractor is released from the delivery obligation.

#### **24. Jurisdiction, Place of Performance**

The court of jurisdiction and place of performance for all claims arising from the contract relationship is Heidelberg.

#### **25. Severability Clause**

The validity of these terms and conditions remains unaffected should any section thereof prove inapplicable or unenforceable – for whatever reason.

The invalid clause is to be replaced by a clause that, in sense and purpose, most closely resembles the invalid one or fulfills the intended business purpose.

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