

## **Service and Payment General Terms and Conditions of Dorfner Service Management GmbH & Co. KG**

### **I. General Information**

1. These Service and Payment General Terms and Conditions shall apply exclusively to the services to be rendered by the Contractor as per the order confirmation, unless otherwise agreed between the Parties. In such an event, the following Terms and Conditions shall apply additionally.
2. Any terms and conditions and subsidiary agreements that deviate from the following Terms and Conditions shall only form part of the contract if set out in writing and signed by the Contractor. The same shall apply to agreements made verbally, over the telephone or with representatives of the Contractor.
3. General terms and conditions of business of the Client shall not be binding for the Contractor, and do not apply to the contractual relationship.

### **II. Quotes**

1. All offers are subject to change. Orders placed by the Client must be confirmed by the Contractor in writing in order for the contractual relationship to come into being.
2. Estimates, drafts, plans and calculations shall remain the property of the Contractor and shall not be copied or made accessible to third parties without the consent of the same. They must be returned in the event that the order is not placed.

### **III. Prices**

1. The basis for prices shall be that of the day on which the quote is issued. The Contractor reserves the right to adjust prices in the event of changes to wages, ancillary wage costs or material prices.
2. Prices exclude the respective statutory value added tax.
3. A reduction in the order by more than 20% after the order has been placed shall entitle the Contractor to increase agreed unit prices accordingly.
4. Orders billed on the basis of unplanned additional services shall be invoiced separately in accordance with the agreed hourly rates.

### **IV. Execution**

1. The Contractor shall execute the services in accordance with the relevant order. Partial deliveries and services are permitted.
2. Unless agreed otherwise, the Client shall provide a lockable room free of charge for the Contractor to store his machines, equipment, uniforms and materials. If machines and equipment are provided by the Client, the Client shall maintain them and instruct the Contractor in how to use them.
3. Where required to ensure execution of services in compliance with the contract, the Client shall provide the Contractor with water and electricity free of charge.
4. The Contractor shall be entitled to have the work assigned to him executed by third parties, either in full or in part.

### **V. Warranty and Acceptance**

1. If the Contractor's performance is to be accepted, it shall be considered to have been accepted as in compliance with the contract if the Client does not provide a detailed written notification of noticeable defects immediately after the service has been rendered (within 48 hours). The statutory provisions shall apply as regards hidden defects.
2. Claims for defects shall expire one year after they arise. In the event of a defect, the Contractor shall initially be entitled to render supplementary performance. If this is not possible or the rectification fails within a reasonable grace period set by the Client, the Client shall have full entitlement to the other statutory claims.

### **VI. Default and Inability to Perform**

1. If deadlines cannot be met for reason for which the Client is responsible, he shall compensate the Contractor for the resulting damage. In the event of complete non-performance for reasons for which the Client is responsible, the Contractor shall charge a flat rate of 15% of the quoted price as a fixed cost component for the lost service, unless the Client can prove that he suffered lesser damage. The Contractor reserves the right to assert any additional claims.
2. If the Contractor is unable to meet deadlines for reasons for which he is not responsible, he shall make good the delay as soon as possible. In this event, the contract shall remain in effect. The Client shall only be entitled to compensation if deadlines were expressly agreed as fixed deadlines in writing and the Contractor is responsible for the failure to comply with such.

## **VII. Liability**

1. The Contractor shall be liable for damage demonstrably and culpably caused by him or his vicarious agents – to the extent that he is responsible for the same – in the fulfilment of the contractual duties.
2. Claims for compensation shall only exist if the Contractor can be accused of a grossly negligent or deliberate breach of obligation. Slight negligence shall suffice in this respect in the event of violation of material (principal) contractual obligations. The obligation to provide compensation shall be limited to foreseeable damage typical for the contract.
3. The Contractor has taken out business liability insurance. An insurance certificate can be presented upon request.
4. The Contractor shall have unlimited liability in the event of intent, gross negligence and/or injury to life, limb or health. Liability according to German product liability law shall not be affected by the above regulations.

## **VIII. Payment / Due Dates**

1. Payments shall be made within 14 days of the invoice date at the latest, without deduction. The Contractor shall be entitled to charge default interest in accordance with § 288 of the German Civil Code in the event of default on payment.
2. Cheques shall be accepted under the usual conditions; bills of exchange shall not be accepted. The incurred costs and fees shall be settled separately by the Client.
3. In the case of contracts spanning longer than a month, the Contractor shall be entitled to invoice a proportional lump-sum fee each month, relating to the respective month, or bill on a monthly basis.

## **IX. Retention of Title**

Deliveries shall remain the property of the Contractor until they have been paid for in full and until all outstanding payments due to the Contractor have been made.

## **X. Poaching of Employees**

The Client undertakes to neither poach the Contractor's staff, nor allow them to be poached, either directly or indirectly. A lump-sum compensation for expenses of € 250.00 is agreed for each case of infringement. This shall not affect compensation claims of the Contractor.

## **XI. Place of Jurisdiction, Applicable Law**

1. The place of jurisdiction shall be the Contractor's place of business.
2. The legal relations between the Parties and these General Terms and Conditions of Service and Payment shall be exclusively subject to the laws of the Federal Republic of Germany.
3. Dorfner Service Management GmbH & Co. KG is neither prepared nor obligated to participate in dispute resolution proceedings before a consumer arbitration body.

## **XII. Contract Term**

1. The contract shall end once the agreed services have been rendered, or as per the agreement. If there is no regulation to this effect in the contractual relationship and if the end of performance is unclear due to the type of service, the contract may be terminated by either Party in writing with a period of notice of 3 months to the end of the month.
2. The right to extraordinary termination of the contract for good reason remains unaffected.
3. As a minimum, good reason for extraordinary termination shall be deemed to exist if insolvency proceedings are launched regarding the assets of the other Party or the prerequisites for the launch of insolvency proceedings are met.
4. The aforementioned agreements shall remain effective on both sides in the event of legal succession. Legal succession shall not be deemed good reason for extraordinary termination.
5. Otherwise, the statutory provisions shall apply.

## **XIII. Other Agreements**

1. The Client may only offset claims or assert a right of retention in the event that he has undisputed or legally established counterclaims.
2. In the event that one or more provisions of this contract is/are ineffective or invalid, it/they shall be replaced by a provision that comes as close as possible to the regulatory effect intended by the Parties. This same shall apply to any regulatory loopholes. This shall not affect the validity of the other provisions.