

## GTC for planning and installation projects

### § 1 Scope of application

- (1) The following General Terms and Conditions (GTC) apply to all planning and installation orders of the company GMS Global Media Services GmbH (GMS) for companies (customer) as defined in § 14 BGB.
- (2) Any terms and conditions of the customer that conflict with or deviate from these GTC shall only be recognised if GMS or an authorised representative expressly agrees to their validity in text form. The GMS GTC shall also apply if the deliveries and services are carried out in the knowledge of conflicting or deviating conditions of the customer. The GTC shall also apply to all future business with the customer without the need for an express reference to this.

### § 2 Conclusion of contract, ancillary agreements

- (1) Unless expressly agreed otherwise, GMS' offers are subject to change and refer to customary quality or, in the case of installations, to the recognised rules of technology. The offers shall only be deemed binding if they have been expressly submitted or confirmed as binding in text form by an authorised representative of GMS. A contract shall therefore only be deemed to have been concluded if a binding offer made by GMS in text form has been accepted within the period offered or its order has been confirmed or executed in text form.
- (2) In the event of contradictions in the contract, the following shall apply in succession, if any:
  - a) other individual agreements (e.g., minutes of negotiations),
  - b) the performance specification,
  - c) the special contractual conditions,
  - d) any additional contractual conditions,
  - e) any additional technical contractual conditions,
  - f) the GTC
- (3) GMS shall implement the customer's change requests after conclusion of the contract, provided that its operations are set up for the change requests and the customer expressly agrees to any price adjustments and postponements. Notification of the change request, designation of additional price and deadline postponements as well as consent thereto by the customer must be made in text form.
- (4) If the service is performed by GMS without the customer having received an order confirmation beforehand, the contract shall be concluded with the delivery or with the start of the performance of the delivery or service.
- (5) Upon conclusion of the contract, the parties shall mutually appoint representatives who are authorised to issue binding declarations of intent for specific areas on behalf of the respective party.

### § 3 Prices

- (1) The price of the last quotation submitted shall apply, unless otherwise agreed.
- (2) Prices for equipment and installation materials are net, i.e. ex works, excluding packaging, delivery, assembly and VAT, customs duties or other public charges. Costs of packaging, delivery

(incl. necessary additional expenses for transports within the building or into the building) and value added tax shall be invoiced separately.

- (3) If, at the customer's request, delivery and performance take place after the agreed delivery date, GMS may charge the customer for the necessary costs of storage, insurance, and financing of the delivery item.
- (4) For hourly wage work, the prices according to the offer shall apply unless other agreements have been made. The customer shall appoint persons to GMS, including representatives for them, who are authorised to receive and approve the time sheets. The handover can take place by mail delivery.
- (5) Unless a fixed price agreement has been made, we reserve the right to make reasonable price changes due to changes in wage, material and distribution costs for deliveries that take place 4 months or later after conclusion of the contract.

## § 4 Terms of payment

- (1) Payment is to be made exclusively to one of the accounts listed below.
- (2) Unless otherwise agreed, GMS shall be entitled to invoice the calculated total price on a staggered basis as follows:
  - after commissioning 40 %,
  - after delivery of the goods 30 %,
  - after completion of the installation 20 % and
  - after final acceptance 10 %.

Optionally, GMS may invoice for partial services already after delivery of the associated goods, as defined in § 9(1) Sentence 2, instead of after delivery of the complete goods.

- (3) Unless otherwise agreed, all liabilities are to be settled immediately and without deduction within 10 calendar days after receipt of the invoice.
- (4) In the event of default in payment, GMS shall be entitled to charge default interest in the amount of 9 % above the respective base interest rate p.a. (§ 288 II BGB). GMS reserves the right to claim higher damages caused by default.
- (5) The granting of a discount requires a separate agreement in text form and does not apply if the customer is also in default with the payment of other due claims.
- (6) In the event of default in payment by the customer, GMS shall be entitled, without prejudice to further statutory rights, to exercise a right of retention for all outstanding deliveries and services without prior notice or to demand advance payment or the provision of security to this extent. The same shall apply if facts become known to GMS after acceptance of the order which give rise to justified doubts about the customer's ability to pay.
- (7) Bills of exchange and cheques must only be accepted by GMS if this has been agreed in text form and even then only on account of payment. Payment shall only be deemed to have been made when the amount owed has been irrevocably credited.

## § 5 Right of set-off and retention

The customer shall only have a right of set-off if his counterclaims have been legally established or are undisputed or recognised by GMS. This shall not apply to claims due to defects arising from this contract. The customer shall only be entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

## § 6 Delivery time and quantity, execution deadlines

- (1) Dates or deadlines shall only be deemed agreed if they have been confirmed by GMS in text form. Insofar as no deviating agreements have been made, they shall commence with this confirmation and shall be agreed again if changes to the contract occur later.
- (2) GMS may withhold orders for hardware on the project as well as all services until payment on the first instalment within the meaning of § 4 II 1 ("after commissioning") has been received on the specified account of GMS. In the event of default of payment on the part of the customer, agreed deadlines shall be postponed with a corresponding period of time without GMS being in default on its part. Additional or supplementary costs incurred as a result of the delay (e.g. for goods, services or rescheduling, storage, etc.) shall be borne or reimbursed by the customer.
- (3) Compliance with deadlines and dates by GMS always presupposes that the customer fulfils his obligations to cooperate in good time and in full.
- (4) If the customer fails to do so and if compliance with deadlines and dates depends directly or indirectly on compliance with such an obligation on the part of the customer, agreed deadlines shall be extended and dates postponed at the request of GMS by the period of time corresponding to the delay, as well as by an appropriate restart period. In this context, it must be considered that GMS always uses existing personnel and other resources to full capacity.
- (5) If a confirmed appointment is cancelled or postponed at the request of the client for any reason whatsoever, the client shall bear the following costs for this:
  - a) lump sum for expenses in the amount of € 340
  - b) costs for booked subcontractors or freelancers, insofar as GMS cannot cancel them free of charge or use them elsewhere
  - c) Costs for employees who cannot be deployed elsewhere in accordance with the calculated expenses.
- (6) If GMS has ordered goods in reliance on a confirmed installation date, GMS is entitled to invoice the goods in full if the installation date is postponed by more than three months for reasons for which the customer is responsible or which lie within the customer's sphere of influence. The same applies if, based on the customer's communication or behaviour, GMS was entitled to assume that the installation would take place in an unconfirmed and only outlined period (e.g. "installation in May"). The payment claim then arises at the end of the month in which the installation was to begin.

## § 7 Obligation to cooperate

- (1) The customer shall ensure at its own expense that GMS is provided with the necessary prerequisites for the provision of the deliveries and services in accordance with the mutually agreed dates and deadlines.
- (2) These include in particular:
  - a) the necessary preparatory trades (e.g.: interior fittings, electrical, carpentry, building services and IT work)
  - b) compliance with mutually agreed milestone dates and/or deadlines according to the construction schedule (e.g.: release works/installation planning, freedom from dust).
  - c) the provision of necessary architectural and building plans, up-to-date works/installation plans of necessary third-party trades that are released for execution, in each case in an open file format (CAD).
  - d) Creation of other necessary logistical and technical prerequisites, in particular the provision of necessary internet and other data network access.
  - e) prompt review and approval of supplementary offers
  - f) dustfree working environment.

- (3) At the request of GMS, the customer shall sign a work report or a site measurement as proof of the installation services rendered (construction diary) at the end of the week or when the work is completed during the week when a GMS employee is deployed.
- (4) The customer shall also apply for the permits required under public law for the installation of the equipment.
- (5) If the customer (or his authorised representatives) violates an obligation to cooperate, he shall be obliged to compensate GMS for the resulting damage.
- (6) The assertion of further claims for damages by GMS remains unaffected.

## § 8 Obstruction and interruption of execution

- (1) Agreed execution deadlines shall be extended for GMS insofar as the hindrance is caused:
  - a) by a circumstance within the risk area of the customer or his representatives
  - b) by strike or a lockout ordered by the professional representation in the GMS company or in a company working directly for it
  - c) by force majeure or other circumstances unavoidable for GMS.
- (2) The deadline extension is calculated according to the duration of the obstruction with an allowance for resumption of work.
- (3) If the execution is interrupted for a presumably longer period without the performance becoming permanently impossible, the executed services shall be invoiced according to the contract prices and, in addition, the costs shall be reimbursed that GMS has already incurred and that are included in the contract prices of the non-executed part of the performance.
- (4) If the impeding circumstances are the responsibility of one of the parties, the other party shall be entitled to compensation for the demonstrable damage incurred and/or loss of profit, but only in the event of intent or gross negligence. Otherwise, GMS' claim for reasonable compensation in accordance with § 642 BGB shall remain unaffected.

## § 9 Acceptance

- (1) If GMS demands acceptance of the service after completion – if necessary also before expiry of the agreed execution deadline – the customer shall carry this out within 12 working days; a different period may be agreed. Upon request, self-contained parts of the performance shall be accepted separately (partial acceptance).
- (2) Defects in the installation services to be accepted that are detected during acceptance are to be differentiated according to the following defect classes:

<b>Defect class 1</b>	The error leads to the fact that the deliveries and services to be accepted or important partial services cannot be used.
<b>Defect class 2</b>	The error causes considerable restrictions on use with important functions that cannot be circumvented by suitable measures for a period of time that is within reason for the customer.
<b>Defect class 3</b>	Other errors.

- (3) The customer is only entitled to refuse acceptance due to defects of defect classes 1 and 2. Defects of defect class 3 do not prevent the acceptability of the installation services but are to be remedied in line with the rectification of defects.
- (4) If the customer puts the work into operation without consultation with GMS, acceptance shall be deemed to have taken place.

- (5) The risk shall pass to the customer upon acceptance. The customer shall bear the risk of remuneration even before acceptance if the service performed in whole or in part is damaged or destroyed by force majeure, war, riot, or other objectively unavoidable circumstances for which GMS is not responsible.

## § 10 Liability for defects

- (1) GMS shall provide the customer with its service free of material defects at the time of acceptance. The service shall be free of material defects at the time of acceptance if it has the agreed quality and corresponds to customary quality or the rules of technology. If the quality has not been agreed, the performance shall be free of material defects at the time of acceptance if it is suitable for the use presupposed under the contract, otherwise for normal use, and has a quality which is customary for works of the same kind and which the customer can expect in view of the nature of the performance.
- (2) GMS shall not be liable for defects which were obvious at the time of acceptance, and which were not recorded in writing.
- (3) If no limitation period for claims for defects has been agreed in the contract, it shall be 2 years. The period begins with the acceptance of the entire performance; only for self-contained parts of the performance does it begin with the partial acceptance.
- (4) GMS shall be obliged to remedy at its own expense all defects which become apparent during the limitation period, and which are attributable to performance in breach of the contract if the customer requests this in text form before the expiry of the limitation period. The claim to rectification of the notified defects shall become time-barred after 2 years, calculated from receipt of the request in text form.
- (5) To electrical equipment and other goods delivered or installed by GMS, the manufacturers' warranties shall apply exclusively. The limitation period ends for the customer when it ends for GMS vis-à-vis the manufacturer.
- (6) GMS shall not be obliged to remedy defects and shall not be liable for defects that are attributable to a lack of regular maintenance. The customer must submit the maintenance records to GMS upon request. Maintenance must be carried out by specialist companies or specialist personnel. In the case of particularly complex installations, GMS will point out when submitting the offer that maintenance work can only be carried out by GMS itself. If so, even in the case of regular maintenance by third parties, GMS shall not be obliged to rectify defects and shall not be liable in this respect.
- (7) If the rectification of the defect is unreasonable for the customer or if it is impossible or would require a disproportionately high effort and is therefore refused by GMS, the customer may reduce the remuneration by declaration to GMS (§ 638 BGB).
- (8) GMS shall be liable in the event of culpably caused defects for damage resulting from injury to life, limb or health, in the event of defects caused intentionally or by gross negligence for all damage and, otherwise, compensation shall be paid for damage to the structural facility for the production, maintenance or modification of which the service serves if there is a significant defect which considerably impairs the usability and is attributable to a fault on the part of GMS. GMS shall only be liable to compensate for any further damage
  - a) if the defect is based on a violation of the recognised rules of technology or
  - b) if the defect consists in the absence of a contractually agreed quality.

## § 11 Liability

- (1) GMS shall only be liable for damages and for reimbursement of futile expenses due to breach of its obligations to provide defect-free delivery and service and proper subsequent performance as well as due to breach of other contractual or pre-contractual or non-contractual obligations, in particular from tort, in the event of intent or gross negligence. This shall not apply to damage resulting from injury to life, limb, or health due to a negligent breach of duty on the part of GMS.
- (2) Liability is limited to the extent of the foreseeable, typically occurring damage, unless there is intent or gross negligence or there is liability due to the assumption of a guarantee or a procurement risk.
- (3) The statutory liability for personal injury of any kind whatsoever and under the Product Liability Act shall remain unaffected to the full extent.
- (4) All limitations of liability shall apply to the same extent to vicarious agents and persons employed in performing an obligation.
- (5) A change in the burden of proof to the detriment of the customer is not associated with the above provisions.

## § 12 Assignment

The assignment of claims against GMS is only permissible with its prior consent in text form. § 354 a HGB remains unaffected.

## § 13 Transfer of ownership

The goods remain the property of GMS until payment has been made in full.

## § 14 Naming of the client and the project

The customer agrees to be named as a customer of GMS after successful commissioning. Furthermore, the customer allows GMS to name them as a reference customer after successful completion of the project. GMS shall also be entitled to use the customer's logo on the GMS website and in marketing documents. The customer also agrees to cooperate in the preparation of a case study and, after consultation, to act as a reference contact in individual cases.

All marketing documents relating to the client or the project are submitted to the client for approval.

## § 15 Miscellaneous

- (1) The contract and the entire legal relationship between the parties shall be governed by the law of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
- (2) The customer is obliged to comply with any export restrictions that exist in the Federal Republic of Germany and in the country of manufacture of the delivered products as well as in the country to which GMS is to deliver the products.
- (3) The place of performance for all deliveries and services arising from this contractual relationship is the registered office of GMS, unless otherwise stated in the order confirmation.
- (4) The place of jurisdiction is Frankfurt am Main.
- (5) The customer agrees that his data may be stored and processed by computer insofar as this is necessary for the proper handling of the contractual relationship.

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