

general terms and conditions of kubix gmbh concerning legal relations with clients

gesellschaft mbh zur
entwicklung und produktion
temporärer bauten u.a.

1 general scope of application

- 1.1 deliveries and services of kubix gmbh (hereinafter to be named kubix) are to be governed exclusively by these general terms and conditions; contradictory terms or requirements of the client that diverge from these terms and conditions will only be valid if and when kubix confirms these in writing.
- 1.2 the general terms and conditions of kubix are only valid in regard to contractors.
- 1.3 the general terms and conditions of kubix will also be valid for any future business arrangements with the client.

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2 offer, proposal and design documents

- 2.1 offers made by kubix are not binding; the same is true for dimension and weight measurements as well as other service particulars.
- 2.2 in the event that offers made by kubix are amended to fit the instructions of the client and to accommodate documents made available by the exhibition management in question, kubix does not assume any responsibility for the accuracy of the received dimensions and documents, that is unless their faulty and unfit nature goes unrecognised either intentionally or gross negligence.
- 2.3 the copyright of all offers, plans, sketches, drawings, production and installation documents as well as descriptions of event concepts remain with kubix, insofar as nothing else is arranged explicitly or in written form, and even in the event of these being handed over to the client. they are given in trust to the client in accordance with the terms of § 18 of the fair trade law.

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3 conclusion of contract

- 3.1 the contract comes into effect upon written confirmation of the order. issued orders will also then be accepted as confirmed, if they have not been refused within one month after receipt.

4 prices - conditions of payment

- 4.1 the price declarations of kubix relate to the price 'ex factory', not including packaging, as long as nothing else is agreed upon.
- 4.2 legal VAT is not included in the price. this is to be applied at the current legal rate on the day of the service provision.
- 4.3 in the absence of any other agreement, invoices from kubix are due to be paid within 14 days from the invoice date without deductions.
- 4.4 the client will be in default without the need for further payment demands if they have not paid the full sum of the invoice within 30 days after the due date. damages for default accord with the current legal specifications.
- 4.5 the client is entitled to offset payment only in the case of counterclaims that are legally confirmed, undisputed or recognised by kubix. the client can only exercise retention rights if the counterclaim is based upon the same contractual relation.
- 4.6 in the case of a part-payment agreement being met and the client delays payment of an amount that equals two rates of payment, kubix is legally obliged to immediate payment of the entire remaining sum or to withdraw from the contract.

5 delivery

- 5.1 binding delivery appointments or deadlines require an explicit written agreement. otherwise the delivery dates and deadlines stated by kubix are non-binding.
- 5.2 observation of binding delivery dates and deadlines presuppose that the client will properly and promptly fulfil his contractual cooperation and other obligations. kubix reserves the right to object to unfulfilled contracts. in the case delay of acceptance on behalf of the client, or the damaging of any cooperative obligations, kubix is legally entitled to demand outlays for any resulting damages. the right to make any further demands is reserved.
- 5.3 in the event of delivery and service delays due to unforeseen circumstances and events that render the delivery either temporarily difficult or impossible for kubix, kubix are hereby not obliged to meet even binding contractual deadlines.

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6 freight and transport / passing of risk

- 6.1 the transport of goods will remain uninsured; if the client so wishes, kubix will take out transport insurance, the cost of which will be met by the client.
- 6.2 on dispatch of the goods to the receiver, responsibility for danger of loss or conditional damage of the goods lies solely with the client.
- 6.3 in the case of exhibits being demanded by the client, the current appropriate regulations will be valid.

7 receipt / delivery

- 7.1 receipt or delivery formally and regularly occurs immediately after production finish. the client or legally agreed proxy is obliged to be present at the handover. it is explicitly recognised that under particular circumstances a handover time can also be one hour prior to the start of the event.
- 7.2 any remaining partial services still to be rendered or reported defects will be completed or repaired as quickly as possible. insofar as the function of the contractual object is not considerably impaired, they are not entitled to refuse receipt.
- 7.3 in the event of the client using the service or part of the service without previous formal receipt, the receipt will be considered completed due to usage.
- 7.4 in the event of deliveries and services rented or leased out to the client by kubix, kubix requests formal handover of the rental object immediately following conclusion of the event. the client is obliged to be present at the handover or to send an authorised representative.

8 guarantee - liability

- 8.1 the guarantee accords with directives laid out in the german civil code's labour contract, and in the case of rental or lease accords with rental contract laws.
- 8.2 the precondition of guarantee for damage during delivery of goods is the properly conducted fulfilment of all due examination and obligations to report in accordance with the terms of § 377 of the commercial law code.
- 8.3 in the event of any failed delivery or service, kubix is entitled to choose the form of supplementary performance either in the form of remedial action or the delivery of a new, properly functioning item. if supplementary performance fails, the client may reduce the agreed price or withdraw from the contract.

9 retention of title

- 9.1 up until full payment of all existing demands resulting from the business relation, kubix retains the right of title in the delivered goods.
- 9.2 as long as the property has not yet officially been handed over to them, the client is obliged to handle the goods with the utmost care. if the delivered goods are seized or exposed to any interference by a third party, the client is obliged to inform kubix of this immediately and in writing. insofar as legal and extrajudicial costs being incurred upon kubix through the filing of a lawsuit against the third party in accordance with the terms of § 771 of the civil process order, the client is obliged to reimburse kubix for the costs.

10 copyright and legal right of use

- 10.1 the copyright concerning all plans, sketches, drawings, production and installation documents, concept descriptions as well as descriptions of exhibition and event concepts etc. all rights of title remain with kubix and also in the event of these items being handed over to the client. they are given in trust to the client in accordance with the terms of § 18 of the fair trade law, handover of usage rights over and above those contractually required, regardless of whether particular protective rights (for example copyright) exist or not, requires explicit agreement in writing. the client is hereinafter obliged to submit any other utilisation in all forms, especially republications and distributions, dissemination to a third party or the immediate or mediate reconstruction, insofar as these are not required for fulfilling the contract.
- 10.2 it will be assumed that the client has breached his obligations, according to paragraph 1, if he carries out an exhibition or event that essentially correspond with the plans and concepts of kubix. the client remains at liberty to prove otherwise.

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11 offset payment and assignation

11.1 the client is not entitled to offset payment during contested and not legally recognised counterclaims. the same is true for exercising a right of retention.

11.2 the rights of the client concerning this contract are only transferable with the prior agreement of kubix.

12 place of jurisdiction - place of performance

12.1 place of jurisdiction is berlin.

12.2 place of performance is the business premises of kubix gmbh, unless otherwise specified on the order confirmation.

12.3 german federal law applies to the exclusion of the un convention on contracts for the international sale of goods.

13 final provisions

13.1 should any individual conditions be invalid, either wholly or in part, the efficacy of the validity of the other conditions will not be affected.

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