

General Terms and Conditions of Schmidhuber Brand Experience GmbH (Customer) for Works Contracts

1. Application of the General Terms and Conditions

- 1.1 Contracts assigned by the Customer shall exclusively be subject to the following General Terms and Conditions. The Contractor's General Terms and Conditions shall not become a part of the contract, even if the Customer does not expressly object to them. This shall apply even in cases where the Contractor specifies that it will only provide goods and services on its own terms and conditions. Confirmation or performance of the contract shall be considered to constitute acceptance of these General Terms and Conditions. The acceptance of the goods and services cannot be construed as recognition of different terms and conditions.
- 1.2 These Terms and Conditions shall also apply to all future supplies of goods and services to the Customer, even if they are not agreed again separately.

2. Goods and services supplied by the Contractor, variation of goods and services, Customer cooperation

- 2.1 The Contractor shall have an obligation to provide the contracted goods and services.
- 2.2 The Customer may at any time request variations or additions to the contracted goods and services (additional goods and services). The Contractor may object to the variation request, if it is unreasonable to expect it to perform the variation request. The Contractor shall submit to the Customer a written quotation for additional goods and services. The additional goods and services shall only be supplied after a contract for the additional goods and services has been entered into. Goods and services supplied by the Contractor that do not meet these requirements shall not be remunerated, without prejudice to any legal claims. If no agreement is reached on the additional goods and services, the Customer may terminate the contract extraordinarily, if it is unreasonable to expect the Customer to fulfill the contract without the additional goods and services.
- 2.3 The Customer shall provide the required support and cooperation, if this has been contractually agreed. If the Customer's or third-party companies' cooperation is inadequate, the Contractor shall notify the Customer thereof in writing without delay. This shall not apply if the failure to cooperate is obvious or the Customer is aware of it. If the Contractor culpably violates its notification obligation, it shall reimburse the Customer for any loss or damage it has incurred as a result.

3. Acceptance and risk assumption

- 3.1 The Contractor may only demand acceptance of the full supply of goods and services once it has provided evidence that the supply has been completed without defects. Partial acceptance shall be excluded, unless expressly agreed. The Contractor shall request acceptance from the Customer once the supply of goods and services has been completed. The Customer may refuse acceptance, if a defect exists. The Contractor may only demand acceptance again once it has provided evidence that the defect has been eliminated.
- 3.2 The Contractor shall bear the risks associated with its goods and services until they have been accepted by the Customer. If the goods and services, supplied or performed in full or in part, are damaged or destroyed before acceptance as a result of force majeure, war, unrest, or other unavoidable circumstances for which the Contractor is not responsible, the Contractor shall not be entitled to the agreed remuneration.

4. Performance deadlines and contract penalty

- 4.1 Agreed deadlines and dates shall always be binding. If it becomes apparent that deadlines or dates cannot be met, the Contractor shall contact the Customer without delay. The Customer's rights shall not be affected by this.
- 4.2 If the goods and services are intended for an event that is limited to a maximum duration of two months (trade fair, exhibition, concert, sports event, etc.), it is of special significance to the Customer that the agreed handover deadline is met. In this case, the Customer shall have the right to withdraw from the contract without setting an additional period, if the handover deadline is not met (relative fixed-date transaction). The right to withdraw shall apply as soon as the Contractor announces that it cannot meet the handover deadline. If the Contractor is responsible for the delay, it shall pay a contract penalty of 0.1% of the net contract total for each full hour of delay, although this shall be limited to a maximum of 5% of the net contract total. The right to assert claims for additional loss or damage shall not be affected by this.
- 4.3 In the cases covered by section 4.2 sentence 1, the Customer's right to withdraw from the contract shall be determined by the legal provisions. If the Contractor is responsible for the delay, it shall pay a contract penalty of 0.1% of the net contract total for each full working day of delay, although this shall be limited to a maximum of 5% of the net contract total. Working day shall mean any working day at the agreed place of performance. The right to assert claims for additional loss or damage shall not be affected by this.
- 4.4 Sections 9 (Rights to work results/copyright) and 10 (Confidentiality and data protection) shall remain in force even after withdrawal from the contract.

5. Remuneration

- 5.1 Remuneration shall be paid only after the full supply of goods and services has been accepted, unless a different arrangement is agreed. If the parties agree partial payments, they shall only be made after acceptance of the partial supply of goods and services in question. Agreed due dates shall not be affected by this.
- 5.2 The Contractor shall be bound by agreed maximum remuneration limits and fixed prices as well as by the cost estimate it made before entering into the contract, unless this is expressly designated as non-binding in the contract.

6. Warranty and liability

- 6.1 In the case of substantive or legal defects in the goods and services, the legal provisions for works contracts shall apply – including with regard to the limitation period.
- 6.2 The Customer shall be liable for loss or damage resulting from injury to life, body, or health or from infringement of material contractual obligations in accordance with legal provisions. In the case of loss or damage resulting from infringement of material contractual obligations, the Customer shall only be liable in an amount limited to the loss or damage that is foreseeable at the time the contract is entered into and that is typical of such a contract, unless the Customer, its legal representative, or its vicarious agent has caused the loss or damage willfully or grossly negligently.
- 6.3 The Customer shall be liable in accordance with the legal provisions for other losses or damage on the understanding that it shall be liable only for its own willful or grossly negligent behavior and the willful or grossly negligent behavior of its legal representatives and vicarious agents.

7. Termination

- 7.1 The Customer shall have the right to terminate the contract without specifying reasons pursuant to section 649 of the German Civil Code (Bürgerliches Gesetzbuch, BGB).
- 7.2 The right of the parties to terminate the contract for good cause shall not be affected by this. Good cause shall apply in particular if:

- 7.2.1 an application for the opening of insolvency proceedings over the assets of the respective other party has been filed or
 - 7.2.2 insolvency proceedings over the assets of the respective other party have been opened or insolvency proceedings have been refused due to a lack of assets or
 - 7.2.3 proceedings to obtain a statutory declaration of insolvency have been instituted against the respective other party.
- Another good cause applicable to the Customer, without prejudice to section 13.6, shall be, if:
- 7.2.4 the performance of the contract is recognizably put at risk by the Contractor's inability to perform or
 - 7.2.5 the parties fail to agree on a contract for additional goods and services and it is unreasonable to expect the Customer to fulfill the contract without the additional goods and services (section 2.2).
- 7.3 Sections 9 (Rights to work results/copyright) and 10 (Confidentiality and data protection) shall remain in force even after termination of the contract.

8. Industrial rights

If the Customer is held liable by third parties due to an infringement of industrial rights based on the goods and services supplied by the Contractor, the Contractor shall indemnify the Customer against the liability as soon as requested, if the Contractor was aware of the industrial rights or should have been aware of them if the care required in the normal course of business had been exercised.

9. Rights to work results/copyright

- 9.1 The Customer shall have the exclusive right to the work results arising in connection with the performance of this contract. This shall apply in particular to the exclusive rights to use goods and services protected by copyright, such as building works, plans, documentation, reports, drawings, images, films, and software. These rights shall also comprise the right to process the work results and utilize the processed work results. The copyrights granted hereby to the Customer shall be irrevocable, territorially and substantively unrestricted, shall cover all unrestricted types of use, and shall be transferable. They shall also confer the right to exploit these rights and to grant sublicenses. They shall in particular comprise the rights to copy, distribute, and publicly communicate the work results, including transmission and making them available for downloading. The Contractor shall be entitled to retain one or more copies of the abovementioned material to provide evidence of the goods and services supplied. The Contractor shall not be entitled to other rights, in particular the rights to copy, distribute, and publicly communicate the material. Original material shall be handed over and – if legally possible – assigned to the Customer.
- 9.2 The Customer shall become the owner of all documents supplied by the Contractor and created under this contract. This shall also apply to all drafts and preparatory work. The Contractor shall make these available to the Customer by no later than the completion of the work. At the Customer's request, the Contractor shall also make the documents available in electronic format.
- 9.3 If pre-existing industrial rights, copyrights, or unprotected knowledge of the Contractor is used during the performance of the contract and is necessary for utilizing the goods and services by the Customer, the Customer shall receive a non-exclusive usage right to the appropriate extent. The Customer shall inform the Contractor of the utilization of such pre-existing industrial rights, copyrights, or unprotected knowledge.
- 9.4 The Contractor shall waive, if legally possible, the right to be acknowledged as the originator of its goods and services.
- 9.5 If the goods and services supplied by the Contractor are part of an overall work and the Contractor has the right to use drawings, images, films, and data for visual communication etc. of the overall work, it shall acknowledge the Customer as the originator of the overall work in a prominent place.

10. Confidentiality and data protection

- 10.1 All business, commercial, or technical information made accessible by the Customer shall be kept secret from third parties for as long as and to the extent that it can be demonstrated not to be in the public domain and, in the Contractor's own operations, shall only be made available to persons who need to be involved for the purpose of supplying the goods and services and who are likewise obliged to maintain confidentiality.
- 10.2 Such information shall not be copied or recorded without the Customer's prior consent, unless this is required by the purpose of the contract.
- 10.3 At the Customer's request, all information, data, documents, and storage media originating from it, including copies or recordings made, shall be handed over to the Customer without delay and in full, or shall, at its request, be destroyed in a manner that prevents reconstruction. The Contractor shall have no right of retention. The Contractor shall provide evidence to the Customer that the material has been fully returned or destroyed and shall confirm this in writing.
- 10.4 If the Contractor becomes aware of indications that unauthorized third parties may have obtained access to the information and data, it shall inform the Customer without delay and in consultation with the Customer initiate any steps necessary to clarify the matter and prevent access in the future.

11. Appearance

- 11.1 When carrying out work on the construction site, attention shall be paid to an appearance appropriate to the circumstances in dealing with third parties, in particular clients of the Customer. The Customer points out that its clients may also be present on site during setup and dismantling work, so that an appropriate appearance shall be ensured at all times.
- 11.2 The rules of conduct applicable on the construction site, shall be observed; in particular, smoking and the consumption of alcohol and other intoxicating substances shall be prohibited during the entire working time on the construction site.
- 11.3 If the Contractor is approached by third parties with complaints or requests, it shall forward them to the locally responsible person nominated by the Customer without delay and find a solution, if possible and reasonable. If no locally responsible person has been nominated or this person is not available, the Customer shall be informed without delay.

12. Subcontractors

- 12.1 The Contractor shall have the right to use suitable subcontractors, if the Customer is notified of them beforehand in writing. The corresponding written notification requires the attachment of documents

- that allow a positive plausibility check of the subcontractor's quotation to establish that it fully complies with the requirements of the German Minimum Wage Act ("Gesetz zur Regelung eines allgemeinen Mindestlohns," Mindestlohngesetz, MiLoG) and the provisions of the German Employee Assignment Act ("Gesetz über zwingende Arbeitsbedingungen für grenzüberschreitend entsandte und für regelmäßig im Inland beschäftigte Arbeitnehmer und Arbeitnehmerinnen," Arbeitnehmer-Entsendegesetz, AEntG).
- 12.2 The Contractor shall impose on the subcontractors it engages obligations that shall correspond to its own obligations to the Customer, especially with regard to confidentiality and data protection as well as compliance with the requirements of the MiLoG and the AEntG pursuant to section 13.
- 12.3 The Contractor shall be liable vis-à-vis the Customer for any violations committed by the subcontractors and vicarious agents it has engaged as well as for its own violations.
- 13. Arrangements for the implementation of the German Minimum Wage Act and the German Employee Assignment Act**
- 13.1 The Contractor hereby confirms vis-à-vis the Customer that it is compliant with the provisions of the MiLoG and of the AEntG.
- 13.2 The Contractor shall guarantee to the Customer that it and any subcontractors are compliant with the provisions of the MiLoG and of the AEntG.
- 13.3 The Contractor shall indemnify the Customer against all claims asserted against the Customer by employees of the Contractor or by employees of any subcontractors on the basis of the MiLoG or the AEntG and shall assume any loss or damage and costs – including any legal defense that may become necessary – that result from this type of litigation, unless the Contractor is not responsible for the violation of the laws. This shall be without prejudice to section 774 of the BGB.
- 13.4 The Contractor shall support the Customer in defending itself against the corresponding claims to the best of its knowledge and with the greatest possible care.
- 13.5 The Contractor undertakes to submit to the Customer records about work compensation (documents pursuant to section 17 of the MiLoG) for the working hours spent by the employees deployed to perform this contract six weeks after the start of contract performance and, if there is justified suspicion of an infringement of the provisions of the MiLoG and of the AEntG, whenever requested without delay and at any time. This shall be without prejudice to the provisions of the German Data Protection Act (Bundesdatenschutzgesetz, BDSG) and any other applicable data protection provisions.
- 13.6 Any infringement by the Contractor of the obligations under this section 13 or of the obligation arising under section 12.2 to pass on the obligations under this section 13 to subcontractors that in itself or as a result of being committed repeatedly is suitable to be used as a basis for claims by employees of the Contractor and/or by employees of any subcontractors to institute administrative offense proceedings against the Customer shall entitle the Customer to terminate this contract extraordinarily with immediate effect.
- 13.7 If it is not possible to provide evidence that the minimum wage has been paid by the time the final invoice is submitted or if the Contractor has not paid the minimum wage in full or in time, or has not paid it at all, the Contractor shall pay a contract penalty of 0.1% of the net contract total per employee affected, although this shall be limited to a maximum of 2.5% of the net contract total. This contract penalty shall exist in addition to the claim for performance and shall serve as the minimum amount of compensation due to the Customer. Claims for the contract penalty may be asserted until the final payment is due. The right to claim higher damages shall not be affected by this.
- 14. Right of retention and offsetting**
Rights of retention by the Contractor are excluded, unless its claims are undisputed, have been determined by a court of law, or are based on mutual amounts receivable. Offsetting by the Contractor shall only be permissible in the case of receivables that are undisputed, have been determined by a court of law, or are mutual.
- 15. Notification of payment difficulties**
The Contractor shall inform the Customer without delay of imminent or existing payment difficulties or if an application for insolvency has been filed.
- 16. Mixed contract**
If, in addition to goods and services under the works contract, the contract also covers the provision of employment services, the latter shall be subject to the Customer's General Terms and Conditions for Services. In this case, the contract may only be terminated as a whole. The termination shall be governed by the General Terms and Conditions for Works Contracts, unless the works contract components of the contract are completely negligible when compared to the services to be provided. In this case, the termination of the contract shall be governed by the Customer's General Terms and Conditions for Services.
- 17. Place of jurisdiction, applicable law**
17.1 The place of jurisdiction shall be Munich.
17.2 All legal relationships between the Contractor and the Customer shall exclusively be subject to the laws of the Federal Republic of Germany. The application of the UN Convention on Contracts for the International Sale of Goods and of private international law shall be excluded.
- 18. Severability**
If one of the provisions of this contract is ineffective, this shall not affect the validity of the rest of the contract. The parties shall in such a case agree an arrangement that meets the interests of both sides.