

# General Terms and Conditions

## for Orfgen Marketing GmbH & Co. KG, Essen

### I. Scope of application, completeness

These General Terms and Conditions (GT&C) apply to all of our services, to the exclusion of any GT&C pertaining to the client. It is refutably assumed that no collateral agreements exist outside of agreements reached in writing or in text. Any other agreements with our employees are only effective if they are ratified by the executive board.

### II. Order volume and processing, notice period for recurrent work

1. The client supports Orfgen Marketing in performing the contractually stipulated services. This includes, in particular, the timely provision of information and data, and the performance of other contractual cooperation duties as stipulated, including those required in accordance with the nature of the order.
2. Minutes imparted by us are considered legally binding if the client does not immediately refute them upon receipt.
3. Subsequent changes at the instigation of the client will be invoiced in addition. Amendments made by customers of the client and all costs thereby incurred are also deemed to be subsequent changes.
4. Drafts, proof copies, samples and similar preliminary work prompted by the client will also be invoiced, even if the order is not placed.
5. Templates, files and other working materials (in particular, negatives, models, original illustrations, etc.), which we prepare or have prepared in order to perform the stipulated services in accordance with the contract, remain our property. The obligation to surrender such materials does not exist. We are not obligated to retain such material.
6. Contracts on recurrent work are exclusively subject to a notice period of at least 3 months to the end of the month.
7. The obligation to review the compatibility of advertising measures with competition law only exists if this has been expressly commissioned. We wish to indicate at this point that legal advice is reserved to the legal advisory professions.

### III. Commissioning third parties for order placements

1. We are entitled to commission third parties to undertake work which has been assigned to us.
2. Orders for advertising media are placed in our own name and on our own account. If quantity discounts or reductions are availed of, the client is invoiced an immediately payable additional charge if the discount or reduction conditions are not fulfilled.
3. Orders to suppliers i.e. photo studios, translation agencies, etc. are placed in our own name and on our own account.
4. We are responsible for the correct selection of the third parties we commission. Orfgen Marketing's liability for the unsatisfactory provision of services by third parties is excluded. Our claims against third parties due to unsatisfactory performance are assigned to the client in the case of warranty claims. Liability limitations stipulated elsewhere to our benefit or the benefit of third parties remain unaffected.

### IV. Payment and default in payment

1. Payments are to be made within 14 calendar days after the invoice date, without deduction.
2. In the event that large quantities of material or significant preliminary work is made available, an advance payment may be stipulated.
3. The client may only offset with an undisputed or legally effective claim.
4. If the fulfillment of payment claims is jeopardized due to deterioration of the financial circumstances of the client, which occurs or becomes known after the conclusion of the contract, we are entitled to demand an advance payment and immediate payment of all outstanding invoices, as well as invoices which are not yet outstanding, withhold goods which have not yet been dispatched and continuously work on orders which are still in progress. We are also entitled to exercise these rights if the client defaults in payment.

### V. Delivery, delivery dates and delivery periods

1. Our delivery obligations are fulfilled as soon as our work has been dispatched and our services have been undertaken. Irrespective of our liability to properly select the forwarder or the forwarding medium, which is limited in accordance with these GT&C, the client bears the risk for forwarding (i.e. damages, losses, delays).
2. Delivery dates and delivery periods are only deemed valid if they have been ratified by us in writing. Compliance requires timely fulfillment of the client's obligations to cooperate (i.e. procurement of photo samples, documents, approvals).
3. Templates and drafts provided by us are binding in terms of color, photo or sound design when the implementation options have been ratified by us in writing.

4. If we are delayed in providing services, we will be initially granted an appropriate period of grace. If this additional period of time expires without results, the client may reduce the agreed-upon remuneration accordingly and at their discretion while waiving the service which is delayed, or, provided that the partial service which is delayed is not insignificant in proportion to the overall contract, withdraw from the contract. Compensation for losses caused by a delay may only be claimed to the amount of the order value (internal labor excluding preliminary work and materials).
5. Disruptions to operations, including those relating to third parties we have commissioned, in particular, strikes, lockouts, wars, riots, forces of nature and all other cases of force majeure do not qualify as grounds to cancel the contractual relationship. The principles relating to frustration of the contract remain unaffected.

### VI. Complaints, liability

1. Work and services which have been undertaken must be reviewed by the client immediately upon receipt; in any case, however, before further processing, and they must immediately make a complaint regarding the shortcomings or unsatisfactory performance within three working days at the very latest. Unforeseeable, hidden defects are to be reported immediately within the context of a proper review, within three working days at the very latest. If an immediate review or timely notification of defects is not carried out, claims due to defects, poorly executed or unsatisfactory services are excluded.
2. Surplus or insufficient deliveries of printed products up to 10% of the ordered print run cannot be rejected. The supplied quantity will be invoiced.
3. In the case of defects, poorly executed or unsatisfactory services, we are legally entitled to two attempts to rectify the situation within an appropriate period of time.
4. Liability for damages: In the case of harm to body, health or life due to a willful or negligent breach of duty on the part of Orfgen Marketing or its legal representatives or vicarious agents, we are liable in compliance with the legal regulations. For other damages, the following applies: a) In the case of willful intent or gross negligence on the part of Orfgen Marketing or its legal representatives or vicarious agents, we are also liable in compliance with the legal regulations. b) In the case of simple negligence on the part of Orfgen Marketing or its legal representatives or vicarious agents, we are only liable in the case of a violation of contractual obligations, whereby the extent of liability is limited to typically foreseeable damages. This limitation of liability also applies to the benefit of the legal representatives and vicarious agents of Orfgen Marketing.

### VII. Property, rights of use

1. Supplied goods remain our property until they have been paid for in full.
2. All services provided by the agency, including those in presentations (i.e. suggestions, ideas, sketches, preliminary drafts, scribbles, final artworks, concepts, negatives, slides, product names), including individual parts of them, remain the property of the advertising agency to the same extent as individual work pieces and original designs, and may be reclaimed by us at any time, particularly upon completion of the order.
3. The client acquires usage rights for the stipulated purpose and extent, or purpose and extent discernible from the order (including reproduction) upon payment of the fee. Approval by Orfgen Marketing and the creator, if necessary, which is separately paid for, is required for further usage, irrespective of copyright protection for the service. This also applies in the case of repeated usage (reprints) or multiple uses (i.e. for another product).
4. An approval which is granted as an exception before complete payment for the use of copyright protected services may be revoked in the case of default in payment or if payment claims are jeopardized due to a deterioration in financial circumstances of the client.
5. In the case of use of copyright protected services beyond the extent stipulated or extent discernible from the order, Orfgen Marketing may request five times the amount of the appropriate license in the case of proper licensing. A further claim for damages remains unaffected.
6. The transfer of granted usage rights to third parties requires the consent of Orfgen Marketing.

### VIII. Place of fulfilment and court of jurisdiction, applicable law

1. The place of fulfilment and court of jurisdiction for all claims and legal disputes arising from the contractual relationship, including bills of exchange and deeds, is Essen.
2. German law shall apply under exclusion of the United Nations Convention on Contracts for the International Sale of Goods.