

# Terms & Conditions

# AGB

## Allgemeine Geschäftsbedingungen

### 1. Contract conclusion and validity

1.1 Conteco e.U. provides its services exclusively on the basis of the following terms and conditions. These apply to all legal relationships between Conteco e.U. and the customer, even if not expressly stated or referred to. The T&Cs are only applicable to the legal relationship with entrepreneurs, so B2B.

1.2 At the time of the conclusion of a contract in each case currently valid version of the T&Cs is decisive. Deviations or possible variations from these, as well as other supplementary agreements with the customer, are only effective if they have been approved and confirmed by Conteco e.U. in writing manner.

1.3 Any terms and conditions of the customer are not accepted, even if they are known unless otherwise agreed in individual cases and in writing. The terms and conditions of the customer expressly contradict Conteco e.U.. Another objection to the terms and conditions of the customer by Conteco e.U. does not need it.

1.4 Changes to the Terms and Conditions shall be notified to the customer and shall be deemed agreed if the customer does not object to the amended T&Cs in writing within 14 days; The customer is expressly advised of the importance of

silence in the communication with third-parties.

1.5 Should individual provisions of these General Terms and Conditions be ineffective, this shall not affect the liability of the remaining provisions and the contracts concluded on their basis. The ineffective provision shall be replaced by an effective one which comes closest to the purpose.

1.6 The offers of Conteco e.U. are non-binding.

## 2. Concept and idea protection

If the potential customer has already invited Conteco e.U. in advance to come up with a concept, and if this invitation comes before the conclusion of the main contract, the following provision applies:

2.1 Already by the invitation and the acceptance of the invitation by Conteco e.U. the potential customer and Conteco e.U. enter a contractual relationship (a so-called „pitching contract“). This contract is also based on the terms and conditions.

2.2 The potential customer acknowledges that Conteco e.U. already provides cost-intensive preliminary work with the drafting of the concept, even though he himself has not fulfilled his obligation to perform.

2.3 The concept is subject to the protection of copyright law in its linguistic (source code, presentation slides etc.) and graphic parts (e.g. Proof-of-Concepts), as far as this work reaches quality ready for production. Use and processing of these parts without the consent of Conteco e.U. is not permitted due to the copyright law.

2.4 Our work includes solution designs and concepts that may not always contain production-ready work and thus do not enjoy the protection of copyright law. These ideas are at the beginning of every creative process and can be defined as the brainwave or an inspiring idea of everything later produced and thus as the origin of a product or the solution. Therefore, those sometimes peculiar-looking and often innovative elements of the concept are protected and tend to give the resulting product or solution its characteristic imprint. In particular, phrases, slogans, texts, graphics and illustrations, implementation proposals, solution slides, source codes, solutions designs, infrastructure charts, workflows, process

flows, etc. are regarded as an idea in the sense of this agreement, even if they do not reach a further implementation quality.

2.5 The potential customer outside the corrective of a major contract with Conteco e.U. to be concluded later agrees to refrain from using or utilizing creative ideas presented by Conteco e.U. within the concept presentation. This applies to the potential customer himself or any third-party companies in contract with the customer.

2.6 If the potential customer feels that he has been presented with the very same ideas prior to the presentation of Conteco e.U., he must notify Conteco e.U. within 14 days of the date of the presentation by e-mail, citing evidence allowing a temporal allocation.

2.7 In the opposite case, the parties assume that Conteco e.U. has presented a new idea to the potential customer. If the idea is used by the customer, it is assumed that Conteco e.U. has been commissioned or ordered.

2.8 The potential customer may be exempted from his obligations under this point by a payment of a reasonable compensation plus 20% VAT. The exemption will only become effective after full payment of the compensation by Conteco e.U.

3. Scope of services, order processing and cooperation obligations of the customer

3.1 The scope of the services to be provided results from the terms of reference in the contract or offer or any order confirmation by Conteco e.U., as well as the possible briefing protocol („Offer documents“). Subsequent changes to the service content require the written confirmation of Conteco e.U.. Within the framework specified by the customer, there is freedom of Conteco e.U. to fulfill the order.

3.2 All services of Conteco e.U. (in particular all preliminary drafts, „sketch notes“, wire-frames and electronic files) must be checked by the customer and released by him within three working days from receipt by the customer. After expiry of this period without feedback from the customer, they are deemed approved by the customer.

3.3 The client will promptly and completely make available to Conteco e.U. all information and documents necessary for the provision of the service. He will

inform Conteco e.U. of all circumstances that are important for the execution of the order, even if they become known only during the execution of the order. The Customer shall bear the expenses arising from the fact that work due or delayed because of its incorrect, incomplete or subsequently changed information.

3.4 Furthermore, the customer is obliged to check the documents (photos, logos, slide, texts, source codes etc.) provided for the execution of the order for any copyright, trademark, trademark rights or other rights of third parties (Rights Clearance) and guarantees that the documents are free of rights of third parties and can therefore be used for the intended purpose. Conteco e.U. is not liable in case of slight negligence or fulfillment of its obligation to warn - at least in the internal relationship with the customer - because of a violation of such rights of third parties by means of provided documents. If Conteco e.U. is claimed by a third party for such an infringement, the customer shall indemnify and hold Conteco e.U. harmless; he has to compensate Conteco e.U. for any disadvantages caused by third-party claims, in particular the costs of adequate legal representation. The customer undertakes to assist Conteco e.U. in warding off any claims of third parties. The customer shall provide Conteco e.U. with all documents without being requested to do so.

#### 4. Third-party services / commissioning of third parties

4.1 Conteco e.U. is entitled at its own discretion to perform the service itself, to use knowledgeable third parties as vicarious agents in the provision of contractual services and / or to substitute such services („external service“).

4.2 The commissioning of third parties as part of a third-party service takes place either in the customer's own name or on behalf of the customer. Conteco e.U. will choose this third party carefully and make sure that it has the required professional qualifications.

4.3 The customer must enter into obligations to third parties that extend beyond the contract period. This also applies in the case of a termination of the contract for good cause.

#### 5. Dates

5.1 Specified delivery or service periods are, unless expressly agreed as binding, only as approximate and non-binding. Binding appointments must be recorded in

writing or have to to be confirmed by Conteco e.U. in written manner.

5.2 If the delivery or performance of Conteco e.U. is delayed due to reasons for which it is not responsible, such as vis major, an act of nature beyond control or other unpredictable, with reasonable means not unavoidable events, the benefit obligations are suspended for the duration and scope of the obstacle, and the deadlines extend accordingly. If such delays persist for more than two months, the customer and Conteco e.U. entitled to withdraw from the contract.

5.3 If Conteco e.U. is in delay, the customer can only withdraw from the contract after giving Conteco e.U. a reasonable additional period of at least 14 days in writing and this has expired without notice. Claims for damages of the customer due to non-performance or delay are excluded, except in case of intent or gross negligence.

## 6. Premature resolution

6.1 Conteco e.U. is entitled to terminate the contract for important reasons with immediate effect. An important reason exists in particular if

a) performance of the service is rendered impossible for reasons for which the customer is responsible, or is delayed further despite setting a grace period of 14 days;

b) there are legitimate concerns about the creditworthiness of the client and this at the request of Conteco e.U. does not make any advance payments or provides a suitable security before the performance of Conteco e.U..

c) there are legitimate concerns about the creditworthiness of the client and this at the request of Conteco e.U. does not make any advance payments before the performance of Conteco e.U. provides a suitable security;

6.2 An important reason exists in particular if Conteco e.U., despite a written warning with a reasonable grace period of at least 14 days to remedy the breach of contract, which violates essential provisions of it.

## 7. Fee

7.1 Unless otherwise agreed, Conteco e.U.'s fee for each individual service arises as soon as it has been provided. Conteco e.U. is entitled to demand advances to

cover its expenses. From an order volume with an (annual) budget of € 60,000, or those that extend over a longer period of time, Conteco e.U. is entitled to make interim or advance invoices or to call up payments on account.

7.2 The fee is understood as a net fee plus value added tax at the statutory rate. In the absence of an agreement on a case by case basis, Conteco e.U. is entitled to royalties in the usual market amount for the services provided and for the granting of the copyright and trademark rights of use.

7.3 All services provided by Conteco e.U. that are not expressly compensated by the agreed fee will be remunerated separately. All expenses incurred by Conteco e.U. are to be reimbursed by the customer.

7.4 Cost estimates by Conteco e.U. are not binding. If it is anticipated that the actual cost will exceed Conteco e.U.'s written estimate by more than 15%, Conteco e.U. will alert the customer to the higher cost. The cost overrun is deemed to have been approved by the customer if the customer does not object in writing within three working days of this notice and at the same time announces more cost-effective alternatives. If it is a cost overrun up to 15%, a separate communication is not required. This cost estimate overrun shall be considered as approved by the client in advance.

7.5 If the customer unilaterally modifies or terminates commissioned work without the involvement of Conteco e.U. - without prejudice to any other ongoing support provided by the latter - he shall reimburse Conteco e.U. for the services provided to date in accordance with the fee agreement and reimburse all costs incurred. Unless the cancelation is caused by a grossly negligent or intentional breach of duty by Conteco e.U., the customer has the Conteco e.U. to reimburse the fee for the order of agreed fees, whereby the crediting charge of § 1168 ABGB (an Austrian law) is excluded. The company Conteco e.U. is liable for any claims, in particular those of our contractors, to make them indemnify, hold free and harmless (from and against). If the customer does not acquire any rights of use for work already performed; Conteco e.U., on the other hand, is not to be deprived of concepts, drafts and other documents.

## 8. Payment, retention of title

8.1 The fee is payable immediately upon receipt of the invoice and without deductions unless special terms of payment have been agreed in writing in

individual cases. This also applies to the recharging of all cash expenses and other expenses. The goods delivered by the Conteco e.U. remain the property of the Conteco e.U. until full payment of the fee including all ancillary liabilities.

8.2 In the event of delay by the customer, the statutory default interest shall apply in the amount applicable to business transactions. Furthermore, in the event of default of payment, the customer undertakes to reimburse Conteco e.U. for the resulting reminder and collection expenses, insofar as they are necessary for the purpose of legal pursuit. In any case, this includes the costs of two letters of formal notice amounting to at present € 30.00 per reminder as well as a reminder letter from a lawyer commissioned with the collection. The assertion of further rights and claims remains unaffected.

8.3 In the event of delayed of payment by the customer, Conteco e.U. may immediately make all services and partial services provided under other contracts concluded with the customer due.

8.4 Furthermore, the company Conteco e.U. is not obliged to provide further services until the amount due has been paid (right of retention). The obligation to pay remuneration remains unaffected.

8.5 If payment has been agreed in installments, Conteco e.U. reserves the right, in the event of late payment of installments or ancillary claims, to demand immediate payment of all outstanding debt (loss of time).

8.6 The customer is not entitled to set off its own claims against claims of Conteco e.U., except the customer's claim was recognized by the Conteco e.U. in writing or judicially determined.

## 9. Property and copyright

9.1 All services of Conteco e.U., including those from presentations (e.g. suggestions, ideas, sketches, preliminary drafts, scribbles, concepts, source codes, prototypes), even individual parts thereof, as well as the individual work pieces and design originals remain the property of Conteco e.U. and can be used at any time - especially on termination of the contractual relationship - be demanded. By paying the fee, the customer acquires the right of use for the agreed purpose. Unless otherwise agreed, the customer may only use the services of Conteco e.U. in Austria. The acquisition of rights of use and exploitation of

Conteco e.U. services requires in any case the full payment of the fees charged by Conteco e.U.. If the customer uses the services of Conteco e.U. before this date, then this use is based on a revocable loan.

9.2 Changes or processing of services of the company Conteco e.U., in particular their further development by the customer or by third parties working for the latter, are only permitted with the explicit consent of Conteco e.U. and - insofar as the services are protected by copyright - of the author.

9.3 The use of Conteco e.U.'s services, which exceeds the originally agreed purpose and scope of use, regardless of whether this service is protected by copyright, requires the consent of Conteco e.U.. Conteco e.U. and the author are entitled to a separate and appropriate compensation for this.

9.4 For the use of services of Conteco e.U. or solutions of Conteco e.U. for which Conteco e.U. has drafted conceptual or design templates, the consent of Conteco e.U. is also required after expiry of the contract, regardless of whether this service is protected by copyright or not.

9.5 In the first year after the end of the contract, Conteco e.U. is entitled to the full remuneration agreed in the expired contract for uses according to para. in the 2nd or 3rd year after expiry of the contract, only half or one quarter of the remuneration agreed in the contract. From the 4th year after the end of the contract, no compensation is payable.

9.6 The Customer shall be liable to Conteco e.U. for any unlawful use in duplicate of the fee for this use.

## 10. Warranty

10.1 The customer must report any defects immediately, in any case within eight days after delivery / service by Conteco e.U., hidden defects within eight days after detection thereof, in writing under description of the defect; otherwise the service is considered approved. In this case, the assertion of warranty claims and claims for damages as well as the right to contest errors due to defects are excluded.

10.2 In the case of justified and timely notice of defects, the customer has the right to improve or replace the delivery / service by Conteco e.U.. Conteco e.U.

will remedy the deficiencies within a reasonable period of time, whereby the customer is entitled to Conteco e.U. All measures necessary for the investigation and correction of defects are possible. Conteco e.U. is entitled to refuse performance improvement if it is impossible or for Conteco e.U. associated with a disproportionate effort. In this case, the customer is entitled to the legal conversion or reduction rights. In the case of improvement, it is up to the client to carry out the transmission of the defective (physical) thing at his expense.

10.3 It is also the responsibility of the client to check the performance of the service for its legal, in particular competition, trademark, copyright and administrative law permissibility. Conteco e.U. is only obliged to conduct a rough examination of legal admissibility. Conteco e.U. in the case of slight negligence or after fulfillment of any warning obligation towards the customer, is not liable for the legal permissibility of contents if these have been specified or approved by the customer.

10.4 The warranty period is six months from delivery / service. The right to recourse against Conteco e.U. according to § 933b Abs 1 ABGB (an Austrian law) expires one year after delivery / service. The customer is not entitled to withhold payments due to complaints. The presumption rule of § 924 ABGB (an Austrian law) is excluded.

## 11. General liability and product liability

11.1 In cases of slight negligence, the liability of Conteco e.U. and their employees, contractors or other vicarious agents („people“) for property or pecuniary loss of the customer excluded, regardless of whether it is direct or indirect damage, lost profit or consequential damage, damage due to default, impossibility, positive breach of contract, fault at contract , because of inadequate or incomplete performance. The injured party has to prove the existence of gross negligence. Insofar as the liability of Conteco e.U. excluded or limited, this also applies to the personal liability of their „people“.

11.2 Any liability of Conteco e.U. for claims arising from Conteco e.U. performance (for example, digital solutions or products) made against the customer is expressly excluded if Conteco e.U. has fulfilled its obligation to inform or was not recognizable for them, whereby slight negligence does not harm. In particular, Conteco e.U. not for litigation costs, own legal fees of the customer or

costs of judgments as well as for any claims for damages or other claims of third parties; the customer has Conteco e.U. to indemnify and hold harmless in this regard.

11.3 Claims for damages of the customer expire in six months from knowledge of the damage; but in any case after three years from the infringing act of Conteco e.U. .. Claims for damages are limited in amount to the net order value.

## 12. Privacy

The customer agrees that his personal data, namely name / company, occupation, date of birth, commercial register number, powers of representation, contact person, business address and other addresses of the customer, telephone number, fax number, e-mail address, bank details, credit card information, VAT number) for the purpose of contract fulfillment and support of the customer as well as for own advertising purposes, for example for the sending of offers, advertising leaflets and newsletters (in paper and electronic form), as well as for the reference to the existing or former business relationship (reference note) automatically supported, stored and processed.

The client agrees that electronic mail will be sent to him for advertising purposes until further notice.

This consent may be revoked at any time in writing by e-mail, fax or letter to the contact details stated in the header of the Terms and Conditions.

## 13. Applicable law

The contract and all derived reciprocal rights and obligations as well as claims between Conteco e.U. and the customer are subject to Austrian substantive law to the exclusion of its referral norms and to the exclusion of the UN Sales Convention.

## 14. Place of performance and jurisdiction

14.1 Place of performance is the registered office of Conteco e.U. At the time of shipment, the risk passes to the customer as soon as Conteco e.U. the goods have been handed over to the transport company chosen by them.

14.2 The place of jurisdiction for all persons between Conteco e.U. and any

disputes arising in connection with this contractual relationship with the customer shall be deemed to apply to the registered office of Conteco e.U. factually competent court agreed. Regardless, Conteco e.U. entitled to sue the customer at his general place of jurisdiction.