



## General Terms and Conditions GTC

of

Genesis Design GmbH  
Ponkratz Street 67  
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### § 1 General - Scope of application

(1) Our General Terms and Conditions (GTC) shall apply exclusively; we shall not recognise any terms and conditions of the customer which conflict with or deviate from our GTC unless we have expressly agreed to their validity in writing. Our General Terms and Conditions shall also apply if we provide the agreed services without reservation in the knowledge that the customer's terms and conditions conflict with or deviate from our General Terms and Conditions.

(2) Our General Terms and Conditions shall only apply to entrepreneurs within the meaning of Section 310 (1) of the German Civil Code (BGB).

### § 2 Conclusion and object of the contracts with Genesis Design

(1) Offers from Genesis Design are subject to change, unless expressly stated otherwise in the offer.

(2) Orders placed orally by customers are binding. In particular, a contract shall also be deemed to have been concluded if Genesis Design, with the knowledge of the customer and without the customer objecting, commences with the execution of the order, although there is not yet agreement on all points of the contract.

(3) Orders placed with Genesis Design regularly relate to the preparation of a draft for a product design and the granting of rights of use to the design. The subject matter of the contract in detail, in particular the content and scope of the design services to be provided by Genesis Design, shall result from Genesis Design's offer and the Client's order confirmation in connection with these GTC.

(4) Verbal ancillary agreements to contracts concluded with us do not exist. Amendments or supplements to the respective agreement must be made in writing in order to be effective and cannot be waived orally.

### § 3 Rights of use and exploitation; name/trademark rights

(1) All drafts, developments, elaborations, drawings and other work are subject to copyright protection. The parties agree that the provisions of the German Copyright Act (UrhG) apply even if the protection requirements required under the UrhG are not met in individual cases. Thus, Genesis Design shall be liable in the event of unauthorized use of the designs developed by it in particular for copyright claims under § 97 ff. of the German Copyright Act. UrhG too. The drafts, developments, elaborations, drawings and other work may not be altered neither in the original nor in reproduction without the express consent of Genesis

Design. Any imitation and/or modification, in whole or in part, is prohibited. In particular, designs developed by Genesis Design or parts of designs may only be transferred to objects other than those covered by the subject matter of the contract with the consent of Genesis Design and for an additional fee.

Genesis Design assigns to the client the agreed and required rights of use to the final design developed for the respective purpose. No rights are granted with regard to individual development and preliminary stages, unless otherwise agreed. Unless otherwise agreed in individual cases, Genesis Design grants the client a non-exclusive right of use for a period of 12 months. The granting of further rights in terms of content and time as well as the right to grant sublicenses requires the express agreement between the parties in the individual case, which includes a corresponding determination of the remuneration for the agreed granting of the rights of use.

(2) Unless otherwise agreed, the rights of use shall pass to the client only after complete design development and complete payment of the remuneration by the client.

(3) Unless otherwise agreed in writing with Genesis Design, the Client shall not be entitled to apply to the competent authorities (patent offices, etc.) for registration of the contractual product design in the relevant registers for protection by an industrial property right (patent, utility model, design or trademark).

(4) Genesis Design shall enter into valid and sufficient agreements with its employees (including researchers, representatives, consultants and subcontractors) or take all necessary measures to ensure the transfer to Genesis Design of the work results created by such persons.

### § 4 Obligations of the customer to cooperate; delay

(1) The product design shall be created in accordance with the client's specifications agreed between the parties. The client shall provide a contact for the support of the necessary work of Genesis-Design in a temporally and qualitatively appropriate scope. If agreed in individual cases, the customer must provide prototypes, drawings, illustrations, technical values, dimensions and other information or materials. These obligations to cooperate are the principal contractual obligations of the customer.

(2) If the execution of the order is delayed for reasons for which the client is responsible, in particular non-compliance with deadlines agreed between the parties for cooperation actions, Genesis Design may demand an appropriate increase in remuneration and assert claims for damages. The assertion of further damages caused by default shall remain unaffected thereby.

### § 5 Remuneration

(1) Depending on the agreement in the individual case, the total remuneration shall result from the remuneration for the design services, such as product design draft, design elaboration and basis for realisation, plus the remuneration for the granting of the rights of use. Amounts offered and invoiced by Genesis Design are net amounts which are payable plus VAT at the statutory rate. Genesis Design is entitled to demand reasonable advance payments.

(2) Genesis Design reserves the right to reasonably change its prices if cost reductions or cost increases occur after

conclusion of the contract. The factors for cost reductions or increases shall be proven to the customer upon request.

(3) Unless otherwise agreed, special services such as the subsequently agreed reworking or modification of drawings etc. shall be invoiced separately on the basis of time spent.

(4) Insofar as contracts for external services are concluded in the name and for the account of Genesis Design in individual cases, the client undertakes, unless otherwise agreed, to indemnify Genesis Design internally against all liabilities arising from the conclusion of the contract. This includes in particular the assumption of costs.

(5) Expenses for incidental technical costs, in particular for special materials, for the production of photos and models, etc. shall be reimbursed separately unless otherwise agreed.

(6) Unless otherwise agreed, travel costs and expenses for travel undertaken in connection with the order and agreed with the client shall be reimbursed by the client. Travel days will be reimbursed in accordance with the agreed daily fee, proven overnight accommodation costs and expenses in accordance with the maximum tax rates. Rail travel will be reimbursed at the cost of a second-class ticket, air travel at the cost of a business class ticket and car travel at €0.80 per kilometre travelled.

(7) Hourly and daily rates as well as other prices are regularly adjusted by Genesis Design to the general price increase and economic situation.

#### **§ 6 Payment term; advance payment**

Unless otherwise agreed, payment shall be made after submission of the proof of expenditure and the invoice. The term of payment is 2 weeks after receipt of the invoice and, if applicable, the proof of expenditure by the client.

#### **§ 7 Freedom of design; subsequent changes; templates of the client**

(1) Within the scope of the order there is freedom of design. Complaints regarding the aesthetic-artistic design are excluded. If, during the execution of the contract, the client wishes to make subsequent changes to the content of the design or to the timetable for the execution of the contract, in particular in the design or production phase, the client must reimburse the resulting additional costs. Unless otherwise agreed, Genesis Design retains the full original right to remuneration for work already commenced.

(2) The client affirms that he is entitled to use all templates submitted to Genesis Design. If, contrary to this insurance, the client is not entitled to use the software, the client shall indemnify Genesis Design against all claims for damages by third parties.

#### **§ 8 Ownership of drafts, obligation to return**

(1) Only rights of use in accordance with § 3 shall be granted in respect of designs, drawings and models, but ownership rights shall not be transferred.

(2) Original drafts must therefore be returned undamaged to Genesis Design no later than 3 months after delivery, as soon as the client no longer requires them for exercising the rights of use, unless expressly agreed otherwise. In the event of damage or loss, the Client shall reimburse the costs necessary to restore the originals. The assertion of further damages remains unaffected.

(3) The dispatch of drafts, other work and templates shall be at the risk and expense of the customer.

#### **§ 9 Digital data**

(1) Genesis Design is not obliged to release 2D/3D drafts or other data records created on the computer as open, editable files to the client. If the client wishes the surrender of files of this kind, this must be agreed separately and paid for.

(2) The risk and costs of transporting data carriers, files and data online and offline shall be borne by the customer.

(3) Genesis Design shall not be liable for defects in data carriers, files and data which occur during data transport to the system of the client or his representative, except in the case of intent and gross negligence.

#### **§ 10 Default; liability**

(1) Insofar as the parties have agreed fixed dates for cooperation obligations pursuant to § 4, Genesis-Design shall not be in default in the event of delays if the cooperation action fails to take place. In addition, Genesis Design shall not be in default in the event of delays if the client fails to perform any cooperation required for the creation of the product design despite a written request to do so within a reasonable period of time. The client is obligated to reimburse frustrated expenses and damages incurred by Genesis Design as a result of the delay with its obligations to cooperate.

(2) Genesis Design shall not be liable for the economic usability of the contractual product design accepted by the customer. The functional safety of the product lies in the risk sphere of the client, as the focus of the service to be provided by Genesis Design lies in the area of design.

(3) In principle, Genesis Design shall not be liable for the protectability of the contractual product design and its enforceability against third parties under copyright laws, patent laws, utility model laws, design laws, trademark laws or provisions of the law against unfair competition. Genesis Design is also not liable for ensuring that the use and exploitation of the contractual product design does not conflict with any older rights of third parties.

(4) Genesis Design shall only be liable for intent and gross negligence, regardless of the legal grounds, unless otherwise stipulated in the contract. This limitation of liability also applies to our vicarious agents. Genesis Design shall only be liable for slight negligence in the event of breach of material contractual obligations. In this case, however, liability for indirect damages, consequential damages and loss of profit is excluded. Liability for positive breach of contract, culpa in contrahendo and tort is also limited to compensation for typical, foreseeable damage.

#### **§ 11 Attribution; free copies**

(1) Unless otherwise agreed, Genesis Design may refer to the cooperation with the client orally and in writing, in particular also on your website and in other advertising material for self-promotion.

(2) Genesis Design has the right to be named as author and designer on copies and in publications about the product. The client may name Genesis Design with its permission on the products designed by Genesis Design as well as on advertising material for them or in publications about them. The form of labelling shall be agreed and, if necessary, regulated separately, in particular if it is branded.

(3) Genesis-Design GmbH receives from each client produced according to his design 1-3

Free copies of the first series without charge, free office of the designer for archiving, exhibition and reference

purposes. In the case of products with a manufacturing value (HK) of more than Euro 500 or large dimensions, parts of the product and colour slides of professional quality produced at the customer's expense shall suffice as agreed. The designer also receives 10 specimen copies each of advertising materials, printed matter, etc., which are produced for products manufactured according to the designer's designs.

Genesis Design may also publish its own images of the contractual product design or those of the client and the aforementioned advertising media and use them for self-promotion.

#### § 12 Term and termination

(1) The contract period begins with the signing of the contract by both parties.

(2) The client may terminate the contract at any time without giving reasons until the complete performance of the service according to § 2.

(3) The parties may terminate the contract at any time for good cause. Such good cause exists for Genesis Design in particular if, after conclusion of the contract, Genesis Design becomes aware of a significant deterioration in the financial circumstances of the client or if it becomes aware of a previous deterioration in the financial circumstances after placement of the order and the client refuses to make an advance payment or provide security.

(3) In the event of termination, no rights of use or exploitation, including partial results, shall pass to the client. All items produced by Genesis Design, e.g. sketches, drafts and models, shall be returned to Genesis Design immediately after termination.

(4) Notices of termination must be in writing in order to be effective.

#### § 13 Cancellation charges

In the event of termination by the client pursuant to § 12(2), Genesis Design shall optionally receive

(1) the pro-rata remuneration for lines provided up to the time of termination plus compensation for expenses incurred up to this time for the implementation of the project;

(2) or, instead of the claim under subsection (1), a lump sum of

(a) 25% of the agreed remuneration, if the termination takes place up to 4 weeks before the agreed start of the project or earlier, unless the client proves that Genesis Design has a lower claim, taking into account other acquisitions made possible by the termination and saved expenses;

(b) 50% of the agreed remuneration for the creation of the product design, if the termination occurs after the above-mentioned date or after the start of the project, unless the client proves that Genesis Design has a lower claim, taking into account other acquisitions made possible by the termination and saved expenses.

#### § 14 Confidentiality, obligations to surrender and delete, non-competition clause

(1) The parties shall maintain secrecy about all information which has become known to them in the course of their cooperation on the basis of this contract even after the end of the contract period.

(2) After completion of the design and transfer to the client, Genesis Design shall delete all information and content

made available to us by the client in electronic form, unless the client expressly commissions Genesis Design to archive such information and content; at the client's prior request, Genesis Design shall provide the client with a copy of the information or content specified in the request. Information and contents which are available in embodied form must be returned to the client or destroyed at the client's request or in the event of non-acceptance.

#### § 15 Final provisions

(1) Should individual provisions of this contract be or become invalid, this shall not affect the validity of the remaining provisions. Instead of the invalid provision, that which the parties would have agreed upon in good faith in accordance with the originally intended purpose from an economic point of view shall apply. The same shall apply in the event of a gap in the contract.

(2) The legal relationship between the parties shall be governed exclusively by the laws of the Federal Republic of Germany.

(3) Place of performance is Munich. The place of jurisdiction for all disputes in connection with the rights and obligations regulated herein shall be Munich.