

General Business Terms and Conditions of Makoplan GmbH Ingenieurbüro

hereinafter known as "Ingenieurbüro" (Engineering office)

§1 Scope of application

These General Business Terms and Conditions shall apply to all orders which are issued to the Ingenieurbüro. Any general business terms and conditions of the client which contradict these shall not form an integral part of the contract, even if they are contained in the order confirmation. These conditions shall apply also for ongoing business relationships and for future business, even if they have not been expressly incorporated in the contract. Should individual provisions be rendered ineffective, then the remaining provisions shall not be affected by this.

§2 Contractual relationship

1. The Ingenieurbüro shall be obligated, pursuant to the descriptions contained in the order confirmation, to perform the necessary design tasks. Each order represents a contract for services in terms of § 631 et seq. BGB (German Civil Code). The completed design image constitutes a work protected by copyright.
2. Included within the scope of services and therefore the fee are:
 - Comprehensive discussion of the problem situation with the client
 - Development of a design plan or a design image on CD or another data medium
 - The costs of the design media (CDs, magnetic tapes, costs for data transmission or similar)
 - The transfer of the rights of use to the client; however the copyright for further use in other cases shall remain with the respective Ingenieurbüro.
 - Not included in the price:
 - Shipping costs to locations outside the region of the Federal Republic of Germany
 - The costs of any model production
 - General expenses and costs for travel to meetings outside the headquarters of the Ingenieurbüro.

§3 Fee

1. The invoice shall be based on the payment terms stated in the offer. Should a fixed price not have been agreed, then the prices shall be non-binding and orientated on the basis of the Association of German Engineers (VDI).
2. Provided no other agreements have been made (e.g. monthly invoicing) the price shall be 1/3 on order confirmation, 1/3 on presentation of the design drawings or design images and 1/3 on completion of the design.
3. Cheques and bills of exchange shall only be accepted as conditional payment. Any costs in connection with this shall be borne by the client. In the event of default, interest to the amount of 2% over the respective base rate shall be calculated, provided the contractor does not verify greater damage caused by the delay. The client shall reserve the right to prove that less damage has been caused.
4. The term of payment shall be 14 days after the issuing of the invoice.

§4 Rights of use

Even after the hand-over of the design drawings or design data, the results of the work of the Ingenieurbüro may only be used for the agreed type of use and scope specified in the order. On payment of the total fee, the client shall acquire the rights of use to the abovementioned extent. All further rights of use shall remain exclusively with the respective Ingenieurbüro. A transfer of the design rights and plans to third parties shall only be permitted with the consent of the Ingenieurbüro.

§5 Requirement profile

The client shall present the contractor with a requirement profile for the designs to be created. This requirement profile must include the data for the exact usage and exact environment data. The Ingenieurbüro shall not be obligated to check whether the design can actually be used based on the provided environment or usage data or any other design data supplied by the client in the form contained in the order profile. The Ingenieurbüro shall not under any circumstances be held liable for errors in the data supplied by the client.

§6 Dates of delivery

Dates of delivery shall be specifically determined in the contractual basis. If the Ingenieurbüro cannot meet this deadline, then they shall be obligated to inform the client immediately upon knowledge of exceedance of this deadline.

§7 Warranty, limitation of liability and obligation to check

1. The client shall be obligated to check the designs presented by the Ingenieurbüro within 4 weeks and examine these for any deviations from the order volumes and for defects. Complaints are to be submitted in writing to the Ingenieurbüro within this examination period. After the expiry of this deadline, the design shall be deemed as accepted.
2. The Ingenieurbüro shall only be held liable for the dimensions stated in the design drawings or data media. They shall not be held liable for drawing accuracy.
3. In case of defects which have been notified in good time, the Ingenieurbüro shall be obligated to subsequent improvement without delay at their own cost. This subsequent improvement must be executed within a deadline set by the client. Should this subsequent improvement fail twice, then the client shall be entitled to withdraw from the contract and / or demand compensation for damages. The compensation for damages owed by the Ingenieurbüro shall be limited to an amount three times the sum of which the Ingenieurbüro invoices the client, but a maximum of the amount of the nominal capital. Liability for further damages, especially for consequential damages which extend beyond this amount, shall be expressly excluded.
4. The customer shall be obligated to insure themselves against damages which could occur as a result of the work of employees of the Ingenieurbüro on-site (especially to hardware and software).

§8 Reservation of proprietary rights

The copyright and ownership of plans or data media shall remain in the ownership of the Ingenieurbüro until the fulfilment of all existing claims of the Ingenieurbüro. Until fulfilment, they shall have a right of retention also on the production documents provided.

§9 Order cancellation

In all cases which result in a design not being delivered without the Ingenieurbüro being to blame, then the Ingenieurbüro is to be paid for the incurred costs. The client shall be entitled to demand the issue of the not yet completed design plan.

§10 Changes

In case of changes to the design which extend beyond the requirements of the design to be created according to the order, the price and delivery time must be re-discussed. Should this not occur, then appropriate remuneration shall be paid. The costs incurred to no avail up until then and an appropriate remuneration for this are likewise immediately due and to be reimbursed to the Ingenieurbüro.

§11 Property rights of third parties

If drawings, models or samples are included in the requirement profile of the client, then the client shall hold responsibility for the property rights of third parties not being breached through their use. The Ingenieurbüro shall notify the client of any rights known to them. The client shall release the contractor from third party claims in this respect and pay compensation for damages incurred.

§12 Place of fulfilment and place of jurisdiction

Place of fulfilment with respect to merchants shall be Jugenheim. The place of jurisdiction is Mainz.

§13 Applicable law

German law shall apply exclusively.

§ 14 Data protection

Makoplan fulfils the requirements of the Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016 relating to the protection of natural persons with the processing of personal data (General Data Protection Regulation) as well as of the law governing the adjustment of the data protection law to the Regulation (EU) 2016/679 in the version passed by the German Bundesrat [upper house of German parliament] on 12 May 2017 (Federal Data Protection Act, BDSG-NEW).

The processing of personal data exclusively takes place for the business communication and for the fulfilment of contracts (according to Art. 6, GDPR).

1. We are entitled to process the personal data with regard to the business relationship and received in this context within the meaning of the GDPR and the BDSG-NEW.
2. You are entitled at all times towards Makoplan GmbH engineering office to request provision of information relating to the data stored in relation to your person (Art. 15 GDPR, Section 34 BDSG-NEW).
3. You can at all times, towards Makoplan GmbH engineering office request the rectification, deletion, limitation and blocking of individual personal data (Art.16, 17, 18 GDPR, Section 35 BDSG-NEW).