

# General Business Terms and Conditions of ticado media GmbH

## 1. Scope

These Business Terms and Conditions shall apply to contracts regarding deliveries or services, including consulting services, between ticado media GmbH - hereinafter referred to as ticado - with companies, legal entities under public law and special funds under public law - hereinafter referred to as Customer -, insofar as not otherwise agreed in writing or stipulated as mandatory by law. All offers regarding deliveries and services of ticado shall be exclusively carried out on the basis of these Business Terms and Conditions. These Business Terms and Conditions shall also apply with constant business relationships for future business transactions, with which reference is not explicitly made hereto, as soon as they were agreed by the contractual parties with an earlier order. Business terms and conditions of the Customer, which ticado has not explicitly recognised in writing, are hereby explicitly objected to.

## 2. Offer and conclusion of contract

2.1 The offers of ticado are always without obligation. The contract shall be concluded when the order has been received by ticado and was accepted. The sending of an order confirmation as well as the start of the work associated with the execution of the order shall be sufficient for the acceptance of the order.

2.2 With the placement of the order the Customer waives, within the meaning of Section 151 German Civil Code [*Bürgerliches Gesetzbuch - BGB*], a declaration of ticado regarding the acceptance of its order. For the event that this waiver is invalid the contract shall be deemed as concluded with the receipt of the written order confirmation of ticado by the Customer. The contract between ticado and the Customer shall be deemed as concluded no later than with the acceptance of the delivery carried out by ticado or the services provided by ticado by the Customer or the third party named hereby.

2.3 ticado shall offer the Customer the possibility to acquire products through so-called call-off orders. A call-off order represents for the Customer the option to acquire a product in larger quantities at a price and to divide the delivery into several partial deliveries at different times. A call-off order will principally be produced completely or in partial quantities with the placement of the order. It shall represent a binding order with purchase obligation for the total quantity.

## 3. Prices, terms of payment

3.1 The prices of ticado shall be deemed net ex works excluding packaging, transport, insurance, travelling costs, expenses, etc. as well as plus the statutory value added tax. The right is reserved to make reasonable price changes owing to changed costs, in particular owing to wage, material and distribution costs, for deliveries or services with a period of delivery or service of more than 4 months from conclusion of the contract. If additional work is determined after the conclusion of the contract, which was not recognisable upon conclusion of the contract, then ticado can charge this additionally.

3.2 The storage and safekeeping in particular of raw materials, semi-finished and finished products, originals, manuscripts, printing plates of all kinds, third party papers, data and data carriers, etc. shall only be carried out after a prior written agreement between ticado and the Customer and is to be remunerated separately. This shall in particular also apply to call-off orders. Liability for damages to or destructions of stored materials shall not be assumed by ticado. If the raw materials, semi-finished and finished products, manuscripts, originals, printing plates of all kinds or third party papers, data and data carriers, etc., stored printed matter handed over to ticado, other objects brought into the premises or the quantity produced within the scope of a call-off order are to be insured against theft, fire, water or all other risks, the Customer has to conclude the insurance in its own name and for its own account.

3.3 If the order processing is temporarily suspended at the request of the Customer then ticado shall be entitled to payment for already provided deliveries or services, in particular compensation of the costs for the materials procured by ticado, third party services or other additional costs incurred by the temporary suspension including storage.

3.4 Payments have to be made without deduction within 14 days after receipt of the invoice. In the event of the default of payment default interest will be charged in the amount of 9 percentage points above the respective base lending rate. The assertion of higher damages due to default shall remain reserved. If the Customer is in default with a payment, all claims will be due immediately if the Customer does not prove that it is not responsible for the default. In the event of a default of payment ticado shall have a right of retention to the documents handed over by the Customer and to other documents or work results, which are produced during the execution of the contract.

3.5 In case of an inability of the Customer to render services, in particular in case of default of payment, ticado is entitled to refuse the delivery or service, for which it is responsible, until the consideration is effected or until provision of security.

3.6 The Customer can only offset against claims of ticado with those claims, which are undisputed or which have been declared final and binding. Rights of retention of the Customer owing to claims from other contractual relationships are excluded.

## 4. Delivery and service deadlines

4.1 The Customer undertakes to support the activities of ticado. The Customer will in particular create all prerequisites in the field of its operational scope free of charge, which are necessary for the proper execution of the order. These prerequisites shall include among others, that the Customer names a responsible contact person, who is available to the employees of ticado during the agreed service times; the contact person is authorised to submit declarations, which are necessary as an interim decision within the scope of the continuation of the services, shall procure the access for the employees of ticado to the information that is necessary for the provision of services at all times and to provide them with all necessary documents in time, in the event of programming work to make computer times (incl. operating), test data and data entry capacities available in time and to a sufficient extent.

4.2 The adherence to the delivery and service deadline stated by ticado shall presume the proper assistance of the Customer. If these prerequisites are not fulfilled the delivery and service deadline shall be extended by a reasonable extent.

4.3 If no fixed delivery or service dates are agreed, indeed however delivery or service times assessed according to periods of time, then the respective delivery or service time will begin on the day of the conclusion of the contract; it shall end on the day, on which the goods or service was handed over to the carrier, freight forwarder or collector respectively the Customer or are stored respectively withheld owing to impossibility of the shipment. The delivery or service time shall respectively be interrupted for the duration of the examination of the press proofs, production samples, releases etc. by the Customer, from the day of the shipment to the Customer until the day of receipt of its statement. If the Customer requests changes to the order after conclusion of the contract, which influence the production duration or the service time, a new delivery or service time shall only begin with the confirmation of the changes by ticado.

4.4 Proofs and press proofs are to be checked by the Customer for typesetting and other errors and are to be returned to ticado with the declaration "ready for printing" including the original drafts. Typesetting errors will be corrected free of charge. Subsequent changes, which deviate from the first print template will be charged separately according to the working hours required for this purpose.

4.5 Press proofs, multiple proofs, sketches, drafts, test proofs and samples and samples will be charged separately to the Customer.

4.6 If the non-adherence to the deadline for deliveries or services is as proven a result of force majeure, interferences to operation, strike, lock-out or other events, which render the delivery or service substantially more difficult the deadline shall be extended by a reasonable extent. This shall also apply if these circumstances occur at suppliers of ticado. If the delivery or service becomes impossible for the aforementioned reasons, ticado will be released from the service obligation. ticado will inform the Customer of the impossibility without delay and shall refund already received considerations.

4.7 In the event of the culpable default of ticado the Customer can, if it substantiates the occurrence of a damage, request flat rate damages in the amount of 0.5% of the value of that part of the total delivery, which cannot be used as a result of the default, for each full week of the default, in total however a maximum of 5% of this value. A claim for damages in excess hereof is excluded. The right of the Customer to rescind the contract after the unsuccessful expiry of a final deadline set to ticado shall remain unaffected.

## 5. Passing of risk

5.1 The shipment shall be carried out at the account and risk of the Customer. The risk shall pass to the Customer as soon as the shipment has been handed over to the carrier, freight forwarder or collector. If the shipment is delayed at the Customer's request the risk shall pass to it with the report that the goods are ready for shipment. With call-off orders the risk shall pass to the Customer with the report that the produced quantity is ready for shipment. ticado is entitled to charge the Customer storage fees.

5.2 If the shipment or service is carried out by a carrier, freight forwarder or collector, which is to be commissioned by the Customer, and if the shipment or the delivery is delayed owing to reasons for which the Customer is responsible then the Customer can be charged storage fees for each started month, beginning one month after the report of the readiness for shipment, in the amount of 0.7% of the invoice amount, a maximum of 5% of the net goods value. The contractual parties reserve the right to prove higher or lower storage costs.

5.3 The deliveries of ticado will only be insured against damages in transit at the explicit instruction and at the costs of the Customer.

5.4 Deliveries are, even if they feature insignificant defects, to be accepted by the Customer.

## 6. Reservation of title

6.1 The delivered goods and services (hereinafter: Reserved Goods) shall remain the property of ticado until the full satisfaction of all claims of ticado, also those established in future, against the Customer from the business relationship. This shall also apply to claims, which are acquired subsequently still owing to repairs and deliveries of spare parts as well as other services.

6.2 Processing or conversion of the Reserved Goods shall always be carried out for ticado, however without an obligation for ticado. If the (co-)ownership of ticado to the Reserved Goods lapses by connection or mixing then it is hereby agreed now already that ticado shall acquire a co-ownership share to the new object that corresponds with the value of its claim. The Customer shall hold the (co-)ownership share of ticado in safekeeping free of charge.

6.3 The Customer is entitled to process and sell the Reserved Goods in proper business transactions as long as it is not in default of payment. Pledges or assignments as collateral are inadmissible. The Customer hereby now already assigns claims established from the resale or from any other legal grounds with regard to the Reserved Goods to ticado in full as a precautionary measure. The Customer is, in a consistently revocable manner, accordingly authorised to collect the claims assigned to ticado in its own name for the account of ticado. A revocation is permitted if the Customer does not properly satisfy its payment obligations.

6.4 With all accesses of third parties to the Reserved Goods the Customer will point out the ownership of ticado and notify ticado without delay. Costs and damages will be borne by the Customer.

6.5 Conduct of the Customer in breach of the contract, in particular default of payment, shall entitle ticado to rescind the contract and to request that the Reserved Goods are handed over. A reasonable remuneration can be charged for occurred reduction in use and value as well as for costs for taking goods back incurred to ticado.

6.6 Insofar as the value of all security rights to which ticado is entitled exceeds the amount of the claims that are to be secured by more than 50%, ticado will, at the Customer's request, release a corresponding part of the security rights at the choice of ticado.

## 7. Default of acceptance

7.1 If the Customer is in default with the acceptance or if it culpably breaches other obligations to provide assistance ticado shall be entitled to request compensation for the accordingly suffered damages, including possible additional expenses. Further claims shall remain reserved. Insofar as the aforementioned prerequisites exist the risk of an accidental loss or an accidental deterioration shall pass to the Customer at the time, at which it has become in default of acceptance or as a debtor.

7.2 If the Customer does not accept the delivery and services within a reasonable deadline after the report of completion or of readiness for shipment or if a shipment is impossible for a longer period of time as a result of circumstances, for which ticado is not responsible, ticado is entitled to either place the goods in storage itself or to store these at a carrier for the account and at the risk of the Customer.

## 8. Warranty claims

8.1 The Customer is obliged to inspect the deliveries without delay pursuant to Sections 377, 381 HGB and to assert possible reports of defects in writing. The obligation of the Customer to carry out an inspection shall also exist if samples have been sent. The Customer has to report hidden defects to ticado in writing without delay after their discovery. The report is deemed without delay if it is carried out within two weeks, in case of obvious defects and defects, which were recognisable with a proper examination, after delivery or in case of hidden defects after discovery, whereby the sending of the report respectively complaint is sufficient in order to adhere to the deadline. If the Customer fails to carry out the proper inspection and/or report of defects, the liability of ticado is excluded for the defect. The Customer has to describe the defects in detail and in writing in its notification to ticado.

8.2 ticado will not be liable for printing errors, which the Customer overlooked in the test proofs described to it as "ready for printing". Oral changes shall require a written confirmation.

8.3 In case of justified reports of defects ticado is entitled, at its choice, to carry out subsequent fulfilment in the form of the remedy of defects, to deliver a faultless object or to provide a faultless service within a reasonable deadline. ticado is entitled to two attempts at subsequent fulfilment. The expenses that are necessary for the purpose of subsequent fulfilment will be borne by ticado. Additional costs, which are incurred due to the fact that the objects are transported to another location than the place of performance, do not have to be borne by ticado, unless the transport corresponds with the use of the objects as intended.

8.4 If the subsequent fulfilment fails the Customer is entitled, at its choice, to request reduction of the remuneration (reduction) or to rescind the contract. In case of an only slight breach of contract, in particular with only slight defects, the Customer is not entitled to a right of rescission. In addition it is, if applicable, entitled to request damages. If only part of a goods delivery is defective the Customer can only rescind the entire contract if the remaining faultless part of the delivery can no longer, as proven, fulfil the envisaged intended use for the Customer.

8.5 Claims of the Customer owing to defects shall become statute-barred after 12 months beginning with the delivery. This shall not apply insofar as the law stipulates longer deadlines in Sections 438 Para. 1 No. 2, 445b Para. 1 and 634a Para. 1 No. 2 BGB. The reduction in the statute-of-limitations shall not apply if ticado can be accused of gross fault or in case of physical injuries and health damages which can be attributed to ticado as well as in case of loss of the life of the employees of the Customer or of its vicarious agents.

8.6 Excessive or shortfall in deliveries up to 10% cannot be complained about by the Customer. The delivered quantity will be invoiced. In case of deliveries from special material productions the percentage will be increased to 20%. This shall also apply with difficult and with small orders.

8.7 Slight deviations in the printing colour compared to the colour sample or the template ready for printing, due to differences in the used material and the processing and production process as well as with the use of colours, which are not standard colours, will not entitle to a complaint regarding the delivery.

8.8 For deviations in the condition of the used material ticado will only be liable up to the amount of the own claims against the respective component supplier. In such a case ticado shall be exempted from the liability if it assigns its claims against the component suppliers to the Customer. ticado shall be liable, insofar as claims against the component supplier do not exist or cannot be asserted due to a fault of ticado.

8.9 No complaint can be made because of slight deviations in the condition of the paper, carton and other material procured by ticado.

8.10 In case of reproductions in all production processes no complaints will be accepted either in case of slight deviations from the original. The same shall apply for the comparison between press proofs and print runs.

8.11 Component deliveries, in particular data and data carriers, by the Customer or a third party commissioned by it are not subject to any examination obligation of ticado.

8.12 Obvious inaccuracies, such as for example typing errors, calculation errors and formal defects, which are contained in a statement (reports, expert's opinions, offers, etc.) of ticado, can be corrected by ticado at all times, also towards third parties.

## 9. Liability and damages

9.1 The liability of ticado for damages, no matter for what legal grounds, in particular due to impossibility, default, defective or false delivery, breach of contract, breach of obligations in contractual negotiations and illicit act, is, insofar as it respectively depends on a fault, limited according to this Subclause 9.

9.2 ticado shall not be liable in the event of simple negligence of its bodies, legal representatives, employees or other vicarious agents insofar as it does not concern a breach of essential contractual obligations. Deemed as essential for the contract are the obligation for the timely delivery of the goods that are free of substantial defects as well as consulting, protection and safekeeping obligations, which should enable the Customer the use of the object of delivery as per contract or have the purpose of the protection of life or limb of personnel of the Customer or the protection of their property against substantial damages.

9.3 Insofar as ticado pursuant to Subclause 9.2 is fundamentally liable for damages, this liability is limited to damages, which it foresaw upon conclusion of the contract as a possible consequence of a breach of contract or which it should have foreseen when applying customary care and attention. Indirect damages and consequential damages, which are the consequence of defects to the goods, are additionally only capable of compensation insofar as such damages are typically to be expected with the use of the

object of delivery as intended. A liability shall not apply insofar as ticado is liable owing to the injury to life, the body or the health.

9.4 The aforementioned liability exclusions and limitations shall apply to the same extent for the benefit of the bodies, legal representatives, employees and other vicarious agents of ticado.

9.5 Insofar as ticado provides technical information or operates in an advisory capacity and this information or advice does not belong to the contractually agreed scope of services owned by it, this will be carried out free of charge and under the exclusion of all liability.

9.6 The restrictions of this Subclause 9 shall not apply to the liability of ticado owing to willful or grossly negligent conduct, to guaranteed characteristics, owing to the injury to life, the body or the health or according to the German Product Liability Act.

## 10. Property rights

10.1 The Customer is solely responsible for the examination of the right to reproduce all print templates. The Customer shall be solely liable if rights are infringed through the execution of its order, in particular copyrights of third parties. The Customer has to indemnify ticado from all claims of third parties owing to such an infringement of rights.

10.2 All rights of use under copyright law in all printing processes and with all intended uses to own sketches, drafts, originals, films, etc. shall remain, subject to an explicit regulation otherwise, with ticado.

10.3 A reprint or reproduction - no matter in which printing process - also of those deliveries, which are not the object of a copyright or an industrial property right protection, is not permitted without the approval of ticado.

10.4 Printed matter, printing cylinders, copy templates, punches, etc. remain the property of ticado. This shall only apply insofar as the Customer has not assumed the costs for these aids separately.

10.5 ticado will not assume any liability for manuscripts, order documents and other objects, which are not requested within four weeks by the Customer after settlement of the order.

10.6 If the Customer receives software, documentation and other documents from ticado or third parties, it will be granted a non-exclusive, non-transferable and time-unlimited simple right of use hereto exclusively for the purpose of internal operational use, for which the software, documentation and other documents were created or delivered. All other rights to the software, documentation and other documents including the copies and, if applicable, subsequent supplementations shall remain with ticado. The Customer may not make the software, documentation and other documents accessible to third parties without the prior written consent of ticado. The right to make copies is only permitted for the purpose of data backup or in order to search for errors.

10.7 The Customer shall assume responsibility for the fact that the reports, plans, drafts, drawings, lists, programmes, designations, expert's opinions, sketches and other documents produced by ticado within the scope of the agreed services will only be used for its own purposes.

10.8 ticado will reserve the ownership and the exclusive rights of use to all documents handed over to the Customer in connection with the execution of the contract such as e.g. calculations, drawings, etc.; they may only be made accessible to third parties by the Customer after obtaining the prior written consent. Drawings and other documents belonging to offers are to be handed over upon request or if the order was not placed with ticado without request without delay. Sentences 1 and 2 shall apply accordingly to documents of the Customer, which hereby now already agrees that ticado may make these accessible to those third parties, to whom ticado has transferred the execution of deliveries and services.

## 11. Final provisions

11.1 Insofar as according to these business terms and conditions declarations and/or notifications have to be carried out in writing, the text form pursuant to Section 126b BGB is sufficient.

11.2 The place of performance and place of jurisdiction for all obligations and disputes from the contract is the registered seat of ticado.

11.3 The law of the Federal Republic of Germany shall apply for the business terms and conditions and the entire legal relationships between ticado and the Customer. The provisions of the Hague Convention on Contracts for the International Sale of Goods and the Vienna UN Convention on Contracts for the International Sale of Goods will not apply.

11.4 Should provisions of these business terms and conditions be invalid or unworkable in full or in part or subsequently lose their legal validity or workability this shall have no effect on the validity of the provisions of the business terms and conditions on the whole.