



## **General Terms and Conditions**

### **(IMS GmbH – Interior Management Systems)**

#### **1.Scope of Application**

1.These General Terms and Conditions apply to all Services further detailed in section 3.. They form part of all offers and contracts of IMS GmbH – Interior Management Systems ("**IMS**") with regard to supplies and performance of work and services in respect of current and future business relations. These General Terms and Conditions together with all offers and contracts concluded with the customer in regard of the Services shall be jointly referred to as the "**Agreement**".

2.General terms and conditions of the customer deviating from these General Terms and Conditions are invalid, even if not expressly objected to by IMS. Supplementary agreements will form part of the contract only if IMS confirms their incorporation into the contract expressly in writing. IMS's General Terms and Conditions apply exclusively even when IMS renders services without reservation in awareness of the customer's General Terms and Conditions.

#### **3.Conclusion of the Contract**

4.Offers and estimates of costs are subject to confirmation by IMS.

5.The customer is bound by his offer for a period of 14 days. This does not apply in cases where the work is scheduled to commence earlier. Contracts become effective only on IMS confirming the order in writing or once IMS has commenced performance of the contract. The travelling of IMS's staff to the place of performance of work is deemed to constitute commencement. This also applies to proposed subsequent amendments of the contract and supplementary agreements, as well as to confirmations and warranties of quality or characteristics.

#### **6.Scope of Services**

7.IMS renders interior management related services and operations in respect of luxury assets such as yachts, real estate and cars, including but not limited to advising on, planning, implementing and executing interior management schemes and systems, providing according (app-)software, handbooks and manuals, maintenance, crew/staff headhunting, management and training, audits, outfitting, procurement of supplies, equipment and interior furnishing (the "**Services**"). IMS will provide the customer with a detailed description of the individual scope of Services as rendered under the individual contractual relation. Such description shall define the Services concurred and form an integral part of the Agreement.

8.Unless expressly agreed otherwise in writing IMS's services do not include technical consultancy of any kind.



**9.**The scope and mode of performance of IMS is determined by IMS's offer or order confirmation. All information and documents as well as documents supplied by IMS to the customer only serve the purpose of a non-binding description of the scope of performance of IMS. IMS reserves the right to implement insignificant changes and/or deviations particular with regard to changes in the layout as well as colour schemes.

**10.**The customer is advised in respect of the scope of performance to the best of IMS's knowledge. IMS is entitled to rely on the accuracy of statements or comments of supervisory authorities and supervisory associations, unless the customer at his responsibility confirms the contrary in writing. The customer is solely responsible for any decisions regarding the scope and usefulness of the work to be performed.

**11.**IMS reserves the right to delegate tasks to any of its employees and third-party subcontractors.

**12.**IMS's Services will be conducted from IMS's office in Bremen or, where considered necessary by IMS, at any other place reasonably acceptable to the customer.

### **13.Change orders**

**14.**The scope of the Services may be altered and amended only by written agreement between the Parties during the course of rendering the Services.

**15.**The customer's representatives and the representatives of IMS shall be duly authorised to agree any such alterations and amendments on behalf of the customer and IMS respectively.

### **16.Information, Documentation and Assistance**

**17.**The customer agrees to obtain and provide to IMS in a timely manner all information, data, documents and assistance which IMS reasonably requires to perform the Services in an efficient and cost-effective manner.

**18.**Offers, illustrations, plans, drawings, descriptions, handbooks, manuals, moodboards, mock-ups, look-books, video materials (including but not limited to video clips) or other documents and data (together referred to as Data), which IMS delivers to the customer prior or after conclusion of the contract, remain the (intellectual) property of IMS unless expressly agreed otherwise. The customer is not allowed to reproduce, copy, or make available any Data to third parties without express permission in writing from IMS.

**19.**On request, Data has to be handed back to IMS promptly. Copies of provided Data are to be deleted, destroyed or otherwise made unusable. The customer shall confirm compliance with this obligation in writing.

**20.**In case IMS's performance entails the use of Data of the customer, the customer is, without prejudice to section 11.4., obliged to indemnify IMS in respect of claims of third parties relating to infringements of rights of ownership, copyright and rights of commercial trademarks and other proprietary rights caused by the use of Data supplied by the customer.

**21.**Without prejudice to section 11.4., costs for additional work caused by defective or incorrect Data or other information or assistance supplied by the customer must be borne by the customer.



## 22. Agents

At the latest when IMS commences performance of the contract, the customer shall inform IMS in writing who is responsible for giving and accepting statements and who is able to enter into agreements vis à vis IMS. Otherwise, supervising employees of the customer or third persons responsible for supervising are considered to have authority to give and accept statements and to enter into agreements vis à vis IMS.

### 1. Remuneration and Invoicing

2. The customer is responsible for payment of the Service fees at the rate as individually agreed.

3. Against appropriate documentation, IMS is entitled to additionally recover out of pocket expenses at cost (incl. all taxes, customs, levies, etc.) from the customer in addition to any Service fees, provided such expenses were reasonably incurred IMS in relation to the provision of the Services. Expenses recoverable by IMS pursuant to this clause shall include, without limitation, costs of samples, external reproduction costs, postage, travel (incl. flights at economy class where available within the EU and Business class to destinations outside the EU), car hire and petrol and any necessary and reasonable hotel and other accommodation and subsistence expenses).

4. All fees and expenses and other payments payable to IMS by the customer pursuant to this section 7. shall generally be invoiced, electronically, by IMS on a monthly basis and will be payable upon receipt, latest within seven (7) calendar days after the date of the invoice. Invoices sent by email shall be deemed to have been received on the same day as sent by IMS, provided they have been correctly addressed and no bounceback messages have been received. Full payment, without set-off or deduction (notwithstanding section 14.) and free of bank charges, shall be made directly to IMS's Euro account detailed below. Any bank charges or currency commission deducted from the payment received will be invoiced as an expense in the following invoice. IMS's bank account details are as follows:

Beneficiary: IMS GmbH

Bank: Sparkasse Bremen

IBAN: DE93290501010081306383

BIC: SBREDE22XXX

1. If an invoice is not paid within the period as established in above section 7.3, IMS – except in such circumstances as established in section 14.1 and 14.2 – will be entitled to charge the customer interest on the outstanding amount at 9%-points over Euribor base rate and will have the right (exercise of which shall be at IMS's full discretion) to suspend the Services and any other performance under this Agreement.

### 2. Insurance

3. In case IMS is to provide the Services or parts thereof outside of its office in Bremen, particularly but not limited to on board of vessels or on shipyard premises, the customer shall cover IMS's employees with all risk insurance coverage with regard to damage, injury, death and theft. Coverage is to be concluded in the name and to the benefit of IMS. Costs and fees



are to be borne by the customer. Upon demand the conclusion of insurance cover shall be proven to IMS in writing and in good time.

4.If and insofar IMS is to transport goods to a place designated by the customer, IMS will, at the customer's cost, procure full insurance cover for transportation.

### **5. Deadlines and Schedules**

6.Unless expressly agreed otherwise in writing, deadlines and time limits are non-binding and may be extended accordingly due to circumstances within the procurement process. In case no written agreements are made with regard to time limits and deadlines, the deadlines and time limits proposed by IMS will be applicable.

7.Adherence to time limits and deadlines is on the basis that the customer has fulfilled his obligations to assist and carry out his further obligations in full and on time. Subsequent changes or additional requirements put forward by the customer will cause time limits and deadlines to be adjusted in accordance with the additional work involved as a result of such changes. Costs and additional fees for any delay subject to this section are to be borne by the customer.

1.Deadlines and time limits which have been agreed are prolonged by the length of any delay in payments due, even in cases in which IMS has no right or has not exercised any right to refuse or withhold performance under the contract. All statutory rights of IMS remain reserved.

2.In case of unforeseeable events, in particular in case of acts of God, official orders of state authorities, strikes, lockouts, war, riots, industrial breakdowns, shortage of materials, or the delay of subcontractors, IMS without prejudice to section 11.4. is released from its duty of performance and delivery for the duration of these events and, where such events make the performance impossible, are released entirely from any obligation of performing the contract further.

3.Section 9.4 also applies in case such events occur after IMS has caused the default.

4.IMS reserves its ability to deliver. This particularly applies if IMS's obligation to perform is unbearable due to procurement bottlenecks.

5.The obligation to pay any agreed contractual penalty or lump-sum compensation does not exist under the circumstances specified in section 9.4, 9.5, 9.6.

### **6. Warranty**

7.Any goods delivered under this Agreement have to be examined by the customer upon take over. Any visible defects are to be reported to IMS immediately, latest within one week.

8.In case the customer fails to notify IMS accordingly, the delivered goods are deemed approved except for such defects that were not detectable within such examination.

9.If such a defect shows up later, according notification must be rendered immediately, but no later than one week after discovery; otherwise, the delivered goods are also deemed approved in view of this defect.



**10.** Any warranty established legally or contractually in respect of defects on products supplied to IMS by third parties are restricted to the assignment of rights IMS may have against the supplier of the product, provided the customer is actually capable of indemnifying itself from the assigned claims. IMS will employ its best endeavours to support the customer in enforcing any such claim.

**11.** Any claims related to defective goods or performance become time-barred after the expiry of 12 months, such period to commence in accordance with the relevant statutory provisions. This does not apply in cases in which a defect was deliberately concealed and/or if any of the circumstances giving rise to liability as described under section 11.4 are fulfilled.

## **12. Liability**

**13.** Should IMS violate any material contractual obligation, any claim for damages is limited to the typically foreseeable losses, provided that neither intent nor an act of gross negligence existed on the part of IMS, and provided it is not a claim for personal injury of the customer or his employees or a claim arising out of a guarantee given by IMS in respect of the existence of any characteristics.

**14.** If the customer has a claim against IMS for any loss or damage to which a third party has contributed by wilful default or negligence, IMS's liability to the customer shall be limited to a just and equitable proportion of the loss or damage (including recoverable legal costs) in question reflecting the apportionment of liability between the parties responsible.

**15.** Subject to the limitations of section 11.4. IMS shall not be responsible for any delays, liabilities, costs, expenses, damages or losses of any kind resulting from late, incomplete, inadequate, ambiguous or unclear instructions provided by the customer.

**16.** All claims other than those regulated within this Agreement are excluded unless such claims are based on: IMS's violation of material contractual obligations, the statute relating to product liability, violation of contractual or legal obligations intentionally or grossly negligently caused by IMS, personal injury or damage to health at least negligently caused by IMS or IMS's taking over of a guarantee in respect of the existence of certain characteristics.

## **17. Third Party Rights**

Any advice that IMS gives and all services provided to the customer are exclusively for the customer's use and IMS shall not be liable to anyone else in relation to that advice or those services unless IMS expressly agrees in writing to be liable to the person concerned.

## **1. Time Bar**

Without prejudice to section 10.5. and unless any of the circumstances giving rise to liability as described under section 11.4 are fulfilled, any legal proceedings against IMS arising from or in connection with this Agreement must be formally commenced within 12 months from the date of any alleged breach of contract, act of negligence or other act or omission.

## **1. Set Off, Retention and Transfer of Rights**



2. Any set off or execution of a right to retention by the customer against IMS is only permitted in respect of undisputed claims or claims ascertained by a court, whose decision is no longer subject to appeal.

3. A right of retention can only be exercised against IMS if the counterclaim arises out of the same contract.

4. Transfer of the customer's rights under the contract to third parties is only permissible with the written agreement of IMS.

### **1. Termination**

2. In cases where IMS under this Agreement is obliged to provide on-going Services in the absence of a fixed contract period ("dienst-/werkvertragliches Dauerschuldverhältnis") either Party can terminate the contract by giving at least three (3) months written notice to the other. Such notice period also applies in cases where the customer executes its right to termination under section 648 German Civil Code ("BGB"). In cases where a fixed contract period is agreed, the contract period will automatically be prolonged for one (1) year unless one of the parties terminates the contract by giving at least three (3) months written notice prior to expiry of the contract period.

3. In case of termination, the customer is obliged to compensate IMS for Services carried out until the time termination becomes effective. In case of termination by the customer, IMS is additionally entitled to compensation amounting to 10 % of the contract price agreed for Services which have not yet been rendered at the time termination becomes effective. The customer is entitled to prove that IMS has incurred no or smaller costs and expenses.

4. IMS shall in any case have an extraordinary termination right with immediate effect if

i. circumstances as described in section 9.4. occur;

ii. good cause exists, particularly but not limited to circumstances where the customer

1. acts in substantial breach of its duties under the Agreement;

2. is in default of his duty to pay;

3. acts in breach of section 5.2.;

4. is reasonably suspected to act fraudulently or execute unauthorised or illegal transactions in relation to and/or involving the Services;

iii. the customer applies for insolvency;

iv. insolvency proceedings in regard of the customer are not commenced due to insufficiency of assets;

v. IMS receives knowledge of enforcement proceedings (e.g. an arrest of the customer's property) against the customer;

whereby above rec. iii. – v. are subject to IMS's claims seeming to be seriously endangered thereby.



In case IMS executes its right to termination under this section 15.3., section 15.2. shall apply accordingly. In case of termination under above rec. i., such application is limited to section 15.2. sentence 1.

1. Latest within two (2) weeks after termination of this Agreement the customer shall pay and take over from IMS any and all goods ordered or procured in respect of IMS's duties under this Agreement. If the customer fails to comply with such obligation, IMS shall after according written notice to the customer be entitled to sell, return, dispose, destroy or utilize otherwise any goods so procured. Any costs so incurred shall be borne by the customer.

2. Any amounts so due to IMS will become immediately payable. Unless any of the circumstances giving rise to liability as described under section 11.4 are fulfilled the customer shall have no claim against IMS for loss arising from termination under this provision.

### **3. Non-Disclosure**

4. The customer undertakes that it shall not at any time disclose to any person any information concerning pricing, fees, remuneration and costs related to this Agreement. Notwithstanding the aforesaid, the customer may disclose such information

i. to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause 2, whereby the customer, upon demand, is obliged to provide IMS with corresponding documentation showing its compliance with this provision; and

ii. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

5. The customer shall not use such information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

### **6. Variation**

No variation of this Agreement shall be effective unless it is in writing.

#### **1. IMS Homepage, Accounts, Copyright and Links to External Homepages**

2. The content of IMS's homepage has been created with utmost care. IMS constantly updates its online appearance and offerings of Services. However, IMS does not warrant that the information accessible via this website is accurate or most current. IMS does not assume liability for damages resulting from the use of its homepage's content. Sole use of IMS's homepage shall not conclude any contractual relationship between IMS and the respective user.

3. The Services offered online may be mispriced, described inaccurately, or unavailable, and the customer may experience delays in updating information on the Services as well as in advertisement. Notwithstanding section 11.4. IMS does not guarantee the accuracy or completeness of any information, including prices, product images, specifications, availability, and Services. IMS reserves the right to change or update information and to correct errors, inaccuracies, or omissions at any time without prior notice.



4. When creating an account with IMS, the customer warrants

- i. to provide information that is accurate, complete, and current at all times;
- ii. to safeguard its password that is used to access any account created with IMS;
- iii. not to disclose such password to any third party;

iv. to notify IMS immediately upon becoming aware of any breach of security or unauthorized use of its account;

v. to not use as a username the name of another person or entity or a name that is not lawfully available for use, a name or trade mark that is subject to any rights of another person or entity other than the customer without appropriate authorization, or a name that is otherwise offensive, vulgar or obscene.

Failure to comply with this section's provisions shall constitute a breach of duty as defined in section 15.3.ii..

1. IMS's homepage, the Services and its original content, features and functionality are and will remain the exclusive property of IMS and its licensors. The Services are protected by copyright, trademark, and other statutory law. IMS'S trademarks and trade dress may not be used in connection with any product or service without the prior written consent of IMS.

2. IMS's homepage and Services may contain links to third-party web sites or services that are not owned or controlled by IMS. Upon first incorporation of such links, IMS has reviewed such links' content for any violation of law. At such time, no such violation was evident. IMS has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party web sites or services. Incorporating external links shall not be interpreted as if IMS assumes responsibility for content beyond such link. A permanent review of any such links in the absence of any indication for a violation of law is unreasonable for IMS. If any such violations become apparent nonetheless, IMS will delete the according link. IMS – notwithstanding section 11.4. – shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such external web sites or services.

### **3. Law and Jurisdiction**

4. This Agreement and any non-contractual obligations arising out of or in connection with this Agreement are governed by German law.

5. All claims arising directly or indirectly out of or in connection with the contractual relationship between the customer and IMS shall be subject to the jurisdiction of the Courts of Bremen. IMS reserves the right to issue proceedings at the customer's place of business or at the place where any assets belonging to the customer are situated.

6. The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly and entirely excluded.

### **7. General**





8.The legal unenforceability of any of the provisions in this Agreement does not affect the efficacy of the other provisions in this Agreement. If any provision is unenforceable, the Parties are under a duty to reach an agreement that is legally enforceable and reflects as closely as possible the meaning and purpose of the unenforceable condition(s). This does not apply if the adherence to the contract would result in unacceptable hardship for one of the Parties.

9.Within this Agreement, the terms "written" or "in writing" shall comprise both written and text form as defined in sections 126, 126b German Civil Code.

10.Any contests, sweepstakes or other promotions („**Promotions**“) made available through IMS from time to time are subject to these General Terms and Conditions, but may additionally be governed by separate Rules of such Promotions. If the rules for Promotions conflict with these General Terms and Conditions, the Promotion rules prevail.