



## **T&Cs of TDA CLAIR GmbH, Gohrweide 23, D - 46238 Bottrop, for services, works and material leasing**

### **§ 1 When are these T&Cs applicable?**

(1) General:

We, the company TDA CLAIR GmbH, Gohrweide 23, D - 46238 Bottrop (hereinafter referred to as "We"), provide our services solely based on these Terms and Conditions.

(2) Validity also for future orders:

These T&Cs shall also be applicable to your future orders placed with us insofar as you are not a consumer within the meaning of § 13 of the German Civil Code (BGB), provided that we do not agree otherwise therein.

(3) Your T&Cs:

Your general terms and conditions of business shall only be applicable to the extent that we have explicitly agreed to them in writing.

(4) Amendment to our T&Cs in the future if you are not a consumer within the meaning of § 13 BGB:

We shall be entitled to make amendments to these T&Cs for the current contractual relationship in accordance with this provision, even after the contract has been concluded. We shall give you written notice of the respective amendment and inform you that the respective amendment shall become a subject matter of the existing contract between us unless you object to this amendment in writing or verbally within a period of six weeks from the disclosure of the amendment. In the absence of any objection within these 6 weeks, we will consider your silence as consent to the amendment.

This procedure shall not be applicable if repeated individual orders are received by us as part of a framework contract governed by these T&Cs and we explicitly draw your attention to the amendments to the T&Cs and their inclusion with effect from this individual order when a new individual order is placed. Should the contract relating to this new individual order be concluded subject to your consent, then the amended T&Cs shall be applicable without a period for objection having to commence.

### **§ 2 How and to what extent does a contract come into being between you and us?**

(1) Who makes the offer, who states acceptance?

We submit the offer, which is binding for 7 days. This means that you have 7 days in which to accept this offer. Then the contract is concluded.

(2) Binding nature of statements made by our employees/service providers:

Our employees or independent professionals are not entitled to enter into verbal subsidiary agreements or to give written assurances extending beyond the actual contract, insofar as we have not previously explicitly designated this person as authorised to do so.

### **§ 3 Subject matter of the contract**

(1) General:

- a. We are not an organiser until explicitly agreed otherwise.
- b. The subject matter of the contract is defined in the individual offer or in the performance specification.
- c. The subject matter of the contract shall be determined based on the state of the law and the state of technology at the time that the offer is made.

(2) Substitution of services:

We may provide a substitute for the agreed services by other equally suitable services provided that the substitution is deemed reasonable for you and the purpose of the contract is not thereby compromised or impaired.

(3) Use of downstream contractors and subcontractors:

We are authorised to appoint subcontractors (or replacement contractors or downstream contractors) to meet our performance obligations.

- (4) Availability reservation:  
All services on offer are provided by us with the proviso of the respective availability at the time that the contract is concluded.

In the event that a service offered ceases to be available at the time it is required and/or is no longer available at the price offered, this will be communicated to you without delay and a new offer will be made if you so wish. In all other respects, see paragraph 5 below.

- (5) Dependency on third parties and circumstances:  
When events are being planned, it is inevitable that many important key points cannot be agreed upon from the very beginning (e.g. number of participants, programme, etc.): In many cases, one "building block" is dependent on other "building blocks", likewise the client must agree or hiring service providers is dependent on the client's consent or approval.

Consequently, it is agreed that we are only responsible for the availability of third-party services at the time of the event insofar as this is explicitly guaranteed by us or insofar as we fail to refer to any deadlines for approval by you within the framework of our offer or in individual cases.

To this extent, we shall not assume any responsibility for (consequential) damage caused by a delayed or deferred approval of individual services by you.

In all other respects, see paragraph 4 above.

- (6) Delays caused by you:  
Delays that arise due to your failure to provide cooperation in due time or otherwise without undue delay are not our responsibility.

We shall also not be responsible for any inadequate performance resulting from the delays mentioned above, with the result that your warranty claims shall be excluded in this respect if we have notified you of the legal consequence within a reasonable period of time. If the period should subsequently prove to be unreasonably short, a reasonable period shall take its place.

- (7) Duty to provide information:  
You are required to provide us with all information that is or might be important for the performance of the contract in a timely manner.

#### **§ 4 Prices and payment conditions**

- (2) Gross or net price information:  
All prices specified shall be net prices, i.e. they are to be understood as including the legally applicable value-added tax.

- (3) Currency and currency fluctuations:
- a. All accounts shall be settled in Euro.
  - b. Exchange rate differences and bank charges shall be at your expense when paying with foreign currencies or payment methods.
  - c. Events and travel outside the euro currency zone are likely to be subject to currency fluctuations. As a result, the total amount of the project in euros may be dependent on the exchange rate prevailing when the payment order is placed with a service provider or subcontractor outside the euro currency area and may change. The daily exchange rates as published by the European Central Bank at the time of settlement will be used as a reference.

- (4) Our costs and remuneration represent estimates:  
All remunerations and costs listed in an estimate or offer drawn up by us shall be based on the planning status as known at the time of preparation and constitute estimated values provided that we have not explicitly specified them as lump-sum or fixed prices. We therefore reserve the right to make necessary changes for which we are not responsible.

This shall also be applicable to the deployment times of the employees and participants as well as to the deployment duration, quantity and type of equipment.

- (5) Cost components not included = additional costs where applicable:  
Insofar as not otherwise agreed, the following items are not included in our remuneration and costs:
- a. Travel costs from/to you and/or from/to the event location (2nd class train, 2nd class flight, average quality rental car; in case of doubt, the distances given by Google Maps are decisive),

- b. Necessary overnight stays (in an average 4-star hotel with single room occupancy incl. breakfast),
- c. Catering/meals of average type and quality (one hot meal per day and night) provided the service is rendered outside our place of business,
- d. Where our employees are required by their contract to travel home after the end of the working day using public transport, reimbursement of any resulting additional costs (e.g. taxi) subject to provision of evidence.,
- e. Costs for telecommunications to/from abroad,
- f. Costs for electricity connections and electricity consumption,
- g. Costs for water connections and water consumption,
- h. Security,
- i. Storage costs,
- j. Costs for waste disposal,
- k. Costs for local or location-dependent building inspections and permits (see § 14 B. Para. 2),
- l. Costs for driving, transit and parking permits.
- m. Costs for collecting societies and licences,
- n. Country-specific duties and taxes.
- o. Work equipment (forklift trucks, lifting platforms, mobile crane or the like, necessary for the provision of our services) incl. operating personnel,
- p. Set-up, conversion and dismantling assistants in the number we request,
- q. Operating personnel for follow spotlights (including remote controlled systems),
- r. Qualified local rigging personnel for setting up and dismantling the rigging points,
- s. Technicians for operating technical equipment provided on site.

These costs have to be covered by you or you have to pay for them on top, if not otherwise agreed.

- (6) Handling fee for "mediation":  
We are authorised to levy a handling fee of up to 15% of the net sum in the event that we are instructed to select, commission and/or supervise service providers/service suppliers and they enter into the contract directly with you.
- (7) Dealing with commissions, discounts & exclusion of the handover obligation:  
We are authorised to withhold commissions and discounts that are customary in the trade in the internal relationship with service providers or service suppliers we have commissioned (so-called kick-back commissions) without offsetting them. This does not apply, however, if the service provider or agent has explicitly designated the commission for you and has simply left it with us for onward transmission.  
  
§ 667 BGB shall be excluded in any case, i.e. § 667 BGB shall not be applicable even if you have concluded an agency agreement with us.
- (8) Additional services:  
"Additional" shall refer to a service to be provided by us that is essential for the order but which has not yet been offered or is not part of the contract.
  - a. Obligation to pay for additional services:  
If we do not have to account for the subsequent necessity, the additional services, to the extent that we can reasonably provide them, shall be remunerated by you.  
  
The burden of proof is on us to prove that the services should not already have been the subject of our offer or the contract.
  - b. Additional services by third parties (subcontractors or service providers):  
In the event that costs for third-party services are not already included in our remuneration, but are incurred additionally, you shall be obliged, in the instance that we have to make payments to third parties in order to fulfil contractual obligations, to make these payments to us or directly to the third party prior to their due date. We shall not be held liable for any damages incurred as a result of a delay in payment where we have informed you in advance of the possible legal consequences.  
  
Any adjustment to the terms of payment in line with the respective terms of payment of the service providers, provided that these were not already known to us at the time of calculation, shall be reserved.
- (9) Subsequent changes in prices:  
We are entitled to unilaterally increase the agreed remuneration and/or costs retroactively in the event of an increase in material production costs, material costs, procurement costs, production costs, wage and incidental wage costs, social security contributions and/or energy costs, costs due to environmental regulations, costs due to currency regulations, costs due to changes in customs duties, freight tariffs or public charges (factors), and if such costs directly or indirectly influence our contractually agreed services and if more than 4 months lie between the conclusion of the contract and the service.

No increase shall be made insofar as the increase in the cost of one or more factors is offset by a reduction in the cost of other factors.

If the costs of the factors are reduced without this reduction in costs being offset by an increase in the costs of other factors, the reduction in costs has to be passed on to you in the form of a commensurate price reduction.

If the new total price is 20% or more above the originally agreed price as a result of the price increase, it is possible for you to withdraw from the elements of the service which involve this price increase or, if the services cannot be divided, from the contract as a whole. Withdrawal is only possible immediately after our notification of the price increase. We are entitled, in the case of price increases of more than 20%, to place our price increase under the resolutive condition that you shall refrain from withdrawing and, in the case of a declaration of withdrawal, to revoke the price increase so that the contract is to be continued under the original conditions.

- (10) Advance payments:  
Except where otherwise agreed, 50 % of the agreed total sum is payable immediately after the contract has been concluded.

The second instalment in the amount of 40 % of the total sum is payable 2 weeks before the event/travel date, in case of a lesser advance payment also immediately after conclusion of the contract.

Such advance payments shall form an integral part of the contract.

- (11) Partial performance:  
In the case of partial performance, the right to demand corresponding partial payments shall accrue to us.

- (12) Invoicing:  
The invoice for a project shall be issued as soon as we have received all invoices from the commissioned service providers or subcontractors.

Invoices shall be payable immediately. In the event that the receipt or the accuracy of the invoice is disputed, we may demand immediate payment of the net amount derived from our agreement (conclusion of the contract), possibly with different dates for advance payments.

- (13) Defaults, reminder:  
Any interest on arrears shall be invoiced at a rate of 5 % per year. The assertion of a higher damage resulting from default remains reserved.

We are entitled to charge reminder costs of 5.00 euros net for each reminder, insofar as you do not prove lower damage, or alternatively the actual damage incurred.

- (14) Risks of conducting the event or project:  
You shall also be under an obligation to pay the agreed remuneration and costs where the event or the subject matter of the contract has to be cancelled or interrupted or shortened in time due to reasons beyond our control and not due to force majeure.

This shall also apply if this occurs due to the lack of a permit, poor weather, cancellation of an artist, lack of visitor interest or the like, to the extent that we are not responsible for these reasons.

It shall be refutably presumed that terrorist threats, the threat of terrorist attacks, bomb threats or the discovery of "dangerous objects" are assigned to your risk sphere.

The same applies to security concerns that are not the result of culpably inadequate performance on our part.

This also applies to the loss of the subject matter of the contract beyond our control after the transfer of risk to you, provided that we are liable for the transfer of objects.

## **§ 5 Responsible persons, proof of qualification, secure communication**

- (1) Designation of persons:  
a. Each of you and us shall designate at least one person who is authorised to manage the contract and who is authorised to make and receive legally binding declarations.

b. Each of you and we shall designate at least one person with authority to issue instructions, make decisions and have comprehensive knowledge of the specific course of the event for the duration of the set-up, dismantling and the event itself. This person is required to be present and available at all times during set-up, dismantling and the event itself. Please note that this shall not be applicable to you if we are to independently supervise the set-up, dismantling and the event in accordance with the contract.

c. In terms of language, please refer to § 6.

(2) Proof of qualification:

Upon request of the other party, both you and we shall at all times furnish proof of the necessary qualifications of the commissioned personnel and the commissioned service providers or of the material used.

A qualification is "necessary" only when it is required by a provision governing the event (e.g. Occupational Health and Safety Act, Ordinance governing Places of Assembly, Accident Prevention Regulations, SQ Standards, DIN Standards, etc.).

(3) Secure communication:

Each of the parties is entitled to require the other party to transmit correspondence with sensitive data (e.g. information regarding the security of the event) and/or personal data only in encrypted form. In the absence of an agreement, communication via the usual means of communication (including e-mail) shall be sufficient.

## **§ 6 Language, production language**

(1) German and English are agreed as the language for planning and organisation as well as follow-up work on the event. Yet only the German language or statements made in the German language (whether in writing or orally) have legally binding effect.

(2) German and English are agreed as the production language (i.e. the language during the time on site at the venue, including set-up, dismantling, rehearsals and the event itself).

(3) Except where otherwise agreed, personnel with authority to issue instructions and personnel assigned to safety-critical situations have to be proficient in the production language.

"Proficient" means that personnel have to be in a position to communicate confidently with other service providers, the organiser, the police, fire brigade, etc., even in unforeseen critical situations.

## **§ 7 Our position as general contractors or representatives**

(1) If we are general contractors:

To the extent that we are acting as general contractors and entering into contracts with service providers in our own name and on our own account, we shall be under no obligation to divulge such names, contractual relationships or accounts other than in the case of good faith (e.g. if you unconditionally require the information in order to enforce your rights or claims).

Should we disclose the information, you are not permitted to use the information to award any future contracts directly to our subcontractor.

(2) If we are representatives or mediators:

To the extent that we are acting as representatives or mediators and the contracts between the service providers are thereby concluded directly with you, you shall issue us with appropriate powers of attorney free of charge upon request.

## **§ 8 Use of your materials, rights and specifications**

(1) Transfer of property and objects:

a. Should you specify a venue, items of equipment, a service provider, instructions etc. or entrust them to us and we ourselves are no longer free to choose, we shall not be obligated to check these or their services for suitability, reliability or the like. This does not apply to the extent that the unsuitability/unreliability/illegality etc. is evident to us and you are in recognisable need for clarification, or to the extent that the inspection is explicitly the subject of our order.

- b. Where materials are to be used or utilised by you as part of our performance of services, you are responsible for their timely delivery to our registered office or to the venue of the event as agreed, at your own expense.

Any materials delivered to us and which are not used or which can be reused by you have to be collected within the rental period of the event location, failing which within one week following the rendering of our services. Once this period has expired, all materials may be professionally disposed of at your expense, stored with us at our expense or delivered to you.

In the event that the assistants or equipment made available fail to comply with the contractual or legal requirements and we are therefore compelled to provide suitable replacements, then you are obliged to reimburse us for the resulting costs.

(2) Transfer of rights:

To the extent that you transfer property rights (logo, photo, texts, etc.) to us, we shall be entitled to use them in accordance with the contract and also to disclose them to third parties as far as necessary. You must ensure that we are authorised to do so or inform us in writing of any reservations or constraints. Paragraph 1a shall apply accordingly in all other respects.

You are obliged to release us from any costs and claims, even after the contract has ended, incurred as a result of a claim by a third party, provided that the claim is not attributable to our fault.

## **§ 9 Special agreements in terms of safety**

(1) Adherence to the requirements of the service providers:

You are under an obligation to follow the safety notices displayed at the venue (e.g. those issued by the venue operator, operators of rides or facilities, etc.), as well as the instructions and recommendations of the local service provider or other consultants possessing the necessary knowledge of the location and its features in order to be able to assess any hazards.

(2) Responsibility for your employees and guests:

It is your responsibility to ensure that the actions and non-actions of your employees, the service providers commissioned by you and your guests are not illegal, insofar as we have not unlawfully induced these persons to act or refrain from acting in contravention of the law. In all other respects, § 17 ("Liability") shall apply.

If you invite third parties or arrange for them to participate, you are obliged to ensure that they too adhere to and comply with the provisions outlined here.

## **§ 10 Ownership, protection of our documents, usage rights**

(1) General:

a. Documents, graphics, lists, drawings, sketches and other items drawn up by us shall remain our property and must be returned to us once the contract has ended, unless the transfer of ownership is the subject of the contract.

b. Should no contract be entered into between you and us after participation in a presentation or after a concept has been prepared, all services and rights shall remain exclusively with us.

(2) Protection of our documents and ideas:

The applicability of the Copyright Act (Urheberrechtsgesetz) is deemed to have been agreed for all event concepts, documents, graphics, lists, drawings and sketches (works) created by us, even if individual parts are not protected by law.

Our event concepts, contract documents, planning documents, calculation documents, checklists, address lists, etc. must also be treated as secrets within the meaning of the Trade Secrets Act (Geschäftsgeheimnisgesetz).

This also applies once the contract has come to an end.

This paragraph 2 does not apply, however, to the extent that the work is in such obvious general use that protection under this paragraph 2 would disproportionately affect you. The onus is on you to prove that the work is in whole or in part evidently in the public domain, in which case the onus is on us to prove that this is exceptionally not the case.

- (3) Your usage rights:
- a. Upon full payment of the remuneration and costs payable, you will acquire the usage rights required for the purpose of the contract. These usage rights shall only be acquired by you without payment to the extent that a later due date has been agreed relative to the purpose of the contract or the period of use. Any use beyond this requires our explicit consent subject to the proviso of an additional obligation to pay remuneration.
  - b. Any repeated use by you in the absence of an equally repeated remunerated order placed with us shall result in a corresponding obligation to pay remuneration, unless the repeated use is already covered by the initial order and/or has already been appropriately covered by the previous remuneration.
  - c. This also applies once the contract has come to an end.

## § 11 Confidentiality / Secret protection

- (1) General:  
Both you and we mutually agree to absolute confidentiality regarding company and business secrets, including beyond the end of the contract.

Company and business secrets are understood to include all facts, circumstances and processes pertaining to a company which are not in the public domain but are only accessible to a confined group of persons and which the legal entity has a legitimate interest in not disclosing and which are designated as company and business secrets.

Both you and we shall be entitled at any time, even once a contract has been concluded, to enter into an independent confidentiality agreement relating to individual items of information, which shall adequately safeguard the rights of the party providing the information and which shall comply with the rights and obligations agreed herein.

- (2) Transfer of duties to third parties:  
Both you and we are obliged to enforce this duty of confidentiality upon our employees, cooperation partners, co-partners and/or co-managing directors.
- (3) Procedure once the contract has ended:  
We will delete or destroy the information, documents and work results we have received from you after the end of the contract or at the very least block access to them for individuals who do not necessarily require access to them. This shall not apply to information, documents and work results that we have to retain on the basis of legal obligations (e.g. due to retention obligations pursuant to tax law) or that we would like to retain to a reasonable extent on the basis of contractual evidence (e.g. so that we can provide proof of services rendered). You are entitled to request details of the information, documents and work results that have been retained. Should we no longer need to retain such information, we will promptly delete or destroy it.

These obligations apply to you in turn.

## § 12 Recording rights, naming of references

- (1) Recording rights:  
We are entitled to produce photographs and/or video recordings ourselves at the event, in compliance with the personal rights of the guests and the rights of third parties, as well as to use these for reference and our own promotional purposes, insofar as you have not explicitly denied this beforehand for a compelling reason. In any event, we are entitled to prepare recordings for documentation and evidence purposes.
- (2) References:  
We are authorised to quote your name and event by way of reference to a reasonable extent for advertising purposes.

## § 13 Data protection

- (1) Your employees: use of data / disclosure of our data protection information:  
You are obliged to **also pass on the data protection information that we communicate to you as a contractual partner to the responsible persons and contact persons that you are to designate**, such that they are also informed about the data processing procedures and data protection measures that we carry out in connection with the contract.

- (2) Other agreements of relevance to data protection law:  
Both you and we shall enter into agreements under data protection law based on the EU General Data Protection Regulation (GDPR) and the German Federal Data Protection Act (BDSG) (e.g. an agreement regarding joint responsibility pursuant to Article 26 of the GDPR or a contract processing agreement pursuant to Article 28 of the GDPR) to the extent necessary even after the contract has been concluded.

#### **§ 14 Special agreements for the temporary transfer of materials**

The following regulations shall apply if we provide you with equipment or objects on a temporary basis, whether against payment or free of charge:

##### A. General

- (1) Subleasing:  
Subleasing or handing over rented items not necessary in accordance with the contract (e.g. so that the technician appointed by you can operate the item) requires our prior written consent.

§ 540 paragraph 1 sentence 2 BGB is excluded.

- (2) Calculation of the rental price, start and end of the rental period:  
All fees agreed for the transfer of equipment shall be calculated based on calendar days.

If not otherwise agreed, the rental period shall commence on the first day on which the material has to be sorted out in our warehouse or in the warehouse belonging to our subcontractor; in all other cases, the rental period shall commence on the first day on which the material is actually handed over to you.

If nothing to the contrary has been agreed, the end of the rental period shall be considered to be the day on which the material handed over is returned to us in the contractually agreed condition and the material is again freely at our disposal following a reasonable inspection period.

- (3) Condition of the materials, set-up:  
The rental objects shall be handed over to you in an orderly condition. You are obliged to notify us immediately of any damage or defects and to allow us a reasonable scope of opportunity for repair, rectification or subsequent delivery or to carry out a repair or arrange for a repair to be carried out as instructed by you.

Subject to any agreement to the contrary, you shall be responsible for the professional set-up of the equipment and shall bear liability for all damage resulting from any faulty set-up.

If requested to do so by you, we will specify the necessary electricity or other power requirements for the equipment, which you will provide at your own expense upon commencement of assembly and during the entire rental period.

- (4) Use of the materials:  
You are obliged to always handle the equipment with care and with the due diligence of a responsible businessperson. You agree to use the equipment solely for its intended purpose.

- (5) Safeguarding of the materials:  
You are obliged to adhere to all the usual protective measures and necessary safeguards against theft and vandalism. You shall be liable to the full extent for theft and any such damage that is not due to wear and tear or use in accordance with the contract from the moment the rental items are handed over to you, insofar as we are not responsible for their care and safeguarding in accordance with the contract.

- (6) Insurance:  
You are obliged to take out adequate insurance for the rental item to cover damage, theft, vandalism, etc. and to maintain this insurance for the duration of the rental period. We are entitled to demand proof of insurance at any time and to subject the transfer to you having presented proof of insurance.

The following minimum limits apply, except where otherwise agreed:

- a. 2 million euros for personal injury,
- b. 5 million euros for property damage, in which case the insurance must explicitly cover property damage to the rental object, as well as
- c. 250,000 euros for financial losses.

- (7) Compensation in case of damage:  
Should the equipment be damaged, destroyed or lost, you are obliged to compensate us for the replacement value of the equipment, i.e. the net purchase price that we would have to pay to replace the equipment, subject to any further claims arising from the destruction or damage to the equipment. You are, however, free to prove that we have not suffered any damage or that the damage is substantially

less; in this case, no damage or such lesser damage is to be reimbursed.

(8) Collection:

To the extent that we collect the equipment provided to you and do not ourselves use it in accordance with the contract, you must ensure that the equipment is stored in a safe and dry place until then and that the prerequisites from the regulations regarding the place of delivery are fulfilled. Should the conditions for collection not be met and deviations be unreasonable for our collection personnel, then the rental period shall be extended correspondingly by the amount of time spent waiting. All costs and damages incurred in connection with the delay shall be reimbursed to us.

(9) Special case of termination by you without notice:

Termination without notice for good cause (§ 543 paragraph 2 sentence 1 No. 1 BGB) for failure to provide use in accordance with the contract shall only be permitted if we have been given sufficient opportunity to rectify the defect and this has not been successful. Failure to rectify the defect shall only be assumed to have occurred if this is impossible, if we have refused to do so or delayed it to an unreasonable extent, if there are justified doubts regarding the prospects of success or if it is unreasonable for you for any other reason.

In all other respects, the provisions in § 21 ("Cancellation by you") shall be applicable.

(10) Special case of strict liability:

Our strict liability in accordance with § 536a paragraph 1, 1. alternative BGB, on account of defects that already exist at the time that the contract is concluded, is excluded to the extent that we have not deceitfully concealed the defect. Such limitation of liability is also applicable accordingly to our liability with respect to the reimbursement of fruitless expenses.

The provisions of § 17 ("Liability") shall apply in all other respects.

B. Delivery, place of delivery, transfer of risk, partial deliveries

(1) General:

As far as we are responsible for the delivery or you have requested it, it will be made to the postal address given by you at the time the contract was concluded or at our first request.

You must particularly specify the delivery address and possible constraints for delivery or collection, assembly and dismantling, etc. and be present to accept the delivery. You must carry out these acts of cooperation at your own expense, unless otherwise agreed.

(2) Approvals and acceptances:

- a. Approvals of any kind that are required for the contractual use regardless of location in order for us to be allowed to operate our equipment at all shall be obtained by us, but are to be paid for by you in full or on a pro rata basis, to the extent that these approvals are necessary for the operation for you.
- b. Approvals of any kind that are required depending on the location in order to be able to operate our equipment at the planned event location (e.g. noise protection for local residents, municipal bylaws, state law) have to be obtained and financed by you.
- c. Any necessary acceptance procedures are to be arranged by you. You shall also be responsible for the costs of acceptance, insofar as nothing to the contrary has been explicitly agreed.

(3) Surfaces: Your liability for floor load-bearing capacity / emergency escape routes:

- a. Installation sites, access and exit routes, manoeuvring areas and transport routes on the site or on your premises must be suitable for installation, intermediate storage, transport as well as assembly and dismantling work, be level, clear, sufficiently surfaced, have sufficient static load-bearing capacity and be sufficiently illuminated.
- b. Any restrictions on the utilisable areas (e.g. underground car park located under the manoeuvring and loading areas, etc.) have to be immediately reported to us.
- c. In principle, we anticipate that we will be able to deliver with vehicles with the following dimensions:
  - 18.75 metres in length,

- 2.60 metres in width,
- 4.00 metres in height, and
- 44 tonnes total weight or 11.5 tonnes axle load.

There must be sufficient space for at least 2 vehicles to be present at the same time, as well as manoeuvring, loading and unloading facilities. Loading and unloading sites must be in the immediate vicinity of the assembly/disassembly site and should not pose any obstacles for transport, intermediate storage and manoeuvring operations.

- d. We will inform you in advance in case of larger dimensions or higher weights or loads.
- e. You have to ensure that the areas and routes that we use are not accessed by unauthorised persons, especially not by guests, and that this is guaranteed, if necessary, by suitable barriers or personnel.
- f. You must ensure that escape routes and areas of movement for emergency services are not impaired, even if only temporarily, by deliveries, assembly, dismantling, collection and transport on the site or on your premises and provide suitable space/suitable areas for our manoeuvring, loading and construction activities.

(4) Loss of the materials, delays if you are a trader (§ 14 BGB):

The risk of accidental loss of the goods is transferred to you upon dispatch of the goods or handover to the delivery personnel, provided that we are not responsible for the assembly or dismantling of our equipment or for on-site support/service.

If delivery is delayed at your request or as a result of circumstances beyond our control, the risk shall pass to you for the duration of such a delay. The costs arising from the delay for waiting time, provision, storage, etc. have to be borne by you or rather you have to take appropriate measures upon request.

(5) Delivery success:

Delivery shall be regarded as having been made when we make the equipment available at the kerbside allocated to the agreed delivery address, in the event that no authorised person can be reached at the address given at the agreed time and handover of the goods is not possible, or delivery to you is deemed unreasonable even after exerting customary and reasonable efforts (e.g. delivery to areas whose safe access is not ensured, such as dark staircases or unsecured inclines).

The gate of the warehouse is considered as agreed if collection or return to our premises has been arranged.

(6) Partial deliveries:

We are entitled to make partial deliveries to the extent that the partial delivery:

- a. is due to circumstances within your sphere of responsibility (e.g. orders placed one after the other), or
- b. is unavoidable due to local conditions (e.g. access roads too narrow), or
- c. would only be feasible on our part by incurring disproportionate expense without a partial delivery due to the scope of the order, but the completeness of the order is nevertheless effected in good time, or
- d. is reasonable for you, such partial deliveries are to be accepted by you.

To the extent that we are not responsible for the requirement for partial deliveries, we are entitled to demand compensation for any additional expenditure, costs and damage incurred.

(7) Obligation to inspect:

You are obliged to immediately inspect the goods following delivery in order to ensure that they are free of defects and complete and to report any defects discovered in writing without delay. In the event that you fail to inspect the goods or notify us of defects in good time, the delivered goods shall be deemed to have been accepted, insofar as the defect was not recognisable during the inspection. Any defects discovered at a later date must be communicated within 14 days of their discovery; failing this, the goods shall also be deemed to have been approved with regard to these defects. The notice of defect should describe the defect reported in detail in such a way that it is possible to remedy the defect without further ado.

- (8) The same shall apply to the collection or return transport once dismantling has been completed.

#### C.Delivery dates, delivery disruptions, force majeure:

- (1) Details or agreements regarding delivery or service dates within a set-up, dismantling or event day shall only be understood as approximate dates and are not fixed dates, unless this disrupts the start of the event or other dates that are necessary for the event to run properly (e.g. acceptance of construction work). Binding delivery or service dates (fixed dates) have to be explicitly designated as binding or fixed.
- (2) Impediments that are unforeseeable or cannot be planned for by us (construction works, traffic jams on the way to you or to the event or to the agreed place of delivery) shall lead to a corresponding extension of any delivery periods at your risk.
- (3) We shall be obliged, if delivery is owed at all, to make one attempt at delivery or one attempt to supply the goods.
- (4) We shall be entitled to withdraw from the contract in the event that, through no fault of our own, we are unable to deliver the ordered goods or to provide the service because a covering transaction has been concluded with a supplier for the purpose of delivery and the supplier fails to fulfil their contractual obligations. Should this be the case, we will immediately inform you of the inability to deliver. In the event that payment has already been made, this will be refunded without delay.
- (5) If we are (a) waiting for your cooperation or information or (b) impeded in our performance due to strikes or lock-outs in third-party companies or in our company (in the latter case, however, to the extent that the industrial action is lawful), official intervention, statutory prohibitions or other circumstances through no fault of our own, delivery and performance deadlines shall be understood to be extended by the duration of the impediment and by a reasonable start-up time following the end of the impediment ("downtime"). No breach of duty shall be deemed to have occurred for the duration of the downtime. We shall notify you of such hindrances and their expected duration without delay.

The regulations on force majeure shall apply in all other respects.

#### **§ 15 Special agreements for the sale of new or used goods**

In the event that we sell you equipment or items, the following rules apply:

##### A.Defects in quality and title; other defects in performance; limitation period:

- (1) We provide a warranty in accordance with the rules of the law on sales in the BGB for the agreed quality of the contractual goods and for the fact that no third-party rights oppose the use of the contractual goods by you to the scope specified in the contract. The warranty for the freedom of the contractual goods against third party rights shall only apply to the country of destination as agreed between us, where the contractual goods are to be used.
- (2) In the event of **defects of title**, first of all we shall provide a warranty through subsequent performance. To this end, at our discretion, we shall provide you with a legally permissible opportunity to make use of the delivered contractual goods or of modified contractual goods of equivalent value.

In the event of **defects of quality**, first of all we shall provide a warranty through subsequent performance. To this end, at our discretion, we shall provide you with a new, defect-free item or rectify the defect; such defect rectification shall also be deemed to have taken place if we demonstrate to you reasonable options for preventing the effects of the defect.

- (3) We are entitled to render the supplementary performance dependent on you at least making a reasonable payment of the remuneration, rent and costs.
- (4) In the event that two attempts of subsequent performance fail, you shall be entitled to grant a reasonable period of grace to remedy the defect. In doing so, you have to explicitly point out in writing that you are reserving the right to withdraw from the contract and/or demand compensatory damages in the event of repeated failure.

Should the subsequent improvement also prove unsuccessful within the grace period, you are entitled to withdraw from the contract or reduce the remuneration, except in the case of an insignificant defect. Once a deadline has expired, we are entitled to demand that you exercise your rights ensuing from the expiry of the deadline within two weeks of receipt of the request. Once the deadline has expired, the option is transferred to us.

- (5) If we fulfil services for troubleshooting or fault rectification without being under obligation to do so, we are entitled to demand remuneration for this in accordance with our usual rates. This shall be the case, for example, if a defect did not exist at all or if you cannot recognisably attribute it to us. We shall also be compensated for any additional expenses we incur due to the fact that you have not properly fulfilled your obligation to cooperate.

- (6) Rights can only be derived from our other breaches of duty provided that you have notified us of these in writing and have afforded us a period of grace to remedy the situation. This shall not be applicable if a remedy is not possible in view of the nature of the breach of duty.
- (7) The provisions of § 16 ("Warranty") shall apply in all other respects.

#### B. Retention of title:

- (1) All deliveries and services are carried out under reservation of title. The delivered goods shall remain our property until full payment of the purchase price has been made and all our other claims against you arising from the current business relationship (in the instance of payment by cheque or bill of exchange until they have been redeemed).
- (2) You may only sell the goods under retention of title as part of the normal course of business and with the proviso that the purchase price claim from the resale is transferred to us. You hereby cede to us your claim from the resale of the goods under retention of title together with all subsidiary rights as security for all claims to which we are legally entitled from you at the time of the resale. You shall be entitled to collect the claims ceded to us. Your authorisation may, nevertheless, be revoked should you be in default with your payments to us. Should this occur, we will be authorised to inform your purchaser of the cession on your behalf. You undertake to furnish us with the information necessary to assert the rights against your purchasers, especially to name the purchasers and to surrender the necessary documents.
- (3) You shall not be entitled to make any other dispositions regarding the goods subject to retention of title, especially pledging or transfer of ownership by way of security.
- (4) Any impairment of the goods subject to retention of title has to be notified to us as well as any third-party access to them. Should the right of resale lapse, you shall be obliged, upon our request, to provide us with information regarding the inventory of the goods subject to retention of title and to surrender these goods at our request. We shall also be entitled to enter your business or event and take away the goods subject to retention of title after prior notice and setting of a deadline in order to enforce the claim for return. Moreover, we reserve the right to use the released goods subject to retention of title in order to satisfy our claims once we have either withdrawn from the contract or the prerequisites for the assertion of claims for damages on account of non-fulfilment have arisen.
- (5) In the event that the value of all our security rights exceeds the value of our claims against you by more than 20 %, we are obliged to release securities in excess of this at your request.

#### **§ 16 Warranty**

- (1) Acceptance:  
To the extent that acceptance is required, such acceptance shall be regarded as having been effected in the event that you refuse to do so after our request and setting of a deadline, however, at the latest within 14 working days following the request, with specific descriptions of defects.
- (2) Deadline for notification of defects:  
Complaints must be made in writing immediately after the discovery of a defect (notice of defect). In all other respects, § 377 of the German Commercial Code (HGB) shall take effect accordingly.
- (3) Rectifications of defects:  
To the extent that there is a defect in the subject of the contract attributable to us, we shall be entitled to rectify the defect or to provide a replacement at our own discretion. Should the defect be rectified, all necessary expenses, e.g. transport, travel, labour and material costs, shall be borne by us, insofar as these are not inflated due to the fact that the contractual items have been transported to a location other than the place of performance by you. If the rectification of defects or replacement service fails twice or we are not in a position or willing to do so, you are entitled to withdraw from the contract or reduce the remuneration.
- (4) Your right to reduce the purchase price:  
The right to reduce the price in the event of subsequent performance failing or, if a construction service is the subject of liability for defects, to withdraw from the contract at your discretion, is explicitly reserved for you.
- (5) When are your warranty rights excluded?  
Your rights arising from defects are excluded insofar as you make or have made changes to the rental equipment without our approval. This shall not apply if you are able to prove that the changes have no effects on the detection and rectification of the defects that we cannot reasonably be expected to accept.

Your rights on account of defects shall remain unaffected, insofar as you are entitled to make changes, especially within the scope of exercising the right of self-rectification pursuant to Section 536a paragraph 2 BGB, and such changes have been properly executed and documented in a transparent manner.

(6) Amendment of the period of limitation:

The period of limitation for all warranty claims shall be 1 year from acceptance, in all other respects 1 year commencing at the end of the year in which the claim originated and you gained knowledge of the circumstances substantiating the claim and the person of the obligor or should have gained knowledge thereof without gross negligence.

This shortening of the period of limitation does not apply in the case of:

- a. wilful intent or gross negligence,
- b. personal injury,
- c. a defect in a right in rem of a third party, based on which the surrender of the purchase object can be demanded (§ 438 paragraph 1 no. 1a BGB),
- d. a work of construction and a work of which the success lies in the provision of planning or supervision services therefor (§ 634a paragraph 1 no. 2 BGB),
- e. claims under the Product Liability Act.

(7) Miscellaneous:

- a. The provisions mentioned above regarding "Warranty" shall not apply if we have deceitfully concealed the defect or have issued a guarantee for the quality of the work.
- b. Reference is drawn to the possibility of subsidiary liability for subcontractors in accordance with § 17 paragraph 6.
- c. § 15 shall apply with priority in the case of a purchase of goods.

## **§ 17 Liability**

(1) Strict liability for renting:

Our strict liability in accordance with § 536a paragraph 1, 1. alternative BGB as a result of defects within the scope of a rental which is already present at the time the contract is concluded is ruled out. Such limitation of liability is also applicable accordingly to our liability with respect to the reimbursement of fruitless expenses.

(2) Breaches of duty leading to material or financial damage:

Should we only be in breach of duties as a result of minor negligence, our liability shall be limited to the foreseeable average damage typical for the type of contract.

In the event of only minor negligent breaches of insignificant contractual obligations, we shall not be liable. "Insignificant" means such duties, the fulfilment of which does not shape the contract and which you may not rely on.

Any indirect damage and consequential damage resulting from defects in the subject matter of the contract shall only be eligible for compensation to the extent that such damage is to be expected typically when the subject matter of the contract is used as intended.

The limitations of liability in this paragraph 2 shall not be applicable in the event of grossly negligent or intentional breach of duty.

(3) Breaches of duty leading to injury to life, limb or health:

We shall be liable for any kind of negligence and wilful misconduct in case of injury to life, limb or health of you attributable to us.

(4) Mandatory liability by law:

The limitations of liability arising from paragraphs 1 and 2 do not affect your claims arising from product liability and from statutory mandatory liability circumstances.

(5) Extension of this clause to employees, bodies, vicarious agents and others:

The exclusions and limitations of liability arising from paragraphs 1 and 2 shall be applicable to the same extent in favour of our bodies, our employees and other vicarious agents and our subcontractors.

(6) Subsidiary liability for subcontractors as causer if you are an entrepreneur (§ 14 BGB):

If we commission a subcontractor or downstream contractor (hereinafter referred to as "subcontractor") and such subcontractor fails to perform properly or causes damage, we may invoke our subsidiary liability in the event of a claim being asserted against us. Such invocation must be made immediately upon announcement of a claim and can be revoked thereafter at any time. Should this invocation be made, our liability shall be subsidiary in nature, and that of the subcontractor shall be primary.

That means in detail:

- a. Claims resulting from a breach of duty by the subcontractor have to be primarily asserted directly against them. We are obliged in such a case to name this subcontractor with a summonable address, to cede all rights or claims to which we are entitled against this subcontractor to you and to provide you with all documents and information required to assert the claim as well as to name our own employees and persons as witnesses with summonable addresses to the extent possible.
- b. You have to institute at least one court proceeding of the first instance against the subcontractor. Should you be defeated there, we may demand that you immediately surrender to us all pleadings and court orders and verdicts and also proceed through further instances, while anticipating the costs of the further instance(s). Should you also be defeated in these further instances, then we shall reimburse the court costs and any legal fees incurred in these further instances.
- c. In the event that you prevail in the judgment, you will have to make at least 2 enforcement attempts against the subcontractor.
- d. We shall only be liable in a subsidiary manner if and to the extent that this primary claim should fail.
- e. Any agreement of indemnity or the like agreed by us with the subcontractor shall not have any effect on our right to invoke subsidiary liability.

Subsidiary liability shall not apply or shall only be applicable at your request in the event that our subcontractor has its place of jurisdiction in another EU country.

## **§ 18 Force majeure**

- (1) Force majeure affecting the relationship between you and us:  
Should force majeure result in the termination or suspension of the contract or individual contractual services, we are entitled to demand that you reimburse or compensate us for the costs incurred and services rendered up to that point and for the payments to be made by us to our subcontractors.

To the extent that § 313 BGB applies or should apply by mutual agreement or judicial decision, it is hereby agreed that we shall at all times be entitled to the costs incurred and services rendered up to that point and the payments to be made by us to our subcontractors.

To the extent that the contractually obligated services have not become directly infeasible, but rather have only become more difficult or adversely affected or appear to be virtually impossible, i.e. in the case of recommendations by authorities to cancel or terminate the event, in the case of more stringent requirements stipulated by the authorities or regulations and other such cases, § 648 BGB shall govern our remuneration, regardless of whether it is applied directly or by way of analogy, to the extent that a cancellation in accordance with the cancellation conditions agreed upon here would not result in a lower cancellation fee; in such a case, the lower cancellation fee shall prevail, unless we choose to calculate the actual damages and these should be higher than the fee.

- (2) Decisive point in time of the assessment:  
If you specify the concern about or the probability of the occurrence of force majeure as the reason when giving notice of cancellation/termination of our contract or cancellation of the event, the following shall apply:

The decisive point in time for assessing whether force majeure has occurred or not shall be the contractually agreed time of the event. If it is a period of more than 1 day, the calculated middle of this period is considered to be the decisive point in time.

This shall also apply if you cancel the event prior to the date that it is to take place due to concerns about force majeure. You have to prove that the cancellation was solely due to the possibility of force majeure.

Should it then prove at this time that force majeure has occurred, the agreement on force majeure shall apply. On the other hand, if it turns out at this time that no force majeure has occurred, the agreement regarding cancellation/termination shall apply.

We shall, however, in any case be entitled to receive payment under paragraph 1, especially until any legal issues have been resolved. Any payment by you in this respect shall not be regarded as a waiver in respect of any other claims against us. Acceptance of your payment by us shall not be deemed to be an acknowledgement of force majeure and a waiver of any further claims against you.

(3) Force majeure affecting the relationship between us and our subcontractor:

In the event that one of our subcontractors is able to claim force majeure and therefore fails to perform the service due under the subcontracting relationship, this shall also release us from our obligation to perform in relation to you; paragraphs 1 and 2 shall apply in all other respects.

We shall strive to find suitable substitute services, the remuneration for which shall, in case of doubt, be calculated on the basis of the agreed remuneration.

(4) "Corona clause":

It shall be understood that your or our knowledge at the time the contract is concluded of pandemics and epidemics developing over a certain period of time shall not exclude force majeure, more specifically the unforeseeability necessary for this within the meaning of these contractual provisions; i.e. that both you and we may still invoke force majeure even upon conclusion of the contract. The purpose of this is to address the uncertainty for all contractual partners as to the legal situation, such as in the first quarter of 2020 as a result of the COVID 19 pandemic spreading at that time.

This provision, however, shall only be applicable to pandemics and epidemics that can be compared to the COVID 19 pandemic in 2020, i.e. that are caused by a new, unknown pathogen or a pathogen that cannot be cured effectively with a vaccine or medication.

(5) Other legal consequences:

Through the occurrence of force majeure, the following provisions shall continue to apply even if the contract itself is terminated or rescinded in other respects and insofar as this is appropriate within the framework of the settlement, in particular: §§ 4, 8, 10, 11, 12, 14, 15, 16, 17 and 21.

Any necessary activities that are required to process and complete the assignment must be remunerated and paid for by you on a separate basis; if there is any doubt, the remuneration rates agreed for the actual assignment shall apply accordingly. This also includes the costs for legal or other professional advice which is/was not yet the subject matter of the assignment and which are deemed necessary so that the assignment can be handled and terminated in a professional manner.

If despite force majeure occurring you use our services to a greater extent than remunerated or paid for in accordance with paragraph 1 (e.g. when force majeure occurs a copyrighted work is fully completed and is utilised by you regardless of force majeure), we shall then have a claim to remuneration and reimbursement of costs exceeding the costs actually incurred and services rendered and in accordance with the extent of the services actually used by you.

We are entitled to defer the reverse transaction for the period of time that is required for the overall calculation, incl. the compilation and clarification of all cost items. If fewer than 50% of these cost items have yet to be clarified, we shall reverse the transaction in relation to the other part. The statute of limitations is also suspended for the period of this suspension.

You have an entitlement to obtain information about our efforts with regard to compiling and clarifying the matter, and this information can also be provided by means of a confirmation or a report from an attorney or an auditor.

## **§ 19 Failure of a service provider to perform**

(1) Exemption from payment in the event of non-performance by a service provider:

To the extent that a service provider for which we are responsible is unable or unable to fully perform a service owed ("unable to", e.g. overbooking of the hotel) or is unwilling to ("unwilling to", e.g. due to security concerns) outside of force majeure and we are able to prove that,

- a. we have carefully selected this service provider.,
- b. we did not culpably cause the service provider's failure to perform, as well as
- c. in the case of being unwilling, this unwillingness is or was objectively justifiable or reasonable and necessary for the safety of the guests, participants and/or employees,

we shall be relieved of our duty to perform towards you, provided that we owe such to you.

(2) Efforts to provide substitute services:

Should paragraph 1 be applicable, we shall strive to find suitable substitute services.

(3) Legal financial consequences:

Our entitlement to remuneration and reimbursement of costs arising from this endeavour and your entitlement to compensation for damages against us are subject to the following two provisions:

- a. If the failure to perform applies to your area of risk (see § 4 paragraph 14, "Risk of conducting the event or project"), we are entitled to compensation and reimbursement of costs.
- b. If the failure to perform applies to our area of risk, we shall not be entitled to compensation and reimbursement of costs. To the extent that we have acted neither negligently nor with culpability, your claim for compensation shall be limited to the amount payable by the service provider, subcontractor or an insurance carrier. In all other respects, § 17 ("Liability") applies.

## § 20 Cancellation

(1) Cancellation by us for good cause:

We are entitled to cancel the contract if, having considered all the circumstances of the individual case and having weighed up the interests of both parties, the continuation of the contractual relationship until completion of the agreed service and/or until the agreed termination is not reasonable for us (cancellation for good cause). Such a reason exists, for example, if:

- a. we have not received a payment due from you in good time, to the extent that our cancellation does not result in an exclusion or encroachment of the insolvency administrator's right of choice in accordance with section 103 of the German Insolvency Code (InsO),
- b. you are in default of payment following an application for initiating insolvency proceedings and after the insolvency proceedings have been opened,
- c. you experience a change of shareholders holding more than 50% of your capital shares, to the extent that this affects our economic and/or legal interests to a more than insignificant extent (change of control),
- d. circumstances become apparent that were not known to us at the time the contract was concluded and which jeopardise the safety of the event, the guests, participants or employees and if we had known about these circumstances we would not have entered into the contract or would not have entered into the contract under these conditions or if the health or safety of a third party is only ensured by cancellation,
- e. defects are discovered for which we bear no responsibility and which might endanger the health or life of a third party, or defects are found for which we bear responsibility, to the extent that the health or safety of a third party can only be ensured by cancellation.,
- f. you fail to implement measures stipulated by law or ordered by the authorities and which serve to ensure the safety of the personnel we deploy on site (delivery, assembly, service, etc.),
- g. you have maliciously failed to disclose circumstances that are of fundamental importance for assessing the risk situation and/or the extent of the scope of performance and/or the equipment of the production and/or our employees or assistants, above all with a view to safety and lawfulness,
- h. an event is or shall be held that differs in nature, content or scope from the event specified in the subject matter of the contract, where this was not apparent to us when exercising due diligence and thereby it is not ensured that the event is held safely and lawfully, including, where applicable, supplemented by necessary and reasonable measures at short notice, or where we are unable to reasonably be expected to participate in such an event and where we would not have entered into the contract or would not have entered into the contract under these conditions had we known of the difference,
- i. it can be assumed that the event at which our logos, equipment or personnel are present and in attendance relates directly to political events in Germany and/or abroad, and/or where opinions are or are intended to be discussed and/or expressed in a manner that is not compatible with fundamental democratic values and/or the Basic Law of the Federal Republic of Germany and/or that has a negative impact on the peaceful coexistence of people in Germany,
- j. you operate technical or structural facilities that are not permitted and that may thereby endanger us or our personnel,
- k. you fail to create local conditions that have been agreed or are required for timely delivery or support/service on site. Such conditions include, for example, gravel access roads, load limits of the access roads, far distances from the last permissible place where the delivery vehicle can be parked up to the place of delivery, as well as insufficient load-bearing capacity of the ground, lighting, fire protection, escape routes, and it is impossible or unreasonable to make the delivery even at the kerb in view of our property.,
- l. the responsible authorities and police are not in a position to uphold public safety and order based on concrete grounds and for this reason we cannot reasonably be expected to maintain the contract,
- m. a competent authority or a court prohibits the event from taking place.

(2) Cancellation for good cause by you:

You are entitled to cancel the contract without giving notice if, having considered all the circumstances of the individual case and having weighed up the interests of both parties, the continuation of the

contractual relationship until completion of the work and/or until the agreed termination cannot reasonably be expected of you.

Cancellation is excluded in all other respects.

- (3) The need for a prior warning:  
No prior warning or fixing of a deadline is required if the reason for cancellation seems unlikely to be eliminated or not to occur, if the contracting party cancelling the contract cannot reasonably be expected to stick to the contract and if the other party does not at least accept to assume the additional costs (remuneration, expenses) incurred by eliminating the reason for cancellation. If the reason for cancellation applies to the life, health or limb of a person, then there must be no doubt that the cancellation or non-occurrence will be ensured.
- (4) Entitlement to remuneration following cancellation:
- a. In the event that we cancel for an important reason, we shall not lose our entitlement to remuneration and costs in respect of contractual services and work, provided that these costs have actually been incurred, and in respect of rent to the rental price, provided that we have not saved any costs.
  - b. If you cancel for an important reason, then we shall only be entitled to the remuneration that is attributable to the part of our performance rendered up to the point of cancellation.
- (5) Joint determination of the performance status:  
Following cancellation or other early ending of the contract, each party may demand that the other party cooperate in a joint determination of the performance status. Should one of the contracting parties refuse to cooperate or fail to observe an agreed date or a date set by the other contracting party within a reasonable period of time for determining the performance status, the party shall be responsible for proving the performance status at the time of cancellation. This shall not be applicable if the contracting party fails to perform as a result of a circumstance beyond its control and of which it has notified the other contracting party without delay. We may demand reimbursement of our expenses incurred in making this determination, except where we are responsible for the cancellation of the contract.

## **§ 21 Cancellation by you**

- (1) General:  
If you wish to cancel the contract for a reason beyond our control and which is not based on force majeure (cancellation), you may do so in principle; but you must inform us of this in writing and explicitly.

Should this be the case, and in view of the fact that experience has taught us that in the event of cancellations we are not always able to make alternative use of our services or deploy our staff otherwise, we shall be entitled to claim costs and fees etc. according to the following provisions, subject to any agreement to the contrary with you.

The decisive point in time for the assessment of the charges shall be upon receipt of your cancellation by us.

Reference is made to the relevant paragraph in the force majeure clause (§ 18(2)) regarding the determination of the decisive point in time for the assessment between cancellation and force majeure.

- (2) Our right of choice in case of cancellation:  
We may either claim the prices specifically agreed upon after deducting expenses saved, or settle our costs and our lost profit with a lump sum. The following lump sums shall then apply in this case.

Should we choose the lump sum, you have the option of demonstrating that we have not suffered any damage or that we have suffered a lesser amount of damage. You only have to reimburse this lower amount instead of the lump sum in this case.

- a. In case of cancellation up to 60 days prior to the event/travel date, 30% of the agreed remuneration,
- b. In case of cancellation up to 30 days prior to the event/travel date 50% of the agreed remuneration,
- c. In case of cancellation up to 14 days prior to the event/travel date 70 % of the agreed remuneration,
- d. In case of cancellation up to 7 days prior to the event/travel date 90 % of the agreed remuneration.

If we opt for a specific calculation of the remuneration, then we retain our entitlement to the remuneration. Nevertheless, we have to take into account what we save in expenses as a consequence of the ending of the contract or what we gain or refrain from gaining in bad faith by using our manpower for other purposes. It is rebuttably presumed that we shall be entitled to 10% of the agreed remuneration for the part of the agreed services not yet performed.

In any case, you will have to reimburse the costs of third parties (e.g. lighting or sound technology hired

in expectation of the event, external personnel requested, catering contracted, etc.), which these third parties claim from us or directly from you, unless these services are included in our agreed fee and in the lump sums, whereby we are obliged to provide evidence of this.

We are entitled to exercise the right of choice until such time as an agreement has been made or a legally binding court decision has been reached on the settlement. This also means that we may change the "lump sum" choice to the "specific calculation" choice as long as there is no consensus on the lump sum or a legally binding court decision, and vice versa.

(3) Withdrawal for us during the period of cost-free cancellation:

In the event that we have agreed a cost-free cancellation right in your favour over a certain period of time, we too may withdraw from the contract within this period if there are enquiries from potential third parties regarding the subject matter of the contract booked and you choose not to waive your right to cancel within a maximum of 10 days upon our request.

(4) No negotiation of cancellation conditions with third parties:

We shall be under no obligation to negotiate cancellation conditions with subcontractors or service providers or to delay the commissioning of third parties with regard to a possible cancellation without an explicit instruction to do so, in which case you shall assume all risks that may arise as a result of a delay.

(5) Other legal consequences:

The following provisions will continue to be applicable as a result of your cancellation, even if the contract is otherwise cancelled and to the extent that this is expedient within the framework of the settlement, in particular: §§ 4, 8, 10, 11, 12, 14, 15, 16, 17 and 21.

Any activities necessary for the processing and conclusion of the order have to be remunerated and paid for separately by you; if there is any doubt, the remuneration rates agreed upon for the actual order shall apply accordingly. Also included are the costs for legal or other professional advice that is/was not already part of the order and that are necessary in order to process and conclude the order to the best of our professional ability.

To the extent that, following cancellation, you make more extensive use of our services than has been remunerated or paid for pursuant to this cancellation agreement (e.g. at the time of cancellation a copyrighted work has been completed and is being made use of by you in spite of force majeure), we shall be entitled to remuneration and reimbursement of costs exceeding the costs actually incurred and services actually rendered and in line with the extent of the services actually used by you.

(6) Joint determination of the performance status:

Following cancellation or other early ending of the contract, each party may demand that the other party cooperate in a joint determination of the performance status. Should one of the contracting parties refuse to cooperate or fail to observe an agreed date or a date set by the other contracting party within a reasonable period of time for determining the performance status, the party shall be responsible for proving the performance status at the time of cancellation. This shall not be applicable if the contracting party fails to perform as a result of a circumstance beyond its control and of which it has notified the other contracting party without delay. We may demand reimbursement of our expenses incurred in making this determination, except where we are responsible for the cancellation of the contract.

## § 21 Final provisions

(1) Retention:

You are not entitled to assert a right of retention against us because of another claim not originating from this contractual relationship.

(2) Offsetting:

The right of offset against us shall only be granted to you if it is based on the same contractual relationship. You are obliged to pay the due remuneration and costs into a trust account in the event of an offsetting situation asserted by you in order to safeguard the interests of all parties. In the event of a legally binding or acknowledged cessation of the offsetting situation, the trustee is obliged to pay us the amount of the due payments to us, and to return such payments to you in the event of a legally binding or acknowledged determination of the offsetting situation. The party who incurred the trust administration shall bear the costs of such trust. Additional interest resulting from the default cannot be demanded by the respective party entitled to receive funds from the other party. Provided that no payment is made to the trust, it is presumed that no permissible offsetting position applies unless we have acknowledged the claim on which the offsetting is based or it has been legally established.

(3) Transfer:

You are only entitled to assign claims arising from the contractual relationship with us to third parties subject to our prior explicit consent.

- (4) Place of fulfilment if you are an entrepreneur (§ 14 BGB):  
The place of performance shall be our registered office, insofar as nothing to the contrary is stated in our offer or the order confirmation.
- (5) Place of jurisdiction:  
Should you be a trader within the meaning of the German Code of Commercial Law (Handelsgesetzbuch) or a legal entity under public law or a special fund under public law, then the following shall apply: the place of jurisdiction for all claims resulting from the relationship with you shall be our registered office. In such cases, we are then also entitled to choose the place of jurisdiction at your registered office.
- (6) Choice of law:
- a. If you are an entrepreneur (§ 14 BGB), German law applies.
  - b. If you are a consumer (§ 13 BGB), the following applies: these T&Cs shall be subject to the law of the Federal Republic of Germany as well as the contractual relationship with you, to the exclusion of substantive EU law. The statutory provisions on restricting the choice of law shall remain hereby unaffected. The following is especially applicable in its area of application based on Article 6 paragraph 2 of Regulation (EC) No. 593/2008 (so-called "Rome I Regulation"): To the extent that the law of the state in which you have your usual place of residence at the time the contract is concluded (hereinafter referred to as "law of domicile") contains stipulations for your protection that may not be diverged from by agreement pursuant to the law of domicile, the (more favourable) stipulations of the law governing your place of residence shall apply to you. This means that despite the choice of law pursuant to sentence 1, you will always enjoy the protection of the mandatory provisions of the law governing your place of residence.
- (7) Choice of language:  
If these General Terms and Conditions are translated into a language other than German, it is the German language version that shall take precedence in case of any doubt.
- (8) Upholding the validity of the T&Cs / individual clauses:  
Both you and we are obliged to replace or fill the gap that corresponds in its legal and economic content to the invalid/void/impracticable provision and the purpose of the contract in the event that individual or several provisions are deemed invalid/void/impracticable for reasons other than those relating to the law of general terms and conditions pursuant to §§ 305 to 310 BGB or if a regulatory loophole arises that needs to be filled.
- § 139 BGB (partial voidness) is excluded.  
In the event that the invalidity of a provision is attributable to a measure of performance or time (deadline or period) laid down therein, then such provision is to be conciliated with a legally permissible measure that comes closest to the original measure.

As of: 01.01.2023