

# General Terms and Conditions - Sales

1/5

## ■ General conditions of delivery and performance for use in business dealings with business entities

*The following text is a translation of the German terms and conditions and is provided for your information only. In all cases of doubt or discrepancy, the German language version shall prevail.*

Arts Outdoor Lighting Multimedia Events & Drones LLC, Bremen, Germany (hereinafter referred as AO Multimedia),  
Last updated: July 2020

### § 1 Scope

1) The present General Terms and Conditions of Business (hereinafter referred to as the Terms) shall constitute both the basis and an integral part of all contractual agreements which are concluded by and between Arts Outdoor Lighting Multimedia Events & Drones LLC, Bremen, Germany (hereinafter referred to as AO Multimedia), on the one hand, and its contractual partners (hereinafter referred to as the Customer), on the other, and which concern the sale of items and/or associated materials and services by AO Multimedia. They shall also govern all future transactions between AO Multimedia and the Customer (hereinafter referred to as the Parties) even in the absence of any further agreement to this effect.

2) Only the present Terms shall apply. The Customer's divergent terms of business, if any, shall be deemed invalid. Any changes to the Terms shall be without legal effect unless expressly confirmed by AO Multimedia in writing; only in case of such confirmation shall they take precedence over these Terms.

3) These Terms will be deemed to have been accepted at latest on receipt of the goods or service(s) in question.

4) These Terms shall also apply to legal entities under public law and special public assets.

### § 2 Offer and conclusion of contract

1) Offers by AO Multimedia shall be without obligation. AO Multimedia reserves the right to make changes and additions. Illustrations in printed materials as well as statements concerning weights and dimensions are to be regarded as approximative unless their accuracy is guaranteed in writing.

2) For the contract to come into effect, there must be written confirmation by AO Multimedia. Such written confirmation shall determine with finality the nature of the performance, the contractual relationship and scope of delivery contracted for. Ancillary agreements and oral statements including assurances and guarantees given by employees shall only form part of the contract if confirmed in writing by AO Multimedia. The only persons authorized to provide such written confirmation are the managing director of AO Multimedia and its authorized signatories.

### § 3 Prices

1) All prices quoted by AO Multimedia are to be understood as being in euros exclusive of value added tax.

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2) In the case of sale to destination according to buyer's instructions, the purchase price shall apply plus the cost of freight, packaging and insurance.

3) AO Multimedia shall remain committed to the prices quoted in its offers for 30 days from the time of the offer in question. Otherwise the definitive prices shall be those quoted by AO Multimedia in the order confirmation.

4) The cost of installation, training, and other ancillary services are not included in the purchase price unless agreements to the contrary have been reached.

## § 4 Delivery

1) Unless otherwise agreed, AO Multimedia shall decide upon the means of transport and shipping routes without being responsible for selecting the quickest and cheapest possibility.

2) Delivery dates and periods must be explicitly confirmed by AO Multimedia in writing and shall be considered merely approximate. Delivery shall be deemed to be punctual if the goods have left AO Multimedia's warehouse or if they have been reported ready for delivery prior to expiry of the delivery period.

3) AO Multimedia shall only be responsible for the punctuality of its own deliveries and/or services if it has itself received the requisite deliveries or other services punctually (provided the relevant contracts with suppliers and subcontractors were concluded at an appropriate time). The burden of proving that AO Multimedia is in breach of duty with respect to the obtaining of supplies shall lie with the Customer. Correct and punctual deliveries by our own suppliers shall be expressly reserved.

4) In the event of Acts of God, strikes, shortage of raw materials or operational disturbances, the delivery periods shall be extended accordingly. In any such case or if AO Multimedia's suppliers encounter circumstances leading to considerably delayed performance and AO Multimedia is unable to procure the goods, AO Multimedia shall be entitled to withdraw from the contract. At the Customer's request, AO Multimedia shall declare whether AO Multimedia intends to exercise its right to withdraw from the contract or intends to deliver within a reasonable period of time to be agreed.

5) Deliveries are ex warehouse AO Multimedia at the expense and risk of the customer. The place of performance in the sense of § 269 BGB is the head office of AO Multimedia. The risk of accidental loss and accidental deterioration of the goods is passed to the customer at the time of their handover at the place of performance. If the contract provides expressly for delivery to some other location, the risk of accidental loss and accidental deterioration of the goods passes to the customer upon delivery of the item by AO Multimedia to the shipping agent, carrier or other person or entity charged with performance of the delivery. If the customer delays in accepting the goods, the transfer of risk shall nonetheless be deemed to have taken place.

6) AO Multimedia has the right to make partial deliveries which shall in each case be payable separately.

## § 5 Terms of payment

1) Unless otherwise explicitly agreed in writing, AO Multimedia's invoices shall be payable within fourteen days

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of receipt of the goods, without any deductions whatsoever. The Customer shall be in arrears if this deadline is exceeded. In the event that there are any defects, the Customer has no withholding rights unless the delivery is obviously defective or if the Customer has clearly the right to refuse to accept the delivery. In this case, the Customer only has any withholding rights to the extent that the withheld amount is in an appropriate relationship to the defects and to the probable costs of subsequent performance (particularly rectification of defects). The Customer is not entitled to assert claims and rights for defects if the Customer has not made due payments and the due amount (including any payments already made) is in an appropriate relationship to the value of the defective delivery.

## § 6 Reservation of title

1) All delivered items remain the property of AO Multimedia until all the claims of AO Multimedia against the Customer arising from the business relationship have been satisfied. In case of any breach of duty by the Customer, and in particular in case of a failure to pay on time, AO Multimedia is entitled – even in the absence of a deadline – to demand the return of the delivered item and/or to rescind the contract. The customer shall be obliged to make restitution. A demand for restitution of the delivered item shall not be deemed a rescission by AO Multimedia of the contract unless this is expressly stated.

2) The Customer shall be obliged to inform AO Multimedia without delay of any third-party action against the goods, for instance if attachment is ordered, as well as to report any damage to or destruction of the goods. The Customer shall immediately inform AO Multimedia in writing of any change in possession of the goods or change of domicile.

3) The Customer shall be entitled to resell the goods in the ordinary course of business. The Customer hereby assigns to AO Multimedia in full any claims deriving from the resale or from any other legal title (e.g. insurance, impermissible action). AO Multimedia herewith accepts the assignment. Following such assignment, the Customer shall be authorized to collect the sums outstanding until further notice. However, AO Multimedia reserves the right to collect the sums directly if the Customer does not discharge his payment obligations correctly.

## § 7 Liability for defects

1) AO Multimedia is not responsible for defects in the delivery derived from third parties and forwarded to the Customer unchanged. This does not apply in case of intent and negligence.

2) Claims for defects by the Customer do not exist in the case of merely immaterial deviation from the agreed quality or immaterially impaired use of the delivery object.

3) In case of defects, AO Multimedia has the right to choose between the rectification of such defects and replacement delivery. Should subsequent fulfilment fail, the Customer has the right to choose whether to reduce payments or withdraw from the contract. Remediation of any defects shall only be deemed to have failed after a third attempt at remediation has proved unsuccessful.

4) The customer shall bear the expenditure necessary for the purpose of subsequent fulfilment in so far as this is increased as a result of the deliveries or performance having been performed or rendered at a place other than

LIGHTS TO REMEMBER

the head office of AO Multimedia, unless such relocation is consistent with their designated purpose.

5) The Customer must report the defect in writing within 7 days of receiving the goods, otherwise warranty claims shall be excluded. This shall not apply if the defect was not evident. If a defect is found later, it must similarly be reported in writing within seven days. Defects shall be deemed to have been reported in good time if notice is sent before expiry of the deadline. The Customer shall bear the full burden of proof for all requirements underlying a claim, particularly the defect itself, the time at which the defect was discovered and for proving that the defect was reported in good time.

6) If the buyer finds defects of the goods, he must not dispose of them, i.e. they may not be shared, resold or processed further until an agreement on the settlement of the claim has been reached or else an independent examination has been conducted by an expert appointed by the chamber of commerce at the head office of the purchaser.

#### **§ 8 Limitation of liability**

1) AO Multimedia is liable for cases of intent or gross negligence in accordance with the statutory provisions. Otherwise AO Multimedia is only liable according to the German Product Liability Law for loss of life, bodily injury, impairment to health or for the culpable violation of material contractual obligations. However, claims for damages for the violation of material contractual obligations are limited to foreseeable damage typically associated with this type of contract. Even in cases of gross negligence, AO Multimedia's liability is limited to foreseeable damage typically associated with this type of contract unless one of the exceptional cases referred to in Paragraph 2 of this Section applies at the same time.

2) If AO Multimedia's operating or maintenance instructions are not followed, products are modified, parts changed or consumable materials used that do not correspond with the original specifications, all claims for defects shall be null and void unless the Customer can substantiate the claim that none of these circumstances contributed to the fault.

3) Liability for damage caused by the delivered item to the legal property of the Customer, for example damage to other chattels, is fully excluded. This does not apply, however, in the case of intent or gross negligence or to claims in respect of loss of life, bodily injury or impairment to health.

4) The provisions of Paragraphs 1 and 2 above apply both to damages in addition to performance and to damages in lieu of performance, regardless of the legal basis for the claim, and in particular claims in respect of defects, violation of the obligations arising from the contractual relationship or unlawful acts. They also apply to claims for compensation for futile expenditure.

5) Where the performance of services is delayed, AO Multimedia shall be liable in cases of intent or gross negligence in accordance with the statutory provisions. Such liability shall, however, be restricted to foreseeable loss typically associated with this type of contract. Otherwise AO Multimedia's liability for delayed performance for damages in addition to performance and for damages in lieu of performance shall be limited to 10% of the value of the delivery at the most. Further claims by the customer for delay in providing the service are excluded – even after the deadline set by AO Multimedia has come to an end. The abovementioned limitations do not apply to loss of life, bodily injury or impairment to health.

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## § 9 Rescission

1) The customer may only rescind the contract within the scope of the statutory provisions if AO Multimedia is guilty of breach of duty; in case of defects, however, the statutory provisions still obtain. In case of breach of duty, the Customer must inform AO Multimedia in writing, within a reasonable period of being requested so to do, whether it intends to rescind the contract on the grounds of breach of duty or insist on delivery.

## § 10 Limitation period

1) The limitation period for claims and rights arising from defects in the delivery – whatever their legal basis – shall be one year.

2) The limitation period in Paragraph 1 shall also apply to all compensation claims against AO Multimedia that relate to the defect – regardless of the legal basis for the claim. The same shall apply to compensation claims of any kind against AO Multimedia that are not related to a defect.

3) The limitation period does not generally apply in the case of intent. It does not apply either if AO Multimedia has fraudulently concealed a defect. In the latter case, the statutory limitation period shall apply instead.

4) The period of limitation shall also not apply to compensation claims in case of loss of life, bodily injury or impairment to health or else violation of liberty, for claims under product liability law, for grossly negligent or else wilful dereliction of duty or for violation of material contractual obligations.

## § 11 Form and concluding provisions

1) Insofar as written form has been agreed or prescribed by the present Terms, this requirement shall also be met by facsimile transmission (fax) and by an electronic document from which the identity of the issuer can be established incontrovertibly.

2) All ancillary agreements shall be without legal effect unless confirmed in writing by AO Multimedia.

3) If any of the provisions in the contractual agreement, including these Terms, proves to be invalid or has not been validly incorporated into the contract, this shall not affect the validity of the remainder of the provisions of the contract. Instead the provision most closely fulfilling the economic intention of the Parties shall apply.

4) The parties are mutually permitted to produce photographic and film works, including works created in a similar manner to such works, of the contract goods and the lighting effects produced by the same and in every respect use them for their own purposes. Any transfer to third parties for commercial purposes is excluded.

5) All legal relations between the Parties shall be governed by the laws of the Federal Republic of Germany. The court of jurisdiction is Bremen.