

General Business Terms and Conditions (German abbreviation: AGB) SSM Veranstaltungstechnik GmbH [Status Mai 2020]

I. General information

1. All offers, deliveries and services of SSM Veranstaltungstechnik GmbH (hereinafter referred to as "SSM") shall be exclusively carried out on the basis of these General Business Terms and Conditions (hereinafter "Terms and Conditions") that are a part of all contracts, which we conclude with our contractual partners (hereinafter referred to as "Orderer" or "Renter") regarding our services.
2. The following Terms and Conditions are also to be applied to addendums, contractual extensions, amendments to contracts. They shall also apply to all future business relationships between the contractual parties, even if they are not explicitly included once again.
3. Insofar as no explicit regulation is set forth in the Terms and Conditions, the statutory regulations shall apply in addition. These cannot be excluded for our disadvantage by General Business Terms and Conditions of the Orderer / Renter / Buyer.
4. Contradictory contractual terms and conditions of the Orderer / Renter or those which deviate from or supplement our Terms and Conditions will not be recognised.
5. Deviating agreements shall require a written form. The ordered written form can only be revoked in writing.

II. Offers, securities, insurance

1. The offers of SSM are always without obligation and are non-binding, insofar as not otherwise agreed or the offers contain a certain acceptance deadline.
2. All details regarding the rental object in an oral or written form, such as for example in advertising brochures, diagrams, directories or other documents, regarding the usability, operating features and technical performance are only part of the contract with a written confirmation by SSM.
3. SSM shall not assume any liability for the accuracy of manufacturer's details. SSM undertakes, however, to assign possible own claims in this context against the manufacturer to the Orderer / Renter / Buyer upon request without delay.
4. SSM reserves the right to place rental objects stated in the offer by other objects if these are suitable for the intended use in a comparable manner.
- 5.

Upon conclusion of the contract and during the entire contractual term, SSM can request the provision of securities. The following shall, among others, be taken into consideration as securities: advance payment, down payment, instalment payment, deposit, bank guarantee and deposit. The provision regarding the type and scope of the security shall be carried out by SSM within the framework of Section 315 German Civil Code [*Bürgerliches Gesetzbuch - BGB*]. SSM can refuse the service besides the cases of Sections 273 et seqq. BGB if the requested securities are not provided within the set deadline.

To be understood under refusal of the service is in particular the refusal of the set-up, prohibition of use with regard to the already delivered or set up material and the reduction in the material. The aforementioned is also possible during an ongoing event.

The Renter / Orderer shall be liable for consequential damages to the full extent including interest in the amount of 14%, with consumers 9%.

6. SSM recommends the conclusion of property insurance with regard to the provided or rented objects. SSM reserves the right to stipulate the conclusion of suitable property insurance as a condition for the contract. The Orderer / Renter hereby assigns all claims against the insurer to SSM. In the event that the assignment should be effectively excluded in the insurance contract SSM shall be authorised to assert the claim of the Orderer / Renter in its own name.

III. Rental

1. SSM undertakes to hand over the rental object fault-free and ready for operation. The hand-over shall be carried out from warehouse.
2. The Renter undertakes to inspect the rental object upon receipt for completeness, freedom from defects and operational readiness. With the receipt free of complaints, the Renter recognises the rental object as being fault-free and ready for operation as well as suitable for the agreed intended use.
3. The Renter assures that he/she is aware of the relevant security regulations and that the rented devices will only be operated by qualified personnel.
4. A further rental to third parties is not permitted without a separate written consent. Other forms of provision for use to third parties are not permitted.
- 5.

The Renter undertakes to report a use under increased risk.

6.

The transport, shipment or the use of the devices outside of the Federal Republic of Germany shall require a separate written consent. This can be tied to further conditions (deposit, property insurance).

7.

With the hand-over of the rental object the risk of loss, of theft, of deterioration, damage and of premature wear and tear shall pass to the Renter. If one of the stated risks is realised, the Renter has to notify SSM without delay.

In the event of theft, wilful damage by third parties or other offences the Renter is obligated to report this without delay to the local responsible police station.

8.

Interferences and defects to rented devices are to be reported to SSM without delay, no later than on the third day after they occurred.

The Renter is not authorised to make repairs – without coordination with SSM. If SSM agrees to a repair by the Renter, original spare parts are to be used in all cases.

9.

Should third parties by attachment, seizure or owing to other rights, or without authorisation, assert rights to the rental object or take this into possession with or without authorisation, the Renter undertakes to inform SSM without delay – no later than within three days – and to notify the third party or the third parties of the ownership of SSM in advance and to have a confirmation of the notification issued to it. The Renter / Orderer has to reimburse SSM all costs for repossession of the object respectively to make an advance payment upon request.

10.

The place of return for the rented objects is the registered seat / warehouse of SSM. If damages are determined upon return already these shall be recorded in a return protocol. This is to be signed by both contractual parties. Insofar as no agreement exists regarding the existence of damages respectively their origin in an individual case, the different opinions of the contractual parties are to be recorded in the protocol.

SSM reserves the right to carry out an incoming examination / function check after the objects have been returned.

11.

If the rental object is not rentable or usable owing to prematurely necessary maintenance work or due to accessories not being returned, owing to circumstances for which the Renter is responsible, in particular owing to damages, the Renter shall owe compensation for use in the amount of twice the daily rent for each individual day, on which the rental object is not available. If the Renter is a

consumer, the flat rate is 1.3 times a daily rent for each individual day, on which the rental object is not available.

The assertion of further claims for damages on the part of SSM shall remain reserved. SSM undertakes, in return, to dutifully minimise the damages.

12.

The flat rate stated in No. 11 shall also be due if the rental object is not returned at the agreed time (time of day).

The assertion of further claims for damages on the part of SSM remains reserved. SSM undertakes, in return, to dutifully minimise the damages.

13.

If the Renter frees itself from the contract by rescission or termination or if SSM asserts an extraordinary right of termination, for which the Renter is responsible for the termination reason, the following are to be reimbursed by the Renter as a flat rate: up to 4 weeks before the agreed start of rental 10%, up to 2 weeks 30%, up to 1 week 60% and in case of less than one week before the date of the rental 90% of the rent amount.

The assertion of further claims for damages on the part of SSM remains reserved.

IV. Complete service

1.

SSM offers the technical equipment of events and their supervision. The customers of such services are hereinafter referred to as Orderer.

2.

SSM reserves the right to transfer the order in part or, in case of unforeseeable circumstances, in the entire scope to third parties. In the event of transfer claims for damages against SSM, for which third parties are responsible, are excluded. SSM shall at the same time assign the claims existing on its part against commissioned third parties to the Orderer.

3.

The Orderer assures SSM that it is the holder of the music, film and depiction rights of the demonstrated presentations respectively that it has acquired corresponding licences (among others GEMA, GEZ). The Orderer is responsible for the content of the presentations of all kind. The Orderer has to indemnify SSM from claims with regard to the presented contents, from the infringement of property rights respectively the assertion of such infringements and to reimburse incurred expenses.

4.

The Orderer shall make the software available that is necessary for certain presentations of media. The Orderer assures that it holds the licence to this software for the commissioned use. The Orderer has to indemnify SSM from claims from the infringement of property rights respectively the

assertion of such infringements and to reimburse incurred expenses.

5.
The Orderer undertakes to carry out a backup of the data made available in advance. SSM shall not assume any liability for data losses as well as for other damages and expenses, which are caused by the change, damage or loss of data that were made available.

6.
The Orderer shall conclude insurance for the event, which in particular covers the risks of destruction, loss (theft, embezzlement etc.) and of vandalism with regard to the technical devices made available by SSM.

7.
If the event is aborted or cancelled during the course of the event or during preparations for the event on site respectively during the set-up of the technical devices due to force majeure, war, riot or other unavoidable circumstances, for which the Orderer is not responsible, then the Orderer has to remunerate the partial services carried out until this time. Deemed as a benchmark for the amount of the remuneration are primarily the unit prices listed in the offer.

8.
If the Orderer frees itself from the contract by rescission or termination or if SSM asserts an extraordinary right of termination, for which the Orderer is responsible for the termination reason, the following are to be reimbursed by the Orderer as a flat rate: up to 4 weeks before the agreed installation of the technical equipment 20%, up to 2 weeks 50%, up to 1 week 70% and in case of less than one week before the agreed installation date 90% of the agreed remuneration. If a date is not agreed for the set-up of the technical equipment, the first day of the event (start of production) shall apply for the aforementioned clause. The assertion of further claims for damages on the part of SSM remains reserved.

V. Sale, reservation of title, warranty

1.
Besides the rental and the complete service, SSM also operates in the field of sales. The contractual partner is hereinafter referred to as Buyer.

2.
Until the full payment of the purchase price, SSM reserves the ownership to the object of purchase.

3.
If the Buyer is not a consumer within the meaning of Section 13 BGB, SSM shall reserve the ownership to the object of purchase, until all claims from the business relationship have been settled; in particular the balance settlement has been achieved.

4.

The Buyer is entitled to resell the goods purchased under reservation of title in the ordinary course of business. The Buyer hereby now already assigns claims against third parties established from this in the amount of the claims on the part of SSM hereto as security. The Buyer is authorised to collect the claim itself until revocation by SSM. In the event of No. 3, the Buyer can request the assignment already if merely an amount is outstanding, which does not exceed 10% of the purchase price.

5.
Rights of the Buyer due to defects shall become statute-barred with newly produced objects in one year from the passing of the risk. In the event that the Buyer is a consumer within the meaning of Section 13 BGB, the warranty period with newly produced objects is 2 years.

6.
SSM shall not assume any warranty with the sale of used objects. If the Buyer is a consumer within the meaning of Section 13 BGB, the warranty period with used objects is 1 year from the passing of risk.

7.
In case of willful intent or gross negligence, as well as with damages from the injury to life, the body or the health or with the assumption of a guarantee, the legal statutes-of-limitations for claims due to defects shall apply instead of Numbers 5 and 6. The regulation of Section 479 BGB shall remain unaffected by the Numbers 5 and 6.

8.
Owing to a defect asserted by the Buyer SSM shall – at its own choice – provide warranty by subsequent improvement or subsequent delivery of a fault-free object, insofar as the cause for the defect existed already at the time when the risk was passed. If both types of subsequent fulfilment (subsequent improvement or subsequent delivery) have failed or are deemed unreasonable for the Buyer, it can – irrespective of possible claims for damages – at its choice reduce the price or rescind the contract.

If the Buyer is a merchant, its claims due to material defects presume that it has satisfied its obligation for inspection and to report defects, for which it is responsible according to Section 377 German Commercial Code [*Handelsgesetzbuch - HGB*] properly and without delay. A defect report is deemed without delay if this is carried out within 7 calendar days after the delivery respectively discovery (with hidden defects).

9.
The general liability limitations under VII shall apply for the damages.

VI. Remuneration, payment, offsetting

1.
Remuneration payments are due and payable without deduction plus value added tax respectively

with invoicing. Reference will be exclusively made to exceptions in offers, order confirmations or invoices.

2.

The first reminder by SSM is to be remunerated with EUR 5, each further one with EUR 12.

3.

In case of default, the interest rate is 14%. If the debtor is a consumer he has to pay default interest in the amount of 9%. In addition, the right to assert further damages suffered due to the default shall remain unaffected.

4.

Payments will initially be offset against possible expenses and third party costs on the part of SSM, then against the interest and last of all against the main claim.

5.

An offsetting or a right of retention against SSM is only permitted if the counter-claim is undisputed or has been declared final and binding.

VII. Liability

1.

SSM shall neither assume a guarantee, nor a risk of condition, unless such a guarantee and / or a risk of condition was explicitly agreed as per contract in an individual case.

2.

SSM shall be liable for damages of all kinds caused wilfully and by gross negligence, also for illicit acts to an unlimited extent.

3.

In the event of the breach of obligations that are essential for the contract (cardinal obligations) as a result of simple negligence, also in case of illicit acts, the liability, with the exception of the liability for damages from the injury to life, the body or the health, is limited with respect to the amount to the foreseeable risk that is typical for the contract.

4.

The liability for obligations that are not essential for the contract as a result of simple negligence, also with illicit acts, is excluded; this shall not apply to damages from the injury to life, the body or the health.

5.

The aforementioned liability limitations shall not apply insofar as SSM, as an exception, has explicitly assumed a guarantee or a risk of condition.

6.

Claims from the German Product Liability Act are not affected by the aforementioned liability regulations.

7.

Insofar as the liability is excluded or limited above, this shall also apply to the personal liability of the employees, workers, representatives or vicarious agents.

VIII. Exclusion deadlines

Claims against SSM are to be reported in writing within 6 months after they become known. Insofar as the contractual partner is a consumer within the meaning of Section 13 BGB, a deadline of 12 months shall apply.

After the expiry of the deadline, the contractual partner can only assert claims still if he was prevented from adhering to the deadline without his fault.

IX. Data protection

You can find our detailed information relating to the processing and storage of personal data under <https://en.ssm.de/data-protection-information-leaflet/>.

X. Choice of law, place of performance, place of jurisdiction

1.

All contracts with SSM are exclusively subject to the law of the Federal Republic of Germany according to the principles of international private law.

2.

The place of performance and place of jurisdiction for entrepreneurs is the registered seat of SSM, irrespective however of the right of SSM to file legal action at another place of jurisdiction that is permitted by law.

The following applies to other persons:

If the contractual partner has no general place of jurisdiction in the Federal Republic of Germany, the place of performance and place of jurisdiction is the registered seat of SSM, irrespective however of the right of SSM to file legal action at another place of jurisdiction that is permitted by law.

3.

The statutory provisions of Sections 38 et seqq. German Code of Civil Procedure [*Zivilprozessordnung - ZPO*] shall apply to other cases.

XI. Final provisions

Insofar as individual provisions within these General Business Terms and Conditions are invalid the other clauses shall retain their validity. Each individual formulation numbered with a prefixed Arabian number shall apply as individual clauses. The contractual parties shall replace possible invalid provisions by those provisions, shall as far as possible correspond with their purpose according to the invalid provision.

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