

GENERAL TERMS AND CONDITIONS of EVENT SERVICE RS GMBH

as amended and procured on July 15th 2009/1



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1. Validity

- 1.1. The Following General Terms and Conditions (AGB) are invariably valid for all contracts between EVENT SERVICE RS GmbH and their clients subject to the version valid at the date of the conclusion of the respective contract.
- 1.2. Subsidiary agreements, provisos, changes or amendments are to be made in writing in order to become valid; this also applies for deviations from the requirement of the written form.
- 1.3. Unless their validity is explicitly agreed upon, differing, opposing or complementing general terms and conditions of contracting partners do not become parts of the contract even if they are known.
- 1.4. The invalidity of particular clauses of a contract with a client including these general terms and conditions does and will not affect the validity of other clauses in any way. The totally or partially invalid clause is to be replaced with one that is not only valid but also serves its spirit and purpose in the best possible manner.
- 1.5. In the event of the procurement of a travel event according to the General Terms of Travel (ARB 1992), the clauses of the ARB are considered as agreed upon with the client. In this case the clauses of the present AGB are only valid insofar as the ARB 1992 does not provide any regulations.

2. Conclusion of Contracts

- 2.1 Offers made by EVENT SERVICE RS GmbH are both subject to change and without obligation. The respective written offer by EVENT SERVICE RS GmbH, in which the range of services and conditions of payment have been determined, serves as the basis of the conclusion of the contract.
- 2.2 As soon as clients award a contract they are bound to it two weeks upon receipt by EVENT SERVICE RS GmbH. The contract becomes valid after the acceptance of the order by EVENT SERVICE RS GmbH.

3. Scope of Supply and Services, Order Processing and Contractor's Co-Operation Obligations

- 3.1 The scope of projected supply and services results from the client's contract, respectively the description of the service or the statements given in the contract. Belated changes of the extent of the service as regards to content are to be made in writing.
- 3.2 All services provided by EVENT SERVICE RS GmbH are to be scrutinized by the client and must be approved within three days. In case this deadline is not met, they will be considered as authorised.
- 3.3 Clients immediately provide EVENT SERVICE RS GmbH with all information and documents required for the carrying out of the demanded services. They must promptly inform EVENT SERVICE RS GmbH about all procedures of importance concerning the realisation of the service, particularly if these circumstances do not occur before the assignment is carried out. Clients are obliged to fund all expenses caused by incorrect, incomplete or belatedly altered information concerning services assigned to EVENT SERVICE RS GmbH and resulting in the repetition of work performed by EVENT SERVICE RS GmbH, in complementary work for EVENT SERVICE RS GmbH or in delays for EVENT SERVICE RS GmbH.
- 3.4 Additionally, clients are obliged to scrutinize all documents (photographic material, logos etc) necessary for the realisation of the respective contract and made available by EVENT SERVICE RS GmbH with regard to possible copyrights, trademark rights or other rights of third parties. Event service are not liable for any infringement of such rights. In case EVENT SERVICE RS GmbH be confronted with any claims concerning such infringements, it is the client's obligation to both indemnify EVENT SERVICE RS GmbH and to prevent legal action against EVENT SERVICE RS, thus compensating for all damages resulting from claims put forward by third parties.



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4. External Labour/Commissioning of Third Parties

- 4.1. EVENT SERVICE RS GmbH decide at their own discretion whether they will carry out the demanded services by themselves or whether they will use third parties and/or will distribute services to third parties (procurement assistants).
- 4.2. EVENT SERVICE RS GmbH also decide at their own discretion whether they will carry out the distribution of tasks to third parties in their own name or in the name of the respective client, and whether they will undertake the distribution of tasks to third parties at their own expense or the expense of the client.
- 4.3. EVENT SERVICE RS GmbH select third parties or procurement assistants with great care and are responsible for paying heed that these possess the necessary professional qualifications.

5. Deadlines

- 5.1. Agreements concerning deadlines and appointments are to be made and confirmed in writing. EVENT SERVICE RS GmbH pay great attention to meeting stipulated deadlines and appointments. However, failure to comply with these deadlines and appointments only entitles the client to enforce legal rights after granting EVENT SERVICE RS GmbH an adequate additional respite of at least 14 days. This respite begins upon receipt of a reminder by EVENT SERVICE RS GmbH.
- 5.2. After an unsuccessful expiration of the respite, the client may withdraw from the contract. An obligation to pay compensation only arises in case of intent or gross negligence by EVENT SERVICE RS GmbH.
- 5.3. Inevitable or unpredictable events – particularly delays on the part of contractors of EVENT SERVICE RS GmbH – in any case absolve EVENT SERVICE RS GmbH from the obligation to meet the stipulated date of delivery. This also applies if clients are in default regarding obligations required for the realisation of the demanded services (e.g. making documents or information available). In this case, the stipulated deadline will be postponed for a period matching at least the length of the delay.

6. Withdrawal from Contract

EVENT SERVICE RS GmbH are particularly entitled to withdraw from contracts, if

- the provision of the service is made impossible due to reasons within the responsibility of the client or if there is a delay in spite of the setting of a respite.
- there is justified concern about the client's creditworthiness or if the client does not comply with requests put forward by EVENT SERVICE RS GmbH in order to secure advance payments or does not present suitable securities to EVENT SERVICE RS GmbH.

7. Expenses – Billing

- 7.1. In the absence of any other agreements, EVENT SERVICE RS GmbH are entitled to a reimbursement of costs for each individual service as soon as this service has been provided. However, in order to cover their expenses, EVENT SERVICE RS GmbH are authorised to request advanced payments in the amount of at least 90% of the costs already before or also after accepting the assignment.
- 7.2. In the absence of other agreements, EVENT SERVICE RS GmbH will receive a fee in the amount 15% of the advertising budget made use of by EVENT SERVICE RS GmbH. This fee is exclusive of turnover tax.
- 7.3. All services provided by EVENT SERVICE RS GmbH, which are not explicitly paid for with the stipulated fee, will be remunerated separately. All cash expenditures arising for EVENT SERVICE RS GmbH are to be paid for by the client, e. g. courier trips, taxi rides, transport costs, travel expenses, accommodation costs, cleaning expenses for clothing etc. These expenses will be passed on to the client according to their actual amount.
- 7.4. In principle, estimates of cost made by EVENT SERVICE RS GmbH are without obligation. Should it be foreseeable that the actual costs will exceed those estimated by EVENT SERVICE in writing by more than 15%, EVENT SERVICE RS GmbH will notify the client of the higher expenses. The cost overrun will be considered as accepted by the client, if the client does not object to this notification within three days in written form and does not simultaneously present more inexpensive alternatives.
- 7.5. Regardless of the reasons of a possible failure, EVENT SERVICE RS GmbH are entitled to an adequate payment for all services not carried out by the client. Settling this account does not, however, imply the acquisition of any rights regarding the respective supply and services; in fact, unrealised concepts, blueprints and drafts, and other documents are immediately to be returned to EVENT SERVICE RS GmbH.

8. Payment

- 8.1. In the absence of other agreements, bills charged by EVENT SERVICE RS GmbH are payable net cash without any deduction, will become due from the date of invoice and are payable on receipt within seven calendar days. In case of delay, the customer shall pay 10% default interest p. a. above the respectively valid base rate. All delivered goods remain property of EVENT SERVICE RS GmbH until payment is received in full.



- 8.2. Clients obligate themselves to bear all costs and expenditure concerning the encashment of the claim, such as expenses of collection or other costs necessary for an adequate assertion of legal rights on behalf of EVENT SERVICE RS GmbH.
- 8.3. In case of a delay of payment on behalf of the client, EVENT SERVICE RS GmbH is entitled to immediately bring to account all other provided services and partial services linked to the framework of other contracts concluded with the client.
- 8.4. Clients are not entitled to charge up their own outstanding accounts against accounts of EVENT SERVICE RS GmbH, except in cases when the client's claim has been acknowledged by EVENT SERVICE RS GmbH or judicially ascertained, both in written form. Rights of retention on behalf of the client are excluded.

9. Presentations

- 9.1. Notwithstanding any other provisions, EVENT SERVICE RS GmbH are entitled to the payment of an adequate payment for participating in presentations. In the absence of other agreements, this payment must cover at least all personnel and material expenditure of EVENT SERVICE RS GmbH for the presentation as well as the costs of all external labour.
- 9.2. All supplies and services, particularly the presentation documents and their content remain property of EVENT SERVICE RS GmbH if EVENT SERVICES RS GMBH do not acquire a contract after the presentation; the client is not authorised to make further use of these services and documents in any way. In fact, the documents are to be immediately returned to EVENT SERVICES RS GMBH. It is also prohibited to pass on any presentation documents to third parties; without the explicit written consent of EVENT SERVICE RS GmbH, this also applies to the publication, reproduction, distribution or any other utilisation of such documents.
- 9.3. Likewise, clients are not authorised to make any use of ideas and concepts introduced within the framework of the presentation, regardless whether these ideas and concepts are protected by copyright laws or not. Payment of presentation fees does in no way result in any rights of exploitation and use.
- 9.4. EVENT SERVICE RS GmbH is authorised to make alternative use of ideas and concepts showcased during presentations if ideas and concepts intended to solve communication tasks are not exploited in advertising material designed by EVENT SERVICE RS GmbH.

10. Property Right, Reservation of Proprietary Rights, Copyright Protection

- 10.1. All supplies and services provided by EVENT SERVICE RS GmbH, including those from presentations (e. g. incentives, ideas, thumb sketches, preliminary drafts, scribbles, concepts, negatives, slides), also individual parts of these, remain property of EVENT SERVICE RS GmbH – likewise individual work pieces and draft originals – and may be reclaimed, particularly after cessation of the contractual relationship. Payment of all costs by the client solely results in the right of exploitation (including reproduction) for both the stipulated purpose and extent of use. Without the existence of other arrangements with EVENT SERVICE RS GmbH, clients may make use of the supply and services provided by EVENT SERVICE RS GmbH only for themselves, exclusively in Austria and merely for the duration of the contract with EVENT SERVICE RS GmbH. The right of exploitation and use concerning supply and services provided by EVENT SERVICE RS GmbH additionally requires an explicit written consent and the complete payment of all costs charged for them by EVENT Services RS GmbH. All goods delivered by EVENT SERVICE RS GmbH remain in their property until payment is received in full, and must be treated with care; furthermore, access by third parties to any such goods must immediately and verifiably be reported to EVENT SERVICES RS GmbH.
- 10.2. Modifications of supply and services provided by EVENT SERVICE RS GmbH, in particular their further development by clients or by third parties acting on their behalf, are only permitted with the explicit written consent of EVENT SERVICE RS GmbH and - as far as services are protected by laws of copyright - of their sole creator.
- 10.3. Utilisation of supply and services provided by EVENT SERVICE RS GmbH transcending their originally agreed purpose and extent of use requires the written consent of EVENT SERVICE RS GmbH, regardless whether they are protected by laws of copyright or not. Permitting this utilisation entitles EVENT SERVICE RS GmbH to the payment of an adequate remuneration.
- 10.4. Likewise, the written consent of EVENT SERVICE RS GmbH is also necessary for the post-contractual use of services provided by EVENT SERVICE RS GmbH, respectively for the use of advertising materials for which EVENT SERVICE RS GmbH have developed conceptual or creative/artistic drafts; this regulation applies regardless of existent or non-existent protection of such services by laws of copyright.
- 10.5. During the first year after expiration of the contract, EVENT SERVICE RS GmbH shall be entitled to the payment of the complete remuneration agreed upon in the contract for any such use. In the second year after expiration, this remuneration shall amount to half the sum agreed upon in the contract and shall be reduced to a quarter of the original figure in the third year. From the fourth year after the expiration of the contract onwards, payment of remunerations shall become obsolete.
- 10.6. Clients explicitly acknowledge that contacts with contracted enterprises (third parties), respectively contractual partners and staff represent an essential company value of EVENT SERVICE RS GmbH. In this context, clients pledge to carry out the establishment of contacts exclusively via EVENT SERVICE RS GmbH. The sole exception to this regulation are contacts established on-the-spot within the framework of an already existing assignment to EVENT SERVICE RS GmbH.



11. Labelling

- 11.1. EVENT SERVICE RS GmbH are entitled to identify EVENT SERVICE RS GmbH on all advertising materials and, if necessary and possible, also the sole creator, in the course of all advertising activities and events.
- 11.2. Subject to a possible, written revocation by the client at a moment's notice, EVENT SERVICE RS GmbH are not only entitled to point out an existing business relationship with the client on their own advertising media and particularly on their internet website, but also to use their own name and company logo during any such activities.

12. Warranty and Indemnity

- 12.1. Clients are obliged to file possible complaints immediately, however, by all means within three days after provision of supply and services by EVENT SERVICE RS GmbH, in writing, and also to substantiate any such claims in writing. In case of justified and timely complaints, clients are merely entitled to rectification or the delivery of a replacement by EVENT SERVICE RS GmbH.
- 12.2. In case of a justified and timely notification of defects, the defects will be remedied within an adequate time-limit, during which clients must enable EVENT SERVICE RS GmbH to carry out all measures necessary for investigations into the defects and for their remedy. EVENT SERVICE RS GmbH are entitled to refuse the rectification of a service if this is impossible or involves disproportionately high expenditures for EVENT SERVICE RS.
- 12.3. A reversal of the burden of proof at the expense of EVENT SERVICE RS GmbH is excluded. The full burden of proof concerning all conditions of entitlement rests with the client, particularly for the defect itself, for the moment of the assessment of the damage and for the timeliness of the notifications of the defects.

13. Limitations of Liability and Indemnification Clauses

- 13.1. The liability of EVENT SERVICE RS GmbH is limited to intent and gross negligence. For this reason, slight negligence does in no way constitute a liability of any kind. The existence of gross negligence has to be proven by the injured party.
- 13.2. The replacement of consequential and pecuniary losses, of loss of profit, unattainable savings, losses of interest and of damages arising from claims filed by third parties against the respective clients are excluded without exception.
- 13.3. All claims for indemnity are limited to the value of the order excluding all taxes.
- 13.4. Claims for indemnity may only be filed within six months of notification of the damage.
- 13.5. Any liability on behalf of EVENT SERVICE RS GmbH for claims against clients resulting from advertising activities (the use of a logo, brand or label) is explicitly excluded. EVENT SERVICE RS GmbH are in no way obliged to provide information concerning any such matter. In fact, the obligation to scrutinize any offered and implemented advertising activities (including the possible necessity of obtaining official licences and permissions) lies solely with the client, and the stipulated fee has to be paid to EVENT SERVICE RS GmbH even if the respective advertising activity is prohibited. Also, EVENT SERVICE RS GmbH will not accept any liability to pay any costs of litigation, clients' own legal fees or the costs of court verdict publications, as well as possible claims for indemnity or similar claims put forward by third parties.

14. Applicable Law

Austrian law applies exclusively with the exclusion of the UN Sales Convention.

15. Place of Fulfilment and Court of Jurisdiction

- 15.1. Place of fulfilment is the seat of EVENT SERVICE RS GmbH.
- 15.2. Agreed place of jurisdiction for all direct and indirect legal disputes arising between EVENT SERVICE RS GmbH and their clients shall be that Austrian court which would have jurisdiction *ratione loci* and *rationae materiae*.