

# General Terms and Conditions (GTCs) of Artino Design Messebau AG

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## 1 Enactment and Scope

With effect from 1<sup>st</sup> September 2006, *all* of our services, in particular drafts, planning, design, production, supply and transportation, setup, transfer for use, dismantling, return transport etc. of elements and construction systems for stand construction for trade fairs, exhibitions and events, consulting and organization etc. in this context, as well as the contracts between Artino Design Messebau AG (referred to as **Artino** hereinafter) and its customers shall be exclusively governed by these GTCs, insofar as the latter were not expressly amended through written agreements. The customer's own provisions shall not be part of the contract and shall not be valid. Insofar as offers of Artino deviate from these GTCs, the former shall take precedence.

## 2 Offers Issued by Artino and Conclusion of Contract

2.1 The validity of our offers is *limited* to 60 days from the date of the offer. Moreover, Artino reserves the right to *revoke* any offer that has not yet been accepted at any time and with immediate effect, insofar as Artino is of the view that it is no longer possible to perform the task due to the required lead time.

2.2 Offers apply *only* to the addressee.

2.3 **The customer may accept offers of Artino informally, in particular also orally. Once the customer has accepted the offer, the contract between Artino and the customer shall become *legally binding* and the customer also simultaneously agrees to these GTCs. Artino shall confirm the acceptance of the offer through a written order confirmation. Artino shall be informed immediately of any discrepancies in the order confirmation. It shall not be possible to make any amendments or cancellations at a later stage or they shall incur additional surcharges.**

## 3 Prices, Price Lists and Price Specifications

3.1 Unless otherwise specified, the *prices* quoted by Artino are in Swiss francs.

3.2 The customer shall be liable for any *costs* for taxes (incl. VAT), fees and any type of duties.

3.3 General price lists and price specifications of Artino, i.e. ones that are not intended for one or more addressees, including price specifications on the Internet, are indicative only and do not constitute offers as set forth in Section 2 of these GTCs. Artino reserves the right to make amendments to such price lists and price specifications at any time.

## 4 Payment Conditions, Deadlines and Liability of the Vicarious Agent

4.1 Artino may at any time request an *advance payment* or *down payment*. In the event that Artino exercises this right or an advance payment or down payment is mutually agreed upon, Artino shall only be obliged to perform its services if the said payment is made on time. In particular, the elements and construction systems, which are supposed to be transferred to the customer for use in accordance with the order confirmation (referred to as **subjects of the contract** hereinafter), shall only be reserved definitively if and once the said payment has been made on time. Otherwise, Artino shall have the express right to freely possess subjects of the contract (in particular to pass them on to third parties), without being liable for any compensation. Insofar as Artino does not state otherwise (in particular in the order confirmation), the customer *shall be liable* for the advance or down payment *immediately* upon accepting the order.

4.2 Notwithstanding the aforementioned provision on advance and down payments, all invoices are *due and payable* in full within 30 days of the invoice date.

4.3 As a general rule, Artino shall issue its final invoice once it has taken back the subjects of the contract or once it has performed its other services, but may also already do so at an earlier stage.

4.4 Payments of the customer shall be in cash, by bank check (although bank checks shall only count as a payment once they have been cleared), bank transfer or credit card. Artino does not accept bills of exchange or any other unusual payment methods. Artino may at any time insist on other payment methods. The customer shall be liable for any associated costs.

4.5 Artino shall determine which payment requests have been met by the customer's payment(s).

4.6 Artino shall not be liable for any delays in performance which are due to the customer not complying with the payment conditions.

4.7 In the event that anyone gives an order as a *vicarious agent* for a third party, the former shall, in solidarity with the third party, be liable for any payment requests from Artino associated with the said order.

## 5 Arrears and Debt Collection

5.1 Once the aforementioned payment deadlines have expired, the customer is in *arrears*. From that point on, 6 % interest on arrears shall be payable.

5.2 Artino shall also be reimbursed for any costs that it incurs for *debt collection* due to outstanding amounts, incl. any lawyers and court costs.

5.3 Once the customer is in arrears, Artino shall also have the right to *stop any other services*, to withdraw from the contract, to immediately reclaim or pick up any

subjects of the contract given to the customer and to immediately terminate any associated contracts without further formalities and be entitled to damages. Any advance, down or partial payments already made by the customer which exceed Artino's claim for damages shall be lost as a contractual penalty.

## 6 Content and Scope of Services, Time Limits and Deadlines for Performance of Services

6.1 The content and scope of services performed by Artino shall be taken from the order confirmation. Any services performed by Artino which go beyond this shall also be invoiced (with the final invoice or separately). The scope of services expressly does *not* include assembling exhibits, cleaning stands or services connected to the technical installation by the trade fair management team.

6.2 Time limits and deadlines for performing the services, in particular for transferring the subjects of the contract for use, shall only be binding for Artino in the event that they have been confirmed in writing by the latter. The obligation to adhere to such time limits and deadlines shall require the timely adherence by the customer to the arrangements required for performing the services. In particular, in the event that the customer does not obtain (on time) the required official or other formalities, does not make (on time) any outstanding advance or down payments or does not inform Artino (on time) of the required technical or other specifications, no delay in performance of Artino shall exist. Moreover, in such cases any agreed upon time limits and deadlines for Artino to perform the services shall be extended by a suitable amount of time.

## 7 Complete Liability of the Customer in the Case of Subsequent Cancellation

In the event that the customer does not exercise its contractually negotiated right to transfer the subjects of the contract for use (cancellation), the former shall remain obliged to pay the whole contractual price, irrespective of the reason or time of the said cancellation.

## 8 Obligations of the Customer in Connection with the Subjects of the Contract

8.1 The customer undertakes **to treat the subjects of the contract transferred to it gently and carefully until they are dismantled and taken back by Artino and to protect them from damage and theft**. It shall ensure that the subjects of the contract are not exposed to the weather at any time.

8.2 By accepting the offer, the customer confirms that it has *insured* all transferred objects as new against damage and loss. **The customer shall be completely liable in the case of damage and/or loss of the subjects of the contract or parts thereof until they have been taken back by Artino, even if the former is not at fault.**

8.3 The customer shall be liable for damages for any abrasion that exceeds the contractually agreed upon wear and tear. Making changes to subjects of the contract is strictly prohibited. The customer shall be liable for any costs involved in returning the subjects of the contract to their original condition.

8.4 Removing or covering up writing or logos adorning the subjects of the contract is strictly prohibited.

8.5 Transferring or passing on the subjects of the contract, particularly subleasing them, to third parties is also strictly prohibited.

## 9 Property Relationships and Ban on Owning Subjects of the Contract

9.1 Artino shall remain the sole owner of all subjects of the contract or, insofar as Artino purchases them from third parties to pass onto the customer, they shall be the property of the respective third party. *Under no circumstances* shall the customer become an owner of any subjects of the contract.

9.2 In no way may the customer, particularly not through a sale, chattel mortgage, pledge or any other form of burden, legally or factually own the subjects of the contract. Any such court order shall not be legally binding for Artino. The customer shall be invoiced for any costs involved in implementing intervention measures to protect the property or other rights of Artino or for paying any damages resulting from such court orders.

## 10 Taking Back the Subjects of the Contract

10.1 After taking back the subjects of the contract, Artino will check them and notify the customer of any defects, for which the latter is responsible, within a suitable time period. In the event that Artino detects any defects at a later stage, which were not picked up during the routine inspection, the former may also notify the customer thereof at a later stage.

10.2 If Artino transfers to the customer any subjects of the contract once the agreed upon transfer period has expired, whether this is at the customer's request or for other reasons, the latter may not obtain any rights therefrom, particularly not a transfer right for a long or unrestricted amount of time. In such a case, Artino shall have the right to ask for the relevant subjects of the contract to be given back at any time and effective immediately and to pick them up or to have them picked up. The customer shall be liable for any costs resulting therefrom, insofar as the services of Artino go beyond the originally agreed upon scope of services.

- Artino or in any other way;
- d) are caused by actions of third parties, an act of God or violence (e.g. an accident);
- d) are caused by the subjects of the contract or parts thereof not being assembled by Artino or by specialists authorized by Artino.
- 11 **Transportation, Bearing of Risk, Liability and Adherence to Monitoring Guidelines**
- 11.1 The transportation of the subjects of the contract to the operating site agreed upon with the customer and back shall be carried out or organized by Artino.
- 11.2 The customer shall bear the *risk* for losing, destroying or damaging and shall be liable for the subjects of the contract as soon as they are transferred to the customer by Artino and until they are taken back by Artino.
- 11.3 Insofar as it is not otherwise stipulated by the applicable law, the customer shall in any case have the sole responsibility for *adhering to all* export, import, transit and monitoring *regulations and formalities*.
- 11.4 **In the event that Artino also transports objects other than the subjects of the contract, in particular objects which belong to the customer (namely exhibits), Artino shall be paid a surcharge for doing so. The customer is and shall remain at all times completely liable for bearing the risk for the loss, destruction or damage as well as for and in connection with such objects. Artino also rejects any liability for the timely delivery of such objects.**
- 12 **Warranty, Testing and Notice and Rectification of Defects**
- 12.1 Before transferring the subjects of the contract, Artino must have tested them and they shall be in a condition which complies with the contract.
- 12.2 The customer shall test the subjects of the contract as soon as or after they have been transferred (or during construction or assembly through or on behalf of Artino, immediately after finishing the said work). The obligation to test the subjects of the contract immediately shall also apply to all other services performed by Artino. If the customer is of the opinion that the *subjects of the contract* are in a condition which does not comply with the contract *or another service* of Artino does not comply with the contract in any way, the former undertakes to inform Artino thereof *in writing* immediately after the test, as set forth above, with detailed reasons.
- 12.3 **In the event that the customer fails to notify Artino thereof or if it signs a transfer report without any reservations, then the subjects of the contract and any other services of Artino shall be deemed to have been accepted unreservedly. Any complaints that are made at a later stage shall not be accepted.**
- 12.4 Artino cannot predict hidden defects or ones which only occur during the transfer for use; the customer shall therefore expressly refrain from making any related warranty claims, insofar as this is legally permitted.
- 12.5 Artino shall rectify any defects which it was made aware of on time, insofar as Artino accepts that there is a defect. *It shall be up to Artino to decide on the method and tools used to rectify the defect.* In particular, Artino shall be free to either repair or replace defective subjects of the contract. Once the defects have been rectified, the aforementioned determined obligation to test and give notice of defects for the affected subjects of the contract and other services shall apply analogously.
- 12.6 Any other factual or legal guarantees shall, insofar as permitted by law, *be excluded*.
- 12.7 The customer *shall lose* all warranty and damage entitlements:
- if the subjects of the contract or parts thereof are not used properly or as intended;
  - if a defect is caused by the customer's incorrect or incomplete instructions, guidelines, information or provision of information etc.;
  - if the customer does not follow the instructions of Artino on the treatment and handling of the subjects of the contract or if the former causes a defect or damage in any other way;
  - if the defect is caused by violence or a third party (e.g. an accident);
  - if the subjects of the contract or parts thereof are not assembled by Artino or by specialists authorized by Artino.
- 12.8 Artino does not guarantee or promise any success, in particular of the customer, particularly also no success of a commercial nature. Any such liability of Artino is also excluded.
- 13 **Disclaimer and Restriction of Liability**
- 13.1 Any liability of Artino for property, personal or any other type of damage that was caused by the customer or third parties shall, insofar as it is legally permissible, *be excluded*.
- 13.2 It shall be irrelevant whether it involves direct or indirect and immediate or mediate damage. In particular, the liability of Artino shall be excluded for a standstill in production, lost profit, loss of use, loss of effectivity, loss of orders, financial losses and for losses due to a delay or discontinuation of the assembly, as well as for contractual losses, consequential losses or claims of third parties against the customer as well as for other immediate or mediate damage.
- 13.3 Artino's liability shall also be expressly excluded for damages which
- are caused by improper or inappropriate use of the subjects of the contract or parts thereof;
  - are caused by incorrect or incomplete instructions, guidelines, information or provision of information etc. of the customer;
  - are caused by the customer or a third party by not following instructions of
- 13.4 Artino shall only be liable for delays if they are due to intentional or grossly negligent behavior of Artino.
- 13.5 Any claims for damages shall in any case be limited to the total contractual price.
- 13.6 Any liability of Artino shall also be excluded in any case for actions or non-performance of auxiliary persons or of third parties contracted to Artino.
- 14 **Licenses, Concessions, Permits and Fees connected to Trade Fares, Exhibitions, Events and Such Like**
- 14.1 The customer shall be solely responsible and liable for (1) any clarifications connected to, for (2) obtaining and (3) paying for/settling any operating and other licenses and/or intellectual property rights, concessions, permits and such like, as well as any fees, in particular those of companies exploiting third-party rights (SUISA, Pro Litteris etc.).
- 14.2 The customer shall also be solely responsible and liable for meeting any (other) administrative requirements, in particular for any required residence and/or work permits.
- 15 **Confidentiality/Duty of Non-Disclosure**
- The customer shall – even once the business relationships have ended – treat all details of its business relationships with Artino as well as its trade secrets confidentially. It shall also pass on this obligation to its executive bodies, employees and any contracted third parties. The offers shall also be treated in confidence as shall any plans, creations and such like of Artino. In the event that this obligation is breached, Artino shall be entitled to damages and to immediately withdraw from of the contract.
- 16 **Various Provisions**
- 16.1 The customer may *not offset* any claims against Artino with claims of Artino against it.
- 16.2 The customer may *not transfer* any of its claims against Artino to third parties.
- 16.3 Artino may contract *third parties* to fulfil its obligations.
- 16.4 Artino may *amend* these GTCs at any time. The new GTCs shall apply from the date specified herein to all Artino services as well as to any contracts between Artino and the customer.
- 16.5 In the event that there are differences in the different language versions of these GTCs, the *German* version shall apply.
- 16.6 In the event that individual provisions of these GTCs are or become either wholly or partially invalid, the validity of the provisions shall not be affected thereby. Any provisions that are to be removed shall be replaced by ones which come as close as possible to the economic objective of the deleted provision. The same shall apply in the case of any legal loopholes.
- 16.7 *Any messages* shall be sent to Artino Design Messebau AG, Industriestrasse 26, CH-8604 Volketswil ZH, Switzerland.
- 16.8 Any legal relationships between Artino and the customer shall be subject to Swiss law, thus excluding the conflict of laws provisions and international treaties.
- 16.9 **Only the general courts of law at the registered office of Artino shall be responsible for making a court ruling on any disputes between the customer and Artino. Artino shall however be free to pursue legal action against the customer at any other responsible court of law.**