

General Terms and Conditions of Contract (GTC) of cPoint Webges GmbH

1090 Vienna, Nussdorferstrasse 20/22, hereafter referred to as "cPoint"

1. Basis

1.1. Scope of the GTC

These General Terms and Conditions of Contract shall apply to all services and deliveries which cPoint provides to Customer. The mutual rights and obligations of the contracting parties are solely defined, – in the following order of priority –, by

- the content of the order accepted by cPoint or the contract entered into by cPoint and Customer,
- the "Specifications of Services of cPoint" delivered to Customer,
- these GTC.

Any general standard terms and conditions of Customer shall not become part of the contract, unless cPoint expressly and in writing accepted the same – and even if this was the case, only to the extent that such standard terms and conditions do not conflict with the contract entered into or with these GTC. When accepting the services and deliveries of cPoint, Customer also accepts these GTC. These Terms and Conditions of Contract of cPoint shall also apply to any future business transactions between the contracting parties, even if not explicitly referred to again – subject to the agreement of new GTC of cPoint. The services of cPoint are offered to entrepreneurs only. If Customer nevertheless were a consumer within the meaning of the Austrian Consumer Protection Act ("KSchG"), those provisions of the present GTC which violate mandatory provisions under the KSchG would not apply – which would not affect the validity of the remaining provisions.

1.2. Bringing about of contract and start of provision of services

A contractual relationship between cPoint and Customer has been brought about where cPoint has issued an acknowledgment of an order or has actually started to provide the services. However, cPoint is not obliged to provide the services before receipt of payment of the first partial invoice by Customer (see clause 4.1). If payment is effected late, the deadlines for performance by cPoint shall be extended adequately – and any damage or disadvantage resulting from this shall be borne by Customer.

1.3. Amendments or modifications

Any amendments or modifications of the contract entered into, including this clause, can only be made in writing. Any oral declarations or promises by cPoint's employees shall not be effective before they are confirmed in writing by an authorized signatory of the company.

2. Performance under this Contract

2.1. Services and deliveries by cPoint

The scope of the contractual services and deliveries results from the performance specifications in the respective order, the "Specifications" delivered and any related additional written agreements between the contracting parties (if any).

2.2. Deadline with the provision of services and deliveries

The services and deliveries shall be provided by cPoint at the contractually agreed date, however, subject to the timely payment of the first partial invoice by Customer according to clause 4.1 of these GTC, on one hand, and the timely furnishing of print-ready files, material etc. within the meaning of clause 2.3 by Customer, on the other hand.

2.3. Provision of materials and cooperation by Customer

Print-ready data (for details please refer to the "Specifications" delivered) shall be provided by Customer by the latest 15 business days (Saturday excluded) prior to the agreed start of the set up. The final permission to print shall be given by Customer by the latest 12 business days prior to the start of the set up. Signage elements provided by Customer shall be delivered to the location of the event by the latest 4 business days prior to the start of the set up, after making an appointment with cPoint. The use or usability of such elements for the event can only be ensured if they comply exactly with cPoint's Specifications delivered to Customer. Likewise Customer shall ensure that such materials conform to regulations (fire protection etc.) applicable to the location of the event. If these prerequisites are not met, Customer shall bear any disadvantage or extra cost resulting from this.

cPoint shall not be obliged to check the provided elements, in particular contents of Customer, as to their conformity to legal provisions; however, cPoint may refuse to disseminate such contents if it suspects a violation of legal provisions. If by means of such elements third-party rights (e.g. intellectual property/copyright) are violated, Customer shall fully indemnify and hold cPoint harmless in this regard. Should Customer require personnel support by cPoint during the event, such support shall be ordered from cPoint by the latest 5 business days prior to the start of the event. If these minimum periods are not observed, cPoint will still make efforts to provide the services and deliveries as good as possible but cannot give any warranty in this respect. In addition, in this case extra cost according to the below clauses shall be charged.

2.4. Advertising space and electricity costs

Unless otherwise agreed in a particular case, the agreed prices shall include the usual electricity costs for the agreed illumination etc. of the advertising spaces. This shall apply, provided that a sufficient number and capacity of power connections is available at the respective location. If such connections need to be made – for instance, by laying cables – the costs incurred because of this may be charged in addition. All advertising spaces and items offered are subject to actual availability on site, as well as under the agreements made by Customer with the operator of the event premises.

2.5. Waste disposal

After the event cPoint shall remove the prints produced and hung by it without extra charge. However, a desired number of prints can also be held available for pick up by Customer after the event, as far as Customer orders this by the latest 5 business days prior to the start of the event. Such pick up has to be made immediately after the end of the event, and for longer-term storage a reasonable fee may be charged. Under no circumstances will cPoint be liable for such materials.

2.6. Intellectual property rights

As far as cPoint also provides, in the framework of activities under the contract, creative services or deliveries subject to the Copyright Act, any related rights shall remain with cPoint. Customer shall be granted a one-time right for the use of the work for the event which is the subject matter of the contract.

3. Fees and fee changes

3.1. Applicable fees

Unless separately agreed in a particular case, the fees for the services of cPoint are subject to the price list valid at the point in time when the contract is entered into. Any divergent agreement needs to be made in writing in order to be effective. Unless otherwise agreed, any packing, storage and transportation expenses shall be borne by Customer. All quoted prices are exclusive of the applicable statutory value added tax.



3.2. Surcharge

In the event that print-ready files or other material or data to be provided by Customer are provided late within the meaning of clause 2.3, as well as in the event of a late permission to print or on-site (re-)orders, cPoint reserves the right to charge a 25% price surcharge. The same shall apply in the event that additional expenditure is incurred by non-compliance with the Specifications delivered. Normal set up times are business days (Mo-Fr) between 08.00 hours and 18.00 hours. Customer shall ensure by the timely booking of event premises that cPoint has sufficient time for setting up during these time periods. If this is not the case and cPoint therefore must perform set up work outside the stated times, a 50% surcharge will be charged for this. Normal production times are from Monday through Friday, 08.00 hours through 16.00 hours; express orders and orders that require production outside the stated times shall only be possible upon timely agreement, i.e. at least 5 business days before the items are needed or upon separate agreement. For this also a surcharge according to the first paragraph of this provision shall be charged. The provision under clause 2.3, last paragraph, shall apply by analogy.

3.3. Additional expenditure

The agreed prices include a one-time correction loop after the sending of the galley proofs to Customer. Additional expenditure caused by repeated requests for modification by Customer shall be charged separately. Likewise additional expenditure caused by modifications of the original specifications requested additionally by Customer shall be charged separately, such modifications becoming part of the contract only upon explicit confirmation by cPoint.

4. Payments

4.1. Time of payment

Unless otherwise agreed, payments shall become due, without any deductions, promptly upon receipt of invoice. Amount will be invoiced after order confirmation. Before payment of this first partial invoice has been made, there is no performance obligation on the part of cPoint. Re-orders on site shall be paid in cash or by credit card. The timeliness of a payment shall be determined by the receipt with cPoint. All transfer and similar charges shall be borne by Customer.

4.2. Default in payment and default interest

In the event of a default in payment cPoint shall be entitled to charge all costs required for expedient proceedings as well as default interest in the amount of 12 % p.a.

4.3. Setoff

It shall not be possible to set off outstanding claims vis-à-vis cPoint and to withhold any payments based on alleged claims of Customer not recognized by cPoint.

5. Warranty, limitation of liability

The performance of cPoint shall be deemed completed upon successful set up. At this point in time the risk of accidental damage etc. passes to Customer. cPoint shall not be answerable for any defects occurring later – regardless of whether those are caused by third parties, Acts of God or similar events.

5.1. Remediating of defects

Any defects under warranty shall be remedied, at the discretion of cPoint, either by correction or substitute delivery/performance. It is agreed by mutual consent that any possibility of a reduction in the price shall be excluded. Warranty claims require that Customer has notified any defect immediately upon acceptance in detail and in writing. A right of recourse within the meaning of § 933b of the Austrian General Civil Law Code shall be excluded.

5.2. Exclusion of warranty

Any defects arising from an installation, arrangement or assembly not effected by cPoint, or from non-compliance with the specification, or third-party influence, are excluded from warranty; this also applies to defects which are attributable to material provided by Customer.

5.3. Exclusion of liability

Any liability of cPoint for ordinary negligence (except in the event of personal injury), as well as consequential damage and lost profits is generally excluded. Liability for gross negligence is limited to the amount of the agreed fee. Any claims against cPoint require a prompt and detailed notification of the specific damage in writing upon the discernibility of the occurrence of a damage. cPoint shall not be liable for any loss or damage to material provided by Customer or third parties – this shall apply even if these materials have already been delivered to cPoint.

6. Miscellaneous provisions

6.1. Applicable law

Austrian law, excluding the UN Sales Convention and nonmandatory rules of conflict of laws, shall govern all claims under this contract.

6.2. Jurisdiction

Any dispute arising from this contract shall be subject to the territorial jurisdiction of the Vienna Inner City court having subject matter jurisdiction.

6.3. Change of address; receipt of electronic declarations

Customer shall inform cPoint immediately in writing of any change of its name or address. If no change is notified, documents shall be deemed received by Customer if they have been sent to the address last notified by Customer. Electronic declarations are deemed received if they have been sent to the email address last notified by Customer.

6.4. Severability

Any invalidity of individual provisions hereof shall not affect the validity of the remaining General Terms and Conditions of Contract. The invalid provision shall be replaced by a valid provision that comes as close as possible to the economic aim and purposes of the invalid provision.

