

BBM

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General Terms & Conditions of Rental

§ 1 Applicability - Scope, Exclusivity

1. These General Terms and Conditions (hereinafter also referred to as AGB) are basis and part of all contracts finalized between AudioRent Clair GmbH (hereinafter referred to as BBM CLAIR) respectively) and their contractual partners (hereinafter referred to as customer) dealing with equipment renting and/or involve connected non-cash benefits and services of BBM CLAIR.
2. These general terms & conditions apply exclusively. Variant customer terms and conditions have no validity.

§ 2 Offer and contract

1. BBM CLAIR offers are subject to confirmation. A contract results when a customer receives an offer from BBM CLAIR and places an order resulting from said offer, which must in turn be confirmed in written form by BBM CLAIR. The written confirmation can be superseded by delivery of goods by BBM CLAIR.

§ 3 Rental period

The rental period is defined as the period between the extradition of the rented equipment from repository and the return of the equipment to the BBM CLAIR repository (period of disposition). This applies regardless of whether the customer, BBM CLAIR or a third party executes transport.

§ 4 Payment

1. If not expressly otherwise stipulated, the rental cost specified in the BBM CLAIR price list valid at the point of contract closure applies.
2. An appropriate fee shall be agreed upon if the amount of payment for additional services such as delivery, installation, and supervision by staff specialists is not regulated contractually.

§ 5 Transport

1. BBM CLAIR is obligated to transport only if explicitly agreed upon with the customer. If BBM CLAIR provides for transportation of rental equipment as a result of an explicit agreement between BBM CLAIR and the customer, BBM CLAIR can choose to execute transport itself or through a third party.
2. The customer assumes responsibility for loss or damage to rented equipment upon receipt of said equipment. When equipment is transported by BBM CLAIR or by a third party, receipt is accomplished when said equipment has been delivered and unloaded at the customer's delivery address. In other cases, receipt is accomplished when the rented equipment has been received from the BBM CLAIR repository by the customer, or a third party specified by the customer, and before the loading of said equipment.

§ 6 Personnel Activity

1. BBM CLAIR is only obligated to provide technical or other personnel within the scope of contracts when an explicit agreement is made. In such instances, BBM CLAIR is entitled to make use of third party resources. In cases where the amount of recompense for human resource activity has not been previously agreed upon, the current BBM CLAIR workforce price as found in the effective BBM CLAIR compensation list is assumed. Should such a list be unavailable, then apparent BBM CLAIR prices for comparable contracted personal services are regarded as contracted.

§ 7 Conditions of Payment

1. If no other specific written agreement has been made, payment is due from the customer without deductions or discounts at the time of the start of the agreed rental period. Payments for other services are also payable at commencement of contract. BBM CLAIR is only obligated to handover the rental equipment to the customer if prior complete payment has been made.
2. Payment is to be made in advance. In absence of written agreement otherwise, the customer is obligated to pay BBM CLAIR forthwith and without delay upon receipt of invoice.
3. If in spite of admonition, reminders and time limits, the customer does not effect payment within the allotted period of time, BBM CLAIR is authorized to charge interest on arrears at the rate of 8 percentage points above and beyond the base rate. In this case, BBM CLAIR is entitled to refuse to hand out rented objects and equipment until behind due payment has been made. Should the customer fail to settle payments within the allotted time in spite of admonition after delivery of the rented goods has been accomplished, BBM CLAIR is authorized to fetch back rented objects.
4. The customer is entitled to exercise a lien or right of retention or an equivalent summation only with an undisputed or legally binding counter claim. This shall not apply in the case where the customer invokes a right of retention which is based upon the present contractual relationship.

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§ 8 Inspection upon return of rental goods, deficiencies

1. The customer is obligated to inspect rented goods upon receipt and must advise BBM CLAIR immediately as to established incompleteness or deficiencies. Should the customer refrain from examining the equipment and the reporting of said incompleteness or defects to BBM CLAIR, the transfer will be assumed free of defects and approved, unless the defect or deficiency was not visible at the time of examination.

Should such a deficiency appear at a later time, BBM CLAIR must be immediately made aware of the ascertainment of the deficiency. Otherwise, the condition of the rental equipment provided will be considered as approved and without defect in spite of the visible defect. The notification of such defects must be made in written form.

2. If the rental equipment is defective at the time of transfer or a defect appears later and customer notification of the defect is made in a timely manner, the customer can demand repairs. This is not applicable if the customer him/herself caused the defect and/ or is obligated to upkeep - including repairs. BBM CLAIR has the right to choose to fulfill repair requests by providing equivalent rental equipment or by repairs. If repairs are linked to disproportionate expenditures and if the deficiency reported has only a marginal effect on the usability of the rented equipment as a whole, BBM CLAIR shall have the right to define a commensurate price reduction which is based upon the total rental price in place of the correction of the reported deficiency and to subtract this amount from the quoted price or respectively to remit the amount to the customer. Alternatively, BBM CLAIR has the right to charge the customer with transport, travel and labor costs resulting from the repair.

3. The customer has a right to reduction or cancellation in accordance with the policy and procedures set forth in the German Civil Code or "Bürgerliches Gesetzbuch" (hereinafter referred to as BGB) only if BBM CLAIR repairs were unsuccessful or BBM CLAIR rejected the repair due to disproportionate cost absorption in accordance with the contents of item 2 immediately preceding this item.

If the customer does not inform BBM CLAIR of the defect or notification is not immediate, the customer cannot reduce or cancel payment or claim damages for the defect; this is also the case if premises for such a claim are justified by the policy and procedures defined in the BGB. Damages are also excluded if the customer immediately informs BBM CLAIR of the defect but repairs during the available time frame (contemporary event scheduling) were not possible, or if the repairs were justifiably declined by BBM CLAIR due to disproportionate expenditures. Customer negligence which is concurrently causative to the defect will exclude the customer's right for cancellation, withdrawal from the contract or damage claims, in accordance with policy and procedures defined in the BGB.

4. If multiple equipment items are rented and only one equipment item is defect, the customer can only cancel the contract if the rental equipment was rented in a group and the defect significantly impairs the contractually stipulated functionality of the rental equipment.

5. The customer is responsible for obtaining necessary permits for the planned implementation of the equipment rented which are regulated by public law, at his own expense. If assembly and installation is to be performed by BBM CLAIR, the customer must present all such permits to BBM CLAIR upon demand. BBM CLAIR is not liable for the permissibility of the customer's planned implementation of the equipment rented.

§ 9 Liability for Damages by BBM CLAIR

1. The customer is entitled to contractual and legal damage claims only if these have been caused through deliberate or grossly negligent breach of duty by BBM CLAIR, its legal representatives or executive staff. BBM CLAIR will be liable for damages resulting from grossly negligent breach of a significant contractual obligation by BBM CLAIR, its legal representatives or executive staff. BBM CLAIR is liable solely for predictable damages as well, if they are caused by deliberate or grossly negligent actions on the part of one of their installation or performance assistants. No-fault damages are excluded in accordance to § 536 paragraph 1 BGB.

2. The customer and his/her contractual partners (artists, athletes, audience etc.) must agree to limitation of liability in favor of BBM CLAIR concerning claims which these persons could if applicable raise against BBM CLAIR on the basis of tortious liability. If BBM CLAIR is held responsible by third parties for damages due to non-implementation of previously mentioned obligations on the part of the customer, then the customer is responsible for ensuring that BBM CLAIR is maintained exempt from such damage claims.

3. Compensation demands by the customer which are drawn from the contract at hand or from tortious liability which are associated with this contract are limited in amount and in each case to three times the total amount which the customer is obligated per this contract to pay to BBM CLAIR.

§ 10 Customer obligations and liabilities

1. BBM CLAIR rental objects and equipment are technically elaborate. In order to prevent damage to the equipment, the rented technical devices are only to be operated by skilled, technically trained customer staff.

2. The rental equipment must only be installed, operated and dismantled by competent staff in accordance with technical provisions. If equipment is rented from BBM CLAIR without support staff, the customer is responsible for ensuring continuous compliance with all applicable security guidelines, in particular accident prevention regulations (UVV) and guidelines of the Association of German Electrical Engineers (VDE).

3. The customer must treat rental equipment with painstaking care and caution. In addition, the customer must immediately provide for the remedy all self-inflicted malfunctions by competent persons at his own cost. The customer is obligated to report malfunctions and defects to BBM CLAIR immediately and without exception.

4. The customer must ensure uninterrupted power supply during rental equipment use. The customer will be held responsible for damages resulting from power outages, interruptions or fluctuation

5. The customer is liable for all damage to or the loss of rental equipment during the period beginning with receipt and ending with return of the equipment to the BBM CLAIR repository. In cases of damage, reimbursement in amount of the obligatory repair costs shall be rendered by the customer, when such repair is possible and economically expedient. In other cases - including the loss of rental equipment - reimbursement in the amount of the contemporary list price shall be rendered by the customer.

6. The customer is categorically responsible for the surveillance of rental equipment and for the provision of properly secure positioning when in use. The customer is only exempt from this responsibility during periods of time when and while contractually committed BBM CLAIR staff is present and in immediate proximity of rental equipment. The customer is principally responsible for the commissioning of professional security personnel to ensure qualified surveillance in Open Air environments, easily accessed accommodations, especially during public events in marquees and similar localities.

§ 11 Insurance

1. The customer is obligated to provide insurance in the general areas of risk for rental equipment (loss, theft, damage, liability).

2. The customer shall reimburse BBM CLAIR for insurance costs in cases where BBM CLAIR and the customer agree on the provision of insurance by BBM CLAIR. If BBM CLAIR does not assume responsibility for the provision of insurance, the customer must show BBM CLAIR proof of insurance upon demand.

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§ 12 Rights and obligations in connection with third party claims

The customer must avoid impairment of rental equipment by third parties. The customer must ensure that BBM CLAIR property is not made the subject of garnishment or levy of execution, seizure or other third party legal claims. The customer is obligated to immediately inform BBM of such third party measures and will transfer all necessary documents. The customer will bear the cost for the defence against such infringement, unless the infringements are directed at BBM.

§ 13 Termination of rental agreements

1. A rental agreement can be terminated by both parties for significant reasons only. This also applies to agreements in areas of auxiliary services.

2. As seen by BBM an important reason is particularly present if

a) the customer's economic situation has degraded significantly, e.g. if customer seizures or other foreclosures occur or insolvency proceedings involving customer assets or composition proceedings are proposed.

b) the customer's usage of the rental equipment is not in accordance with contractual agreements.

c) the customer fails to fulfill committed rental payment for two consecutive periods as stipulated or for a total amount representing two rental payments. In addition, BBM sees such important reason for termination as present when the customer has failed to fulfill a single rental payment and refuses to fulfill continuing payment requirements in spite of admonitions and time limit specifications.

A particularly significant reason for termination by the customer is present when BBM does not fulfill significant contractual agreements regarding time limits and/or the technical configuration of rental equipment which are within their area of accountability, and the customer has in vain reprimanded and set time limits for contractual fulfillment.

§ 14 Return of rental equipment

1. If contractual agreement specifies that the customer is to receive rental equipment at the BBM repository, then the customer is responsible for returning the rental equipment to the repository in the same complete, orderly and clean condition at the end of the period of disposition.

2. The return of equipment is completed only after unloading and registration of all rental equipment in the BBM repository. After registration the customer will receive a receipt. BBM reserves the right to detailed examination of the rental equipment after registration. An acceptance without complaint must not be understood as an approval for the completeness or condition of the returned rental equipment.

3. The customer must inform BBM immediately in writing if he anticipates that the stipulated rental period will be exceeded. Continued usage does not automatically result in an extension of the rental agreement. For every day which exceeds the stipulated rental period, the customer must pay usage compensation equal to the cost per day in accordance with the contractual agreement. This payment is determined by dividing the original contractual total price by the number of days in the original rental period. In addition, BBM reserves the right to demand compensation for costs incurred by the belated rental equipment return by the customer. This added claim for indemnity presumes that BBM explicitly requested the return of the rented equipment by the customer upon expiration of the deadline for the return of goods and made him/her aware of the damages which will be incurred.

§ 15 Subleasing, transfer

1. The customer is not authorized to transfer the rental equipment out of his own personal area of accountability, in particular for the purpose of subleasing.

§ 16 Written form

In cases where written form is agreed upon or provided in these General Terms & Conditions (AGB), it will be achieved by facsimile transmission and by the implementation of an electronic document with a qualified electronic signature which meets the requirements of signature statutes.

§ 17 Final provisions

1. Alterations and additions to this contract require written form, specifically the waiving of this prerequisite of form.

2. Place of execution for all commitments resulting from the contract at hand, as well as place of jurisdiction for all disputes resulting from or in connection with said contract, is the BBM place of business.

3. German law is obligatory for these general terms and conditions and all business relations between BBM and the customer.

4. If a term of this contract, including the General Terms & Conditions (AGB) at hand, should be ineffective or included ineffectively in the contract, the efficiency of other provisions of the contract and AGB will remain unaffected. The ineffective term or provision shall in this case be replaced by an alternative substitute regulation that will closest meet the parties' desires in a judicially permissible manner.

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