

AVO GmbH Soest: General Terms and Conditions of Business

The following General terms and Conditions of Business apply to all orders issued to AVO GmbH (referred to hereinafter as "AVO") and are an integral part of all contracts concluded with AVO.

§ 1

AVO will supply all goods and services solely on the basis of these terms and conditions of business. They will also apply to all future business dealings, even if not expressly agreed to again. AVO is entitled to amend or add to these General Terms and Conditions of Business with an appropriate period of notice. This announcement is made exclusively by publication on AVO GmbH's website on the internet. The amended or supplemented conditions will become effective if the client does not object to them within two weeks of their publication in the internet. If the client objects within the period of notice, AVO will be entitled to cancel the contract on the date the amended or supplemented conditions are to become effective.

§ 2

The contract will come into force without requiring any notification to the client when AVO countersigns the client's application or fulfils an order or part thereof for the first time. Alterations or additions to the contractual quote or these General Terms and Conditions of Business by the client will be considered a new quote.

§ 3

Our prices and quotes are non-binding and subject to alteration without notice. All payments will be made in euros plus the applicable value added tax.

§ 4

All payments arising from contracts with AVO are to be made immediately after the invoice has been issued. Exceptions will be made for payments individual programming services. In the case of such services, a deposit of half the total value of the order will be paid in advance and the remaining amount will be paid once the programming has been completed or by separate arrangement. Payment for services for maintenance and updating of websites and the adjustment of pages on the server will be due after uploading has been completed.

If an order takes longer (more than 15 weeks after it has been issued) or if it requires higher financial outlays by AVO, appropriate instalments are to be paid.

If the client remains in arrears with a payment or several payments for longer than 14 days, AVO reserves the right, after notifying the client correspondingly, to suspend its services until payment has been received. If a payment date is not met, AVO will be entitled, including without sending a reminder, to charge interest on arrears at 3% over the applicable central bank discount rate.

§ 5

The contract will terminate once the agreed services have been performed in full.

§ 6

AVO will not be liable to its customers for damage or consequential damage of any sort, including damage incurred as a result of loss due to interruption to work, computer breakdowns or disruptions or damage or loss of any other sort unless it can be proven that this damage was caused deliberately or as the result of gross negligence by agents of AVO.

AVO will accept no liability for disruptions to the internet or for problems with the transmission of data. AVO will accept no liability for the content of the contractual partner's internet pages. Any damages claims will be limited to the value of the order.

§ 7

If drafts and fair copies are released by the client, he will assume the responsibility for the technical and functional correctness of the texts, images and designs. AVO will not be liable for designs, developments, drafts, fair copies and drawings released by the client. In particular, no liability will be assumed for transmission errors occurring through the use of electronic media. Slight variations in colour between samples and the final product will not be grounds for damages claims.

The client will release AVO from all claims by third parties in respect of data given to it. In the case of web packages, the client will be given all the files in the design package for independent maintenance by AVO and uploads of its quote. The contractual relationship will end when these files are handed over. In this case AVO will not be responsible for backing up the client's data transmitted to a server. Neither will AVO be responsible for the content of the pages modified by the client. AVO will not be liable for any breaches of confidentiality of email messages or information transmitted in any other way.

§ 8

The client releases AVO from all liability for the content of transmitted websites and guarantees that he will not use the designs drafted by AVO for storing or distributing obscene, pornographic, threatening, racist or insulting material. The client will ensure that his quote does not breach any trademarks, patents or other rights of third parties or the applicable laws of the Federal Republic of Germany. The client himself is responsible for the content of these sites. AVO will not be obliged to inspect the content of these sites of the client.

§ 9

Each order issued to AVO is an originator's service contract which is intended to grant rights of use to the services. All drafts and fair copies are subject to the law of copyright. The provisions of copyright law will also apply between the parties if the necessary protective requirements are absent in individual cases. In such cases, AVO will therefore be especially entitled to the copyright claims in §§ 97 ff. of the German Copyright Act. The drafts and fair copies may not be copied without the express written consent of AVO, either in the original or in the form of reproductions. Each imitation – including of parts – is not permitted. A breach of these provisions will entitle AVO to demand a contract penalty of double the agreed fee. If such a fee has not been agreed to, the contract penalty for every case of breach will be € 10,000.00. The contractual partner will be entitled to prove the

occurrence of lesser damage. AVO will transfer to the client the necessary rights of use for the respective use. Unless otherwise arranged, a simple right of use will be transferred in each case. The transfer of the rights of use by the client to third parties will require the conclusion of a written agreement between client and AVO beforehand. The rights of use will not transfer to third parties until the client has paid AVO the full fee.

§ 10

Special services such as the modification or alteration of fair copies will be charged for separately according to the time taken, corresponding to the German Pay Agreement for Design Services (SDSt/AGD).

AVO will be entitled to order the services by third parties necessary as required in order to fulfil its services for and on behalf of the client. The client undertakes to issue AVO the corresponding authority when called on to do so.

If, in individual cases, contracts for services by third parties for and on behalf of AVO are concluded, the client undertakes to release AVO from all obligations in its internal relationships with the client arising from the conclusion of the contract. In particular this will include bearing costs.

Expenditure for ancillary technical costs, in particular for special materials for producing models and photos etc., are to be reimbursed by the client.

Travel expenses and expenses for travel to be carried out in connection with the order and agreed to with the client, are to be reimbursed by the client.

§ 11

The dispatch of work and drafts will be carried out at the risk and on the account of the client. AVO will not be obliged to give the client files or layouts which were produced in a computer. If the client wishes to obtain computer data, this must be agreed to separately and a separate fee is to be paid.

§ 12

AVO will be entitled to use the client's work for its own advertising purposes at no charge to itself.

§ 13

The order includes design freedom. Complaints in respect of artistic design will not be recognised or accepted. If the client wants changes made during or after production, he will bear the extra costs. AVO will retain its right to a fee for work it has already commenced.

If the execution of an order is delayed for reasons for which the client is responsible, AVO may demand an appropriate increase in its fee. AVO may also claim damages in cases of malice aforethought or gross negligence. This will not affect claims for further damages. The client guarantees that he is entitled to use all documentation he has given to AVO. Should he not – contrary to this assurance – not be so entitled, the client will release AVO from all compensation claims by third parties.

§ 14

AVO undertakes to carry out each order with the greatest possible care and in particular to treat with care all patterns, documentation, samples etc. given to it.

Complaints of any sort are to be submitted in writing within seven calendar days of delivery by AVO. Thereafter the work will be deemed to have been accepted as free of defects.

§ 15


Unless the contract provides otherwise, AVO will be liable, irrespective of the reason in law, only for malice aforethought and gross negligence. This limitation of liability will also apply to all agents and servants of AVO. AVO will not be liable for slight or simple negligence. This exemption from liability will not apply in the case of harm to human life, injury to the human body or harm to human health, breach of essential contractual obligations or to claims arising from the German Product Liability Act. AVO will accept no liability or guarantee of any kind to the client for orders issued to third parties on behalf of the client if AVO bears no fault for selection. In such cases AVO will act solely as an agent. If AVO itself is a client of subcontractors, AVO hereby assigns and transfers all guarantee claims, damages claims and other claims for faulty service, late delivery or failure to deliver to the client. The client undertakes to initially attempt to enforce the assigned and transferred claims before submitting a claim to AVO.

§ 16

The place of fulfilment for all obligations arising out of this contractual relationship is Soest. The legal venue for all disputes is Soest. The ineffectiveness of any one of the above conditions will not affect the validity of the other provisions.

This contract will be governed by the laws of the Federal Republic of Germany.

Valid at: 1 October 2006

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Legal Venue: Soest