



DISPLAY MESSEBAU IN ESSEN

KONZEPT DESIGN PLANUNG REALISATION

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General Terms and Conditions of Trade (*Allgemeine Geschäftsbedingungen*)

I. General

1. Our General Terms and Conditions of Trade as set out below will have sole application. We shall not accept any terms and conditions of the contracting party which differ from or contradict them unless we have given our express written consent that they shall apply.

II. Quotations

1. As a rule, initial quotations will be given free of charge. Display-Messebau GmbH shall be bound by any quotation it has made for 14 days.

2. Display-Messebau GmbH shall advise the customer in good time of any design costs incurred and invoice them separately according to the HOAI (*Honorarordnung für Architekten und Ingenieure* – Official Scale of Fees for Services by Architects and Engineers in Germany). The HOAI determines a standard amount for such fees nationwide.

3. The documents related to the quotations such as diagrams, drawings, measurements and weights are deemed approximate only, unless it has been specified that they shall be binding. Display-Messebau GmbH shall retain ownership of and copyright in cost estimates, drawings and other documents; the aforementioned may not be made available to any third parties. Display-Messebau GmbH may not provide to any third parties any plans which the customer has specified as confidential unless it has the customer's consent.

III. Scope of services

1. The written confirmation of order from Display-Messebau GmbH will determine the scope of services. Collateral agreements and amendments must have written confirmation from Display-Messebau GmbH.

IV. Prices and payment

1. Unless a special agreement has been reached, payment shall be made, without any deduction, to the payments office of Display-Messebau GmbH seven days after invoice. Invoices shall be payable without deductions and may not be discounted.

2. The periods allowed for payment are: for stands at trade fairs - 50% on placing the order and the balance after handing over the stand, strictly without deductions; for incidental services – 7 days after invoice, strictly without deductions.

3. If payment has not been made by the due date, annual interest will be charged at the rate of 1% above the current discount rate of the *Deutsche Zentralbankinstitut* (German Central Bank), however no less than 5%, without a default notice being necessary.

4. The customer shall only have rights of set-off and retention if its counter-claims have the authority of a final decision, are undisputed or have been accepted by Display-Messebau GmbH.

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V. Delivery period

1. The delivery time will commence on receipt of the order but only when the documents, consents or releases to be obtained by the customer have been supplied and any agreed deposit has been received.
2. The delivery time shall have been met if, by the time it expires, the contracted goods have been dispatched from the factory or notification has been given that they are ready for dispatch.
3. Delivery and installation times will be extended by a reasonable length of time if any unforeseen circumstances arise which were not intended by Display-Messebau GmbH – regardless of whether they arise at Display-Messebau GmbH's premises or its subcontractors' premises – e.g. operational disturbances, strikes, lock-outs, delays in the delivery of essential raw materials or construction materials, if it can be shown that such delays have a considerable impact on the completion or delivery of the contracted goods.
4. The above circumstances are also deemed to be beyond the control of Display-Messebau GmbH if they arise during an already existing delay. In significant cases Display-Messebau GmbH shall notify the customer as soon as possible with details regarding the onset and conclusion of such impediments.
5. If dispatch is delayed at the request of the customer, then the customer shall be charged the costs of storing the goods at Display-Messebau GmbH's premises, subject however to a minimum of 0.5% of the invoice amount for each month, commencing one month after notification that dispatch is ready. However, Display-Messebau GmbH shall be entitled to use the goods otherwise if it has set a reasonable deadline to no avail, and to supply the customer with a reasonable delay.
6. The observance of delivery and installation times is subject to the customer fulfilling its contractual obligations.
7. If the customer defaults through non-acceptance or breaches other obligations to co-operate, then Display-Messebau GmbH shall be entitled to demand compensation for any loss it suffers including any additional expenses.
In this event, the risk of accidental destruction or accidental deterioration of the goods shall also pass to the customer at the time it defaults in acceptance.
8. If we do not affect the delivery on time for reasons which are within our control, then there shall be no liability to pay compensation in the event of "usual negligence" (*gewöhnliche Fahrlässigkeit*).
9. If, after we have defaulted in delivery, the customer gives us a reasonable extension of time with the threat of rejection, the customer shall be entitled to terminate the contract if delivery has still not been made within the extension. The customer shall only be entitled to compensation for non-performance up to the amount of foreseeable loss if the delay was intentional or due to "gross negligence" (*grobe Fahrlässigkeit*); otherwise liability for compensation shall be limited to 50% of the loss suffered.
10. The limitations of liability in subs. 8 and 9 will not apply if a transaction at a fixed date (*Fixgeschäft*) was agreed. Nor shall they apply if the customer claims that it is no longer interested in performance of the contract because of the delay we caused.

VI. Transfer of risk; acceptance

1. Risk shall be transferred to the customer no later than dispatch of the components, even if part deliveries are made or Display-Messebau GmbH has undertaken other services, e.g. the costs of transportation or transportation and installation.
If the customer wishes, Display-Messebau GmbH will insure the dispatch at the customer's expense against damage caused by breakage, fire or water or during transport.

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2. If dispatch is delayed for reasons which are outside Display-Messebau GmbH's control, then risk shall be transferred to the customer on the day that the dispatch is ready. However, Display-Messebau GmbH shall be under an obligation to effect any insurance which the customer requests, at the customer's expense.

3. Items delivered must be accepted by the customer even if they have minor defects, without prejudice to the rights in section VIII.

4. Part deliveries are permitted.

VII. Reservation of title

1. Display-Messebau GmbH will retain title in the items delivered until all payments required by the contract have been made. The reservation of title will continue until acceptances given by the customer have been redeemed in full.

Display-Messebau GmbH shall be entitled to insure the items delivered against relevant risks at the customer's expense until the reservation of title comes to an end, unless the customer produces evidence that it has taken out appropriate insurance

In this situation, the customer hereby assigns to Display-Messebau GmbH any right to indemnity up to the amount of the delivery price. The right shall be reassigned automatically as soon as the customer pays the delivery price in full.

2. If the customer disposes of the items delivered before the purchase price has been paid in full, then it shall hereby assign its claim under the resale to Display-Messebau GmbH as supplier.

Display-Messebau GmbH undertakes not to enforce the claim hereby assigned to it if the customer is carrying out its payment obligations.

3. The contracted goods may not be pledged as collateral nor transferred as security by the customer. Display-Messebau GmbH must be immediately notified of any seizure or distraint or other acts of disposals by any third party.

4. If the customer breaches the contract, in particular if it defaults in payment, then Display-Messebau GmbH will be entitled to take back the goods and the customer will be under an obligation to surrender them. If Display-Messebau GmbH takes back the contracted goods, this shall not constitute a cancellation of the contract unless specifically stated in writing. If we seize the contracted item, this will cancel the contract.

VIII. Liability for defects in delivery and installation

1. Any claims in respect of defects must be made in writing without delay but within 8 days. Alterations to the items delivered which have been made previously and without the consent of Display-Messebau GmbH will forfeit any claim to rectification of defects.

2. If there is any defect in the contracted item for which we are responsible, then we shall be entitled to elect either to rectify the defect or to deliver a replacement. If we rectify the defect, we shall bear the costs only up to the amount of the delivery price. If additional costs arise because the contracted goods were taken to a place other than the place of performance, then the customer shall bear such costs.

3. The customer must allow the necessary time and provide the opportunity for Display-Messebau GmbH to carry out all repairs and replacement deliveries which appear to be necessary after it has advised Display-Messebau GmbH. If not, Display-Messebau GmbH shall be released from liability for defects.

4. If we are not prepared or are unable to remedy the defect / make a replacement delivery, in particular if this is delayed unreasonably for reasons within our control, or if the attempt to remedy the defect fails for any other reason, the customer may elect either to terminate the contract or to demand a corresponding reduction in the purchase price. An attempt to remedy the defect by making a rectification has only failed if Display-Messebau GmbH has unsuccessfully attempted three times to remedy the same defect.

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The customer shall have the right to remedy the defect itself or to have it remedied by a third party and to demand reimbursement of its costs from Display-Messebau GmbH only in urgent cases where operational safety is at risk or if Display-Messebau GmbH is delayed in remedying the defect.

5. Display-Messebau GmbH is entitled to refuse to remedy defects if the customer has not fulfilled its obligations.

6. We shall not be under any liability for the consequences arising from alterations carried out by the customer or any third party improperly without prior approval from Display-Messebau GmbH. Furthermore, there is no warranty for damages which have arisen through unsuitable or improper use, faulty installation or commissioning by the customer or any third party, normal wear and tear, incorrect or negligent handling (particularly excessive use), unsuitable equipment, replacement materials, defective construction work, unsuitable construction surfaces, chemical, electro-chemical or electrical influences, to the extent that they were not caused by fault on the part of Display-Messebau GmbH.

7. The customer may not claim compensation for damage which did not occur to the item delivered itself. In particular, Display-Messebau GmbH shall not be liable for the customer's loss of profits or other financial losses.

8. The above agreed exemption from liability shall not apply if the cause of damage by Display-Messebau GmbH is based on intention or gross negligence. Furthermore, it shall not apply if the customer claims compensation for non-performance because of the failure of agreed features in terms of Sections 463, 480 (2), 635 of the BGB (*Bürgerliches Gesetzbuch* – German Civil Code).

9. The warranty obligation shall continue for 6 months from transfer of risk. This period shall also apply to claims for compensation for consequential harm if no claims in tort have been made.

IX. Joint liability

1. Liability for compensatory damages extending beyond that in sec. VIII subs. 7 – 8 shall be excluded, regardless of the legal nature of the claim made. This shall not apply in the case of initial inability or impossibility within the control of Display-Messebau GmbH.

2. Personal liability on the part of our salaried employees, wage earners, co-workers, representatives and vicarious agents shall be excluded or limited to the same extent that Display-Messebau GmbH's liability is excluded or limited.

X. Right to cancellation on the part of the supplier and customer

1. The customer may cancel the contract if Display-Messebau GmbH is definitely unable to perform the contract in full prior to transfer of risk.

2. Display-Messebau GmbH shall have the right to cancel the contract if serious negative changes in the customer's economic circumstances occur after confirmation of the order or if any unforeseen circumstances arise in terms of sec. V.

XI. Deliveries of third-party stands and equipment

1. Deliveries of third-party stands, exhibits and other exhibition items are at the expense and risk of the exhibitor. It must insure them at its own expense.

2. This applies both to transportation by Display-Messebau GmbH's own vehicles and also to other means of transport such as hire vehicles, courier services, ship, rail, air or freight forwarding.

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XII. Deliveries of our own exhibition systems etc.

Display-Messebau GmbH will insure the trade fair stands and accessories which it offers for hire against damage during transport.

XIII. Storage

Storage of third-party trade fair items and all associated material is at the risk and cost of the exhibitor. The exhibitor must arrange adequate insurance for the items stored for the period of storage.

XIV. Special conditions for producing stands

By way of modification of and supplement to these General Terms and Conditions of Trade, the following terms apply to the production of stands due to the nature of transactions for delivery by a fixed date. In all other respects these Terms remain the same.

1. The delivery time has been met if the stand can be handed over at the agreed time. The delivery time relates only to the services which are included in the main offer. Subsequent orders and requests for alterations may mean that the agreed delivery date is not met.
2. Compliance with our delivery obligations shall be subject to timely and proper performance of the customer's obligations.
3. No extensions to the supply and assembly time are possible.
4. Risk shall be transferred to the customer when the stand is handed over and will end on the conclusion of the event after it has been returned to Display-Messebau GmbH.
5. Part deliveries are not possible.
6. Complaints about defects must be made in writing as soon as the item is handed over but superficial defects in the material hired do not justify a claim for rectification of defects. Defects which arise during the event must also be made in writing. Display-Messebau GmbH must immediately rectify any defects for which it is responsible. If these are not defects in the structure but rather defects in technical equipment, Display-Messebau GmbH reserves the right to engage at its own expense sub-contractors from the appropriate trade fair company or the equipment manufacturer to carry out the repair. Any downtime and idle time will only be reimbursed up to the amount of the individual hire charge per day.
7. The customer is entitled to cancel the contract if Display-Messebau GmbH does not observe the delivery time pursuant to sec. XIV subs. 1.
8. The limitation of liability pursuant to sec. V subs. 8 and 9 does not apply.
9. The customer must take out adequate insurance against damage and theft for the systems and accessories provided to it by Display-Messebau GmbH from the time that they are provided to it until they are returned to Display-Messebau GmbH. If any of the items hired are lost or damaged, the hirer must pay the costs of replacement or repair in addition to the agreed hire charge.
10. The customer's own exhibition goods shall not be insured by Display-Messebau GmbH against damage or theft during set-up and dismantling until handed back or accepted after the fair ends.
11. Any damage or theft must be notified to Display-Messebau GmbH as quickly as possible.
12. The customer undertakes to provide a report promptly in the event of theft or intentional damage.

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XV. Liability for working papers etc.

Display-Messebau GmbH shall only be liable for any damage to or the loss of the final drawings, manuscripts and other working documents provided to it by the customer up to the amount of the basic value of such material. The limitation of liability shall not apply if it can be shown that there was intentional conduct or gross negligence on the part of Display-Messebau GmbH in respect of the cause of damage.

XVI. Place of performance and jurisdiction

1. The place of performance is the place where Display-Messebau GmbH is domiciled.
2. If the customer is a *Vollkaufmann* (full trader in terms of the *Handelsgesetzbuch* (German Commercial Code)), a legal person under public law or a special fund under public law, any disputes arising out of the contractual relationship must be brought before the court which has jurisdiction for the head office of Display-Messebau GmbH.
3. The laws of the Federal Republic of Germany apply exclusively to the relationship between Display-Messebau GmbH and the customer.

XVII. Miscellaneous

If any provision of these General Terms and Conditions of Trade is ineffective, this will not affect the validity of the remaining provisions.

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