

# GENERAL TERMS AND CONDITIONS - STAND CONSTRUCTION

applicable as at 01/01/2015

## Part 1. Background information

1. Pursuant to these General Terms Conditions - STAND CONSTRUCTION [hereinafter: GTC], **Exposervice GmbH**, Graf-Engelbert-Str. 25-27, 40489 Duesseldorf, Germany; TIN DE815521681; HRB 73366 [hereinafter the Contractor] enters into Exhibition Stand Construction Agreements with sole traders, legal persons, non-corporate and corporate legal entities [hereinafter the Customer].
2. DEFINITIONS
  - a. **Agreement** – Exhibition Stand Construction Agreement (Contract, Sales order, Commercial proposal, Offer) concluded between the Contractor and the Customer in writing or in a document form whose integral part is GTC;
  - b. **Trade Show** – a trade show specified in an Agreement;
  - c. **Subject Matter of the Agreement** – the Contractor's service comprising the construction of an Exhibition Stand for the Trade Show in compliance with the Design, dismantling, transport of the Stand and other services. If the Parties so agree, the Subject Matter of the Agreement may also comprise maintenance service of the Stand during the Trade Show.
  - d. **Exhibition Stand; Stand** – the final result of the Contractor's service of construction of an Exhibition Stand which belongs to the Customer – except for the Entrusted Materials and movables of the Customer other than the Entrusted Materials;
  - e. **Entrusted Materials** – exhibition elements, marketing materials, graphic materials, logo in curves, movables, etc. which are the property of the Customer or third parties, entrusted to the Contractor for the purpose of performing the Subject Matter of the Agreement (this shall not include other movables of the Customer e.g. those handed over to the Contractor for transport under a separate agreement). They are to be returned to the Customer if the Customer so requested in a document form upon handing them over to the Contractor;
  - f. **Stand Design** – means a design of the Exhibition Stand including in particular (including but not limited to): plan view, dimensions, illustrative graphic visualization - which constitutes an Attachment to the Agreement;
  - g. **Stand Location Map** – means information given by the Contractor to the Customer about the Stand installation, dismantling, and orientation - which constitute an Attachment to the Agreement;
  - h. **Cost Calculation** – means the valuation of the Contractor's fee for the performance of the Agreement based on the Stand Design and Stand Location Map. Cost Calculation is an Attachment to the Agreement.
  - i. **Document Form** – means a method of recording information which allows to save the information and reproduce it (e.g. images, e-mails, text messages, messenger messages, computer files, fax, etc.).
  - j. **Force Majeure** – means any event that has no connection with the operations of the Customer or Contractor, cannot be averted despite the utmost reasonable care, and makes it impossible for the Contractor or a third party involved by it in the fulfilment of the Contractor's obligations under the Agreement, as the case may be, to provide the services owed, whether at the Venue or before the Venue is reached, including without limitation, war, civil unrest, natural catastrophe, storm, flood or embargos.
3. These GTC govern all legal and other actions, including documents, connected with the conclusion, performance and expiry of the Agreement.
4. These GTC constitute an integral part of the Agreements presented, executed concluded and performed by the Contractor and apply throughout the whole commercial cooperation of the Parties, however if the Parties have first agreed their mutual rights and obligations in the Agreement, the provisions of such an Agreement shall prevail and the provisions hereof shall apply in matters not regulated in the Agreement. Provisions or supplements other than the GTC refer only to a given Agreement.
5. The Contractor enables the Customer to get acquainted with the currently applicable GTC, in particular prior to their first Agreement to which the GTC or an amended version hereof shall apply. In the absence of separate written arrangements, the first acceptance hereof by the Customer for the purpose of the first Agreement to which the GTC apply shall be deemed an acceptance for the subsequent Agreements.
6. GTC are deemed accepted and thus effective as of the acceptance and execution of the Agreement (unless the Parties decided otherwise in a document form). It is prohibited to use any contract templates or terms and conditions of the Customer even if the Contractor did not expressly object against it, unless the Contractor and the Customer decided otherwise in writing, otherwise invalid. The Contractor shall conclude an Agreement only on condition that only these GTC apply, in particular that no contract templates submitted by the Customer apply. Provisions hereof do not exclude or limit the Customer's rights or claims against the Contractor arising from mandatory provisions of law.
7. For the time of performing the Subject Matter of the Agreement, the Contractor may place its advertisement or logo on the Stand free of charge, at their own cost and on its own.
8. In performing the Agreement, the Contractor may make use of sub-contractors (to subcontract) and third parties to any extent and shall be held liable for their acts and omissions.  
[The Contractor may subcontract the performance of this Agreement to third parties in any scope and shall be held liable for the acts and omissions of its third-party subcontractors.]

## Section 2. What is the scope of the Agreement? What is the Subject Matter of the Agreement? What is the scope of the service provided?

10. Subject Matter of the Agreement is the Contractor's service comprising the construction of an Exhibition Stand for the Trade Show in compliance with the Design, disassembly and transport of the Stand. If included in the Cost Calculation or in the Agreement itself, the Subject Matter of the Agreement may also comprise maintenance service of the Stand during the Trade Show which means the Contractor's readiness to replace or repair the elements of the Stand which are not covered by the provisions of Section 3. Cost of the said replacement or repair (e.g. cost of materials, tools, machine rental), the time/date of the service and the relevant Contractor's fee will be determined individually by the Parties. Any other Contractor's potential service exceeding the Subject Matter of the Agreement (e.g. transport, warehousing, storing of

- the Customer's movables other than the Entrusted Materials) and the relevant Contractor's fee will be determined individually by the Parties.
11. The Contractor shall construct the Stand pursuant to the terms of the Agreement, Cost Calculation and the Design or amendments thereto introduced in the form required in point 45. The Contractor shall also construct the Stand in the agreed time frame, with due diligence, with good engineering practices, technical knowledge and with the use of good-quality materials, and in the performance of the Agreement shall actively collaborate with the Customer so that the Stand meets all the Customer's requirements set forth in the Agreement.
12. The Customer shall:
  - a) at their own cost and within the time frame set forth in the Agreement, hand over to the Contractor the Entrusted Materials, including graphic materials of required quality as per the specification received from the Contractor;
  - b) at their own cost and within the time frame set forth in the Agreement, hand over to the Contractor a complete list of the Stand fittings;
  - c) have the authorization or permit to exhibit on named Trade Show;
  - d) allow the Contractor access to the Trade Show exhibitor's website, free of charge (by sharing the login and password);
  - e) during the completion of the Subject Matter of the Agreement, provide the Contractor with access to utilities and other resources listed in the Cost Calculation on the Trade Show premises (e.g. suspension points, fire-fighting systems) and cover all expenses arising therefrom, including the Organizer's costs;
  - f) at its own costs, ensure that the Contractor may enter Trade Show premises to perform the Agreement, including the provision of entry tickets for the installation and servicing team;
  - g) notify of any modifications to the Stand Design in a descriptive way, e.g. in an e-mail. Modifications presented only in a graphic form are deemed insufficient (the Contractor may not be able to spot them);
  - h) perform all other obligations set forth in the GTC or in the Agreement.

## Section 3. Acceptance of the Stand. What are the rights of the Customer and the Stand exploitation period?

13. The Customer Party shall proceed with the acceptance of the Stand as soon as it is notified by the Contractor that the Stand is ready for acceptance and the time and date for the acceptance are arranged - details are to be specified in the Agreement.
14. The acceptance of the Stand shall be carried out with a delivery-acceptance protocol made in writing with the participation of both Parties' representatives. If any failures or defects are detected in the process, and of the Customer wishes to have such failures or defects corrected, the delivery-acceptance form must be used to record the issues and establish the day/time for Contractor to complete these corrections. If the Customer Party fails to proceed with the acceptance or refuses to sign the delivery-acceptance protocol, the Contractor may accept the Stand on its own and sign the protocol - this shall be equivalent to the Customer's acceptance and signature.
15. If any failures or defects are detected during the acceptance that make it impossible to use the Stand in accordance with its function (e.g. the Stand poses danger when in use, or its construction makes it impossible to display the Customer's fair materials), the Contractor shall with due diligence remove the defects and failures and enable the acceptance of a fully functional Stand which meets the requirements concerning the Subject Matter of the Agreement. The Parties shall arrange a time frame for the removal of the defects and failures, and the second final acceptance shall take place on the day set out in the Agreement. The repair shall be deemed a priority wherefore any claims of the Customer other than the removal of failures and defects shall be at that moment excluded.
16. If the Contractor fails to remove failures or defects referred to in point 15 in accordance with the procedures described therein, the Customer may demand a reduction of price for that particular damaged or defective element of the Stand in the amount not exceeding the value of that element as listed in the Cost Calculation. The Customer may not demand to have the price reduced if the defect in the given element is insignificant and does not affect the use of the Stand in accordance with its purpose.
17. The Contractor's liability for defects and claims other than those referred to in points 15 and 16 is excluded.
18. After the acceptance, the Contractor's liability for the elements subject to ordinary wear and tear is excluded, e.g. burnt-out light bulbs, consumed source of light, worn fitted carpets, scratched floor, furniture, etc.
19. The Contractor's liability expires upon the end of the Trade Show. Upon this moment, the Customer shall waive any and all claims which have not been made against the Contractor during the Trade Show.
20. The Customer may use the Stand only during the Trade Show. After the end of the Trade Show, the Contractor shall dismantle and transport the Stand, and the Customer shall at their own cost take the Entrusted Materials and its other movables.
21. Upon the full payment of the Fee, the Contractor grants to the Customer copyright to use the Stand, including to disseminate the image of the Stand to the extent that it relates to the Customer's business. This Customer's right also covers the right to use the image of the Stand in information and marketing materials, including on websites, and to save it in computer memory.

## Section 4. Fee. Advance payment.

22. For the completion of the Subject Matter of the Agreement, the Contractor shall receive a fee in the amount set out in the Agreement. If included in the Cost Calculation or in the Agreement itself, the fee comprises also maintenance service of the Stand during the Trade Show. The fee does not cover the cost of replacement or repair of the Stand within the maintenance service referred to in point 10 (cost of materials, tools, machine rental).
23. To cover necessary expenditures connected with the performance of the Agreement, the Customer shall make an advance payment to the Contractor in the amount and by the date set out in the Agreement against a *pro forma* invoice issued by the Contractor to the bank account indicated on the invoice. When the Agreement is performed, the advance payment shall be recognized against the

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Contractor's fee.

24. The payment of the fee shall be made against an invoice issued by the Contractor, to the bank account indicated on the invoice and by the date given thereon.
25. The fee referred to in point 22 is an estimate price calculated on the basis of the Stand Design and valuation of the works listed in the Cost Calculation.
26. The Contractor's fee referred to in point 22 will change in the event of extra works not covered in the Agreement, including additional works or services, in particular those which are necessary because of the Customer's modifications to the Stand Design (e.g. point 40) or in the event of the Customer's non-performance or improper performance of the Agreement (e.g. point 12)
27. Where a need arises for the Contractor to perform works or services referred to in point 26 (i.e. those which are not covered in the Agreement or extra works and services) or point 40 GTC, the Contractor shall beforehand notify the Customer thereof. Such notification will be accompanied with a modified Cost Calculation or cost estimation of the works and services in question. The Customer shall pay the Contractor additional fee referred to herein, i.e. the settlement invoice, within the time frames established in the Agreement.

## Section 5. When will the Stand be ready?

28. The Contractor shall construct the Stand within the time frames established in the Agreement. However, the Contractor will not start performing the Agreement before the Customer makes the advance payment referred to in Section 4.
29. Deadline for the construction of the Stand may be changed in the following circumstances:
  - a) stopping of works, delay or interruption due to reasons attributable to the Customer or reasons beyond the Contractor's control,
  - b) need to perform extra works or services which are not covered in the Agreement including in particular (including but not limited to) works or services referred to in point 26) or point 40 GTC,
  - c) *force majeure*,
  - d) the Customer's failure to make an advance payment referred to in Section 4.

Should that be the case, the Contractor shall notify the Customer of a changed date for the construction of the Stand, and such information will be binding for both Parties of the Agreement.

## Section 6. Can I withdraw from the Agreement? What are the consequences?

30. The Parties may withdraw from the Agreement under general rules set out in the German Civil Code.
31. Additionally, the Contractor may withdraw from the Agreement in the following cases:
  - a) the Customer's non-performance or improper performance of an obligation arising from the Agreement or GTC;
  - b) if the Customer makes modifications to the Stand Design or to the Agreement after the execution of the Agreement and the Parties will not have agreed on the modification of the terms of the Agreement;
  - c) stopping of works, delay or interruption due to reasons attributable to the Customer or reasons not attributable to the Contractor;
  - d) the need of performing extra works or services which are not covered in the Agreement is attributable to the Customer including in particular (including but not limited to) works or services referred to in point 26 or point 40 GTC, and the Customer does not agree on the modification of the terms of the Agreement in accordance with the Agreement or with GTC (e.g. a change in the Agreement execution date or an extra fee);
  - e) a change in the dates or place of the Trade Show resulting from a modification introduced to the event calendar by the Trade Show organizer;
  - f) *force majeure*.
32. The Contractor may exercise its right to withdraw from the Agreement within two years from the execution thereof.
33. The right of withdrawal may be exercised only to the Agreement or its part which has not yet been performed (e.g. for Agreements covering several Trade Shows the right of withdrawal applies only to those Trade Shows which have not yet been held).
34. Any withdrawal from the Agreement shall be made in a document form or otherwise invalid.
35. If the Customer withdraws from the Agreement for reasons non-culpable by the Contractor or if the Contractor withdraws from the Agreement for reasons not attributable to the Customer, in particular in cases referred to in point 31 a)-e) GTC, the Customer shall pay to the Contractor a contractual penalty of 90% of the net fee referred to in point 22.
36. If the Customer gives up the performance of the Agreement for reasons not attributable to the Contractor, the Customer shall pay a contractual penalty in the amount specified in point 34.
37. The Customer shall pay the contractual penalty within 7 days of the receipt of a debit note from the Contractor to the bank account indicated in the debit note. The Customer may settle the contractual penalty in a non-cash manner, i.e. by offsetting, even if the mutual obligations or any of them is not yet due.
38. If the Contractor's loss exceeds the contractual penalty, the Contractor may seek damages under general rules of law.
39. If the Contractor withdraws from the Agreement in the event referred to in point 31 e) or 31 f) GTC, the Contractor shall make an inventory and valuation of the works it performed by the withdrawal which shall then be settled in proportion to their progress (in %).

## Section 7. Liability

39. The Parties exclude the Contractor's liability for the results of its acts and omissions and for the delay (whether attributable to the Contractor or not) if they arise from the non-performance or improper performance of the Agreement or GTC by the Customer, or from any modifications notified by the Customer later than the time set out in the Agreement or in the GTC, or from any modification notified on time but not accepted by the Contractor or

notified in an improper form (point 12 g). The Customer hereby waives any and all claims against the Contractor arising therefrom.

40. If the Customer notifies modifications later than the time set out in the Agreement or in the GTC, the prices listed in the Cost Calculation or in the fittings list do not apply. The Customer shall pay any and all additional costs arising therefrom (e.g. extra transport fees, express printout of graphic materials, higher fittings cost, increased Contractor's workload).
41. By entering into the Agreement, the Customer represents to hold all rights to dispose of the Entrusted Materials and other movables handed over to the Contractor under the Agreement, in particular the graphics, drawings, trademarks (logos), and represent that their use under the terms of the GTC or the Agreement does not infringe any third-party rights. The Customer shall be liable for any potential violation of third-party rights, including moral rights and copyrights (author's economic rights), and shall hold the Contractor harmless from any claims of third parties (e.g. rightsholders) arising therefrom.
42. The Contractor's liability for damages arising from any damage, destruction or loss of the Entrusted Materials or movables (irrespective of their actual value) shall be limited to the amount of 2000 Euro during the whole period of the Parties' cooperation. In the event of damage, the Customer shall hold the Contractor harmless from any claims for damages made by injured third parties (e.g. owners of the Entrusted Materials). Furthermore, in the event that the Customer handed over to the Contractor movables other than the Entrusted Materials e.g. for the purpose of transport or storage under a separate agreement, the Contractor shall be held liable only in the case of its intentional fault. The Customer on its own shall cover the movables with insurance.
43. The Contractor's liability is excluded in the event of damage, destruction or loss (including theft) of: the Entrusted Materials and movables (other than the Entrusted Materials handed over by the Customer under a separate agreement) or parts of the Stand, attributable to the Customer or third parties, including the participants of the Trade Show.
44. Any Contractor's liability exceeding that set forth in the GTC or in the Agreement shall be excluded. The Customer hereby waives any claims against the Contractor which have not been expressly recognized in the GTC or in the Agreement, unless they arise from the mandatory provisions of law.

## Section 8. Miscellaneous

45. The Contractor and the Customer may make any arrangements concerning the Agreement, including Attachments thereto, and modifications of the Agreement and Attachments thereto in a document form, unless the Agreement or the GTC provide otherwise. Changes to the Agreement or Attachments thereto require the consent of both Parties, unless the GTC or the Agreement provide otherwise.
46. Each Party shall indicate in the Agreement a person responsible for the performance of the Agreement, and during the performance each Party may indicate more such persons in a document form. Any person acting for the Customer is authorized to perform the Agreement, to change the Agreement and Attachments thereto, unless the Customer expressly informed the Contractor in writing otherwise.
47. The Parties shall inform each other of any changes to their registered office of correspondence address. Should they fail to do so, all correspondence sent to the address indicated in the Agreement shall be deemed delivered.
48. In the absence of payment of the Fee or its part or any other amounts due in accordance with the Agreement or the GTC, the Customer shall reimburse to the Contractor any debt-collection costs incurred by the Contractor in their actual, documented amount. Debt-collection costs include in particular: the costs of drafting and sending to the Customer two demands for payments (including via a debt-collecting firm or professional attorney or lawyer); and should the demand prove ineffective, the cost of pursuing the claim by a debt-collecting firm or professional attorney or lawyer, including handling fees and commission on the enforced claim. The Customer shall pay these costs to the Contractor within 7 days of the receipt of the demand for payment and of the submission of proof documenting that the Contractor has incurred them. The Customer shall reimburse the Contractor for any court costs and other cost arising from the Contractor's pursuing its claims in accordance with the applicable provisions of law.
49. The Customer allows the Contractor to use, with no time or territorial restrictions, the Customer's or the exhibitor's logo, designations or trademarks and to inform about the cooperation with the Customer or the exhibitor for the purpose of presenting the Contractor's creative skills and for promotional purposes, including publishing photographs or other material visualizing the Stand with a logo, designation, trademarks or other legally protected elements which are the property of the Customer or the exhibitor. The use may include: any publishing and sharing, including placing them in the Contractor's portfolio, on the Contractor's website or social media profiles, in advertising, marketing or promotional materials addressed to individual recipients or to the general public, or for the purpose of participating in traders' contests.
50. In matters not regulated herein, the relevant provisions of the German law shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG) made in Vienna on 11 April 1980 ("Vienna Convention").
51. In the event of any disputes between the Parties, the competent court shall be the one having jurisdiction over the Contractor's registered office.

## Section 9. Force Majeure

52. Force Majeure means any event that has no connection with the operations of the Customer or Contractor, cannot be averted despite the utmost reasonable care, and makes it impossible for the Contractor or a third party involved by it in the fulfillment of the Contractor's obligations under the Agreement, as the case may be, to provide the services owed, whether at the Venue or before the Venue is reached, including without limitation, war, civil unrest, natural catastrophe, storm, flood or embargos.
53. The Parties agree that general or travel warnings issued by private or public bodies, which, for whatever reason, assume a certain risk situation, are not to be classified as Force Majeure. In the case of such warnings, Force Majeure shall be deemed to exist only if an authority with sovereign authority over the Venue has officially cancelled or prohibited the event or trade fair at the Venue. The cancellation of an event or trade fair by a Trade Fair Organizer is equivalent to the cancellation or prohibition by a public authority.

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54. In the case where a public authority and/or the Trade Fair Organizer reschedules the event and provides an alternative date for the event, the Parties agree that any fees paid by Customer Party and received by Contractor shall be carried over towards the postponement of the event by the Organizer if the time frame for the rescheduled event is deemed reasonable by Contractor.
55. If the trade show was rescheduled due to Force Majeure, both Parties agree that they will collaborate to meet the new schedule as decided by the public authority or Trade Show Organizer and amend the delivery date for the completion of the subject matter of the Agreement, with the exception of circumstances that, at the sole discretion of the Contractor, impose additional costs and/or logistical impracticalities on the performance of the Agreement.
56. If the Contractor withdraws from the Agreement in the event referred to in point 55 GTC, the Contractor shall make an inventory and valuation of the works it performed in relation to said Agreement to the date of the withdrawal in order to arrive at a fair value proposition which shall then be settled in proportion to their progress of the Agreement (in %).
57. In a case of Force Majeure the Contractor is delayed or hindered in the performance of the Agreement such delay or hindrance shall not represent a breach of the Agreement on behalf of the Contractor. In case of Force Majeure the Customer Party is delayed or hindered in the performance of its obligations in GTC 12 a) – h), the delay or hindrance shall not represent a breach of the Agreement on behalf of the Customer Party. In any case of delays of performance of the Agreement by either party justified by a legitimate Force Majeure, and the Trade Show is not delayed, rescheduled, or postponed, both Parties agree to amend the completion date and time of the Agreement accordingly and mutually expedite the process towards completion thereof.
58. Performance of the Agreement in Case of Force Majeure:
  - a) Each Party undertakes to notify the other Party as soon as possible in case of force majeure;
  - b) From the time of receipt of the notification, pursuant to point a), the Contractor shall be released from any obligation arising from the Agreement.
  - c) The Contractor is entitled to charge the Customer for any documented costs incurred in connection with performance of the Agreement between the date of the execution of the Agreement and the time of the notification in accordance with point a) above, after deduction of recoverable VAT, plus a profit margin of 15%.
  - d) Any reimbursement according to point c) is capped at the Order Volume of the Agreement.
59. Burden of Proof regarding the Existence of Force Majeure:
  - a) The Party that derives a right from the existence of force majeure bears the burden of proving the existence of force majeure. If the existence of Force Majeure has not been evidenced, the Agreement shall remain in full force and effect.
  - b) Either Party may request the cancellation of the Agreement by way of a legally binding declaration of intent due to the alleged existence of Force Majeure. Clause 54 points c) and d) shall apply accordingly if the other Party agrees to this legally binding declaration of intent.

Exposervice GmbH

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