

General contractual terms and conditions for the delivery of goods as well as services or work performances of DI



Preamble

These general contractual terms and conditions shall be taken as the basis for each award of a service contract or contract for work by Display International (hereinafter DI) as a contractor. The following contract terms shall also apply, if DI renders the contractual performance without reservation while knowing of conflicting or deviating terms and conditions of the contracting party.

Terms and conditions of the contracting party conflicting or deviating from these contractual terms and conditions shall not be accepted by DI, unless DI has expressly approved the validity of such deviating contractual terms and conditions.

The contractual terms and conditions shall apply to all business relations of DI from the delivery of goods as well as from service contracts or contracts for work, if the contracting party is an entrepreneur within the meaning of § 310 para. 1 BGB (German Civil Code).

I. Integral parts of the contract

Integral parts of the contract at the conclusion of contracts for the delivery of goods as well as of service contracts or contracts for work of DI as a contractor are:

- the contract with its specification of services, the contents of which shall have priority to a plan as an integral part of the specification of services;
- at service contracts and contracts for work the contents of a building permission for the contractual building project or the contractual exhibition stand;
- at service contracts or contracts for work all mandatory regulations of public law including the relevant accident prevention regulations applicable at the place of performance, the technical building regulations as well as the regulations of the Building Trades Association and industrial safety, as far as they apply to the building project or the exhibition stand;
- the respective exhibition terms at the exhibition place, as far as they apply to service contracts or contracts for work of DI with its customers.
- these general contractual terms and conditions;
- the generally recognized rules of technology;
- the German law.

II. Regulations on the conclusion of contracts/alterations of the contractual performance

Prices stated in quotations of DI are subject to confirmation. The conclusion of contracts by DI shall exclusively take place subject to the conditions mentioned in the order confirmation of DI and pursuant to the contents of these general contractual terms and conditions.

Agreements on alterations of agreements concluded shall only be binding in written form.

The contracting party shall not be entitled to order alterations or supplements of the contractual performance towards DI without its consent. If DI declares its consent with alterations or supplements to the contractual performance, DI shall be entitled to the payment of an additional remuneration for the alteration or supplement performance. The additional remuneration shall be agreed on the basis of the calculation of the ordered contractual performance and – as far as this calculation does not contain appropriate price parameters – on the basis of locally customary rates by additionally taking special features of the supplement and/or additional performance (e.g. high time pressure or extended time of performance) into account.

Discounts and rebates for the contractual performance shall not apply to the price formation at alterations and/or additional performances.

III. Regulations on contractual performances

(1) The execution of the contract shall only be based on such documents, which DI approved when the order was placed or at implementation of the order in the order confirmation as description of the contractual performance.

For the order of precedence of the integral parts of the order figure I. of these general contractual terms and conditions shall apply.

(2) The contracting party shall provide DI, until the complete fulfillment of its contractual performance from service contracts or contracts for work, with suitable work places and on request also facilities for storage of the material needed by DI for the fulfillment of the contract.

Material which the contracting party or other third parties put at DI's disposal within the scope of service contracts or contracts for work, will not be insured by DI for the time before and after installation. The agreed regulations on the assumption of risks under figure VIII. shall not be affected by these regulations.

(3) If planning performances are included in DI's obligation to perform, DI shall render these planning performances pursuant to the basic contractual performance regulations accepted by DI as well as in accordance with the regulations according to figures I. and II.

(2)
(3)

IV. Prices, price components, price re-adjustments

(1) If not expressly otherwise agreed, prices quoted by DI are net prices. In the absence of other agreements the costs for assembly, packing and transport as well as for disposal, storage, full and empty packing, the costs for fork-lift trucks and cranes (= handling costs) shall be charged extra, as far as such costs arise and are necessary for the fulfillment of the contract.

All supply connections, e.g. the electrical mains supply as well as water, telephone and other connections including Internet access needed by DI at service contracts or contracts for work for the fulfillment of the contractual performance, shall be provided by the contracting party on its own cost by itself or by third parties to DI, unless other agreements are expressly entered into. Costs for installations and fees shall also be carried by the contracting party, as far as not otherwise agreed in the service contract or contract for work.

(2) The turnover tax shall additionally be stated by DI in the invoice at the statutory rate on the day of invoicing.

(3) DI reserves the right of making price alterations after conclusion of the order, if after conclusion of the order cost reductions or cost increases occur, in particular due to labour agreements or material price changes. DI shall on request of the contracting party furnish proof of the cost reductions or cost increases to DI.

V. Contract execution period

(1) The due date of the contractual performance of DI requires the proper and timely fulfillment of the contractor's own obligations.

(2) Binding contract deadlines or contract terms shall be agreed in writing.

(3) In case of force majeure or at other unforeseeable, exceptional and excusable circumstances (i.e. circumstances not due to negligence), e.g. operational interruptions through fire, water and similar circumstances, at failure of manufacturing facilities and machines, strike and lock-out, official interference, excusable lack of manpower, material, energy, as well as excusable lack of transport facilities - also in case these excusable circumstances occur at subcontractors of DI only - the agreed contractually agreed dates and terms shall be cancelled, if DI or the subcontractor of DI is prevented from the timely fulfillment of their obligations by the aforementioned excusable circumstances.

VI. Invoicing/on-site measurement/acceptance/securities

(1) At the conclusion of a contract for work DI shall be entitled towards the contracting party to a formal acceptance of the contractual performance rendered.

On request of DI the contracting party shall be obligated to separately accept self-contained parts of the work performance of DI.

(2) In case of an existing work contract DI may request from the contracting party the examination and measurement of partial performances no longer visible or accessible after their completion taking place together with the contracting party.

(3) DI shall be entitled towards the contracting party to part payment for material, which was ordered by DI and which it need for the fulfillment of the order and for performances rendered for the fulfillment of the contract with the contracting party.

VII. Rights of set-off and retention

(1) The contracting party may only offset undisputed or legally binding claims against payment claims made by DI.

(2) The contracting party may only assert the right of retention against payment claims of DI at undisputed and legally determined claims, which in addition are based on the same contractual relationship.

VIII. Bearing of the risk

(1) If a contract for work exists between DI and the customer, DI shall not bear the risk of any damage or destruction of the contractual performance not yet accepted or of theft or damage of parts of the contractual performance – unless DI is responsible for the damage or destruction.

(2) If the timely fulfillment of the contractual performances by DI becomes impossible through circumstances beyond the control of DI, as specified under figure V. (3) of these general contractual terms and conditions, and if the contracting party therefore is no longer interested in the fulfillment of the contractual performance by DI, DI shall be entitled to the payment of the deliveries and performances already carried out as well as to the payment of material additionally delivered by DI to the place of performance for the fulfillment of the contractual performance not yet built-in and of material not yet delivered or built-in, which DI cannot cancel with its sub-contractors and suppliers free of charge.

IX. Liability for defects

(1) Claims for damages or other claims of the contracting party for damages outside the scope of the contract shall be excluded,

unless DI or its vicarious agents have caused these damages deliberately or due to gross negligence or the liability results from a contractual quality assurance agreement, which also comprises the replacement of such damages outside the scope of the contract.

(2) As far as DI is not accused of any deliberate or grossly negligent violation of the contract, the amount of the liability for damages according to figure IX (1) shall be limited to the foreseeable and typically occurring damage.

This shall also apply to the violation of significant contractual duties.

(3) As far as DI, in connection with the fulfillment of the own contractual performance, damages or destroys any of the customer's property without gross negligence or in case of violation of a significant contractual obligation through DI without gross negligence, DI's liability for damages at simple negligence shall always be limited within the application range of figure IX (1) to the amount covered by the liability insurance of DI.

(4) Liability owing to culpable injury to life, the body or health shall remain unaffected; this also applies to mandatory liability according to the Product Liability Act.

X. Retention of title

(1) DI shall retain title to all parts and objects delivered for the fulfillment of the contract until the unreserved receipt of all payments of the contracting party resulting from the contract.

If the customer acts in a way contrary to the contractual obligations, in particular in the event of a default in payment, DI shall be entitled to take back the delivered objects and parts, except they have been processed or converted or inseparably mixed with other objects not in the property of DI. Taking back of the parts and objects shall constitute withdrawal from the contract.

After taking back the parts/objects DI shall be entitled to utilize them. The proceeds from utilization shall be set-off against claims of DI and against the contracting party's accounts payable – minus reasonable utilization costs.

(2) In the event of seizures or other action by third parties, the contracting party shall notify DI immediately in writing, so that DI can file a lawsuit according to § 771 ZPO (German Code of Civil Procedure). To the extent that the third party is not able to reimburse DI for the judicial and extra-judicial costs of a lawsuit according to § 771 ZPO, the contracting party shall be liable to DI for any losses resulting from this.

(3) If the delivered objects or parts are processed with other objects that are not owned by DI, DI shall acquire co-ownership of the new object in the ratio of the value of the objects and parts delivered by it (final invoice amount including VAT) to the other processed objects according to the value ratio at the time of processing.

(4) If the delivered objects or parts are inseparably mixed with other objects not owned by DI, DI shall acquire co-ownership of the new object in the ratio of the value of the objects and parts delivered by it (final invoice amount including VAT) to the other processed objects according to the value ratio at the time of mixing. If mixing is carried out in such a way that the object of the contracting party can be regarded as the main object, it is agreed that the contracting party shall assign co-ownership to DI on a pro-rata basis; the contracting party shall keep the solely owned or co-owned object in safe custody for DI.

(5) DI undertakes to release securities due to it on request of the contracting party, if the realisable value of the securities of DI exceeds the claims to be secured by more than 10%. The selection of securities to be released shall be at DI's discretion.

XI. Copyright

(1) Any copyright of DI, which is embodied in the contractual performance or is contained in design, graphics, displays, advertising texts, layouts, drawings or models, shall with all rights (utilization right included) remain with DI, unless something to the contrary has been agreed upon in writing.

This shall also apply to such written documents, which are expressly designated as confidential.

(2) The regulation under (1) shall also comprise the case of later reproduction or reconstruction of the work performance of DI.

XII. Final regulations

(1) The contracting party undertakes not to pass on any documents handed over to it by DI for fulfillment of the contract performance to third parties without the consent of DI.

(2) This contract shall be governed by German law.

(3) Legal venue for all disputes resulting in connection with this contract and its execution shall be Aachen, if the contracting party is a registered general merchant.

(4) The agreements in (2) and (3) shall also apply to contracting parties that do not have their registered office in Germany.