

**General Terms of Business**

**for legal relationships with exhibitors/customers**

**Sample of FAMAB**

**in its version of August 2003**

# GENERAL TERMS OF BUSINESS

## I. Basic Contract Principles

1.

All orders placed with the Contractor are based in rank on the following:

- The contents of a contract concluded between the parties
- The order confirmation
- The offer
- These General Terms of Business
- The legal provisions of the Bürgerliche Gesetzbuch of the Bundesrepublik Deutschland (German Civil Code), especially the provisions of Hire and Works Contract Law
- The Fee Structure for Architects and Engineers.

2.

Any variations from these Terms of Business require written agreement.

## II. Contents of Contract

1.

All supplies and services are subject to the Terms below. These also apply to all future legal relationships between the Contractor and the Principal. Any contractual Terms by the Principal will only become part of this contract if acknowledged in writing by the Contractor.

2.

Approval of the Contractor's supplies will constitute an acknowledgement of these General Terms of Business.

## III. Offers, Offer and Draft Documentation

1.

Unless otherwise stated in the Offer, it will be without commitment.

2.

If offers are drawn up based on information supplied by the Principal and documents supplied by the relevant exhibition authorities, the Contractor does not accept any liability for the correctness of information and documents received, unless their incorrectness or unsuitability remains undiscovered due to intent or gross negligence.

3.

Offers, plans, drafts, drawings, production and installation documentation as well as descriptions of event concepts with all attaching rights will remain the property of the Contractor, unless explicitly stated otherwise in writing. The Principal undertakes to refrain from utilizing them in any other shape or form, specifically by copying or distributing or passing them on to third parties and by undertaking any changes without the Contractor's express consent. In case of breach of this obligation by the Principal, he undertakes, regardless of any further cessation and compensation claims, to pay for the cost of drawing up these documents, plus a suitable fee for their utilization.

#### **IV. Contract Conclusion**

This contract will be concluded by way of the Contractor's written order confirmation. However, orders placed will also be deemed accepted if not refused within one month from receipt. The obligation to refrain as per item III,3. of these Terms remains unaffected by the placing of any order or the conclusion of any extended contract.

#### **V. Prices**

1.  
Offer prices are valid only upon placing a complete order for all items offered.
2.  
All prices are quoted strictly net ex place of production or shipping depot and do not include packaging, freight, postage, insurance etc.
3.  
Offer prices are valid for 4 months from contract conclusion. After expiry of these 4 months, the Contractor is entitled to pass on any increases in price by the producer or supplier or in wages to the Principal. The Principal may cancel the contract if the price exceeds the price at the time of concluding the contract by more than 4%.
4.  
If commencement, progress or completion of the works is delayed for reasons outside the Contractor's responsibility, he will be entitled to charge any additional expenses arising from this separately. The charge rates for working hours (including travel and loading times), vehicle appliances, material costs and other prices chargeable by the Contractor will be those valid on the day of execution.
5.  
Supplies not taken into account inside the offer which are undertaken at the Principal's request, or any additional expenses incurred due to incorrect information supplied by the Principal or the event organiser, or due to delays in transport through no fault of his own, or due to inadequate hall or surface conditions, preparatory supplies being finished late or unprofessionally by third parties - unless they are the Contractor's fulfilment assistants - will be invoiced to the Principal separately. The calculation basis applicable will be item V.5. of these Terms.
6.  
Supplies and errands undertaken for the Principal at his request within the scope of planning and undertaking his participation in the exhibition are payable separately. For any amounts so incurred, the Contractor is entitled to charge an advance commission. The Contractor is further entitled to assign such supplies in the name of the Principal to third party contractors.

#### **VI. Delivery Time and Installation**

1.  
If no express deadline has been agreed for the commencement and completion of the works, the completion/delivery date stated will only be deemed an estimate.
2.  
In case of any changes or rearrangements to the operations introduced by the Principal after conclusion of this contract, even confirmed completion/delivery dates will no longer be binding. The same goes for any impediments occurring through no fault of the Contractor, especially for any of the Principal's documentation and materials being made available late.

3.

Should any business interruptions occur through no fault of the Contractor or his own supplier or subcontractor, specifically walk-outs, strikes and lock-outs and cases of force majeure based on unpredictable events or occurrences which are not his fault, and leading to serious interruptions in operations, the delivery/completion deadline will be extended accordingly. If due to the stated interruptions it becomes impossible to fulfil the contract, both parties are entitled to withdraw from the contract. In this case, the Contractor will be entitled to payment for supplies provided to that date, where supplies provided also include any claims by third parties the Contractor has placed orders with believing the contract could be brought to its conclusion. Any further claims for compensation will be excluded from both parties.

### **VII. Freight and Packaging/Transfer of Risk**

1.

The Contractor's products, unless otherwise agreed, always travel at the Principal's cost and risk. Any packaging required and considered necessary by the Principal will be charged separately. The same applies to the Principal's delivery items.

2.

Principal's items to be used during production or installation have to be delivered by the agreed deadline, carriage paid to his site or the installation site. Such items will be returned, unless otherwise agreed, carriage unpaid ex works or processing site, at the Principal's risk.

3.

Any risk is transferred to the Principal, unless otherwise agreed, once goods leave the Contractor's premises or are put at the Principal's disposal. This also applies to any cases where carriage-paid delivery has been agreed.

4.

If any goods ready for shipment cannot be shipped due to any reasons being the Principal's responsibility, risk is transferred to the Principal the day the goods are ready for shipment. Contractor's duties will be deemed fulfilled after delivery of a Ready for Shipment notice to the Principal.

### **VIII. Approval/Handover**

1.

Approval or handover will as a rule take place formally and immediately upon completion. The Principal undertakes to be present on the day of approval himself, or to have himself represented by an authorised representative. In this respect, it is expressly acknowledged that in special cases, even an approval deadline of one hour before commencement of the exhibition is not an unreasonable one.

2.

Any possible partial supplies still outstanding or defects claimed will be made good or corrected as soon as possible. Unless they considerably impede the function of the contract item, these will not constitute any entitlement to refuse approval.

3.

If the Principal starts using the supplies provided, or a part, without any prior formal approval, the approval will be deemed to have been granted by way of this use.

4.

If supplies and services have been put at the Principal's disposal by the Contractor by way of hire, then on the Contractor's request, a formal handover of the hire item is to take place immediately upon the exhibition ending. The Principal undertakes to be present at this handover, or to have himself represented by a duly authorised representative.

### **IX. Warranty**

1.

The warranty provided is in accordance with Bürgerliche Gesetzbuch provisions concerning Work Contracts, in case of provision by way of hire in accordance with hire contract regulations.

2.

By way of warranty, the Principal can only ever demand remedial work to start with. The type and manner of appropriate remedial work is in the Contractor's discretion. The Contractor may at any time choose to supply replacement items. Any further claims, especially claims for loss or withdrawal from the contract, can only be claimed by the Principal in case two attempts at remedial work have failed due to the same defect.

3.

The warranty does not extend to such defects occurring with the Principal due to natural wear and tear, damp, intense heat or improper handling or unsuitable storage. The same applies to the warranty not extending to reasonable variations in shape, dimensions, colour and texture of materials.

4.

The Principal undertakes to immediately inform the Contractor of any defects and to give him an opportunity to come to any appropriate conclusions.

5.

In case notification of defects is reported late, or no provisos due to known defects were made at the time of approval, any entitlements to warranty will lapse in their entirety.

6.

Warranty entitlements will also lapse in case the Principal undertakes changes himself, or if he makes it difficult or impossible for the Contractor to establish and remedy the defects, which as a rule applies to any notifications of defects once the exhibition has ended.

### **X. Liability**

1.

Claims arising from defects and for compensation for errands undertaken in the name of the Principal by way of supplies and services by third parties are excluded, unless the Contractor has breached his duty of care when choosing such third parties.

2.

The Contractor is not responsible for the exhibitor's goods, unless storage has expressly been agreed in writing. In this case, the Contractor will only be responsible up to the limits covered by insurance.

3.

In case the subject of the contract consists of plans and drafts only, the Contractor will only be responsible for being able to himself realise these plans or these drafts appropriately. Any further claims will be excluded.

4. No responsibility is accepted for free-of-charge advice, information, or any other free-of-charge supplies.

5. Claims for compensation concerning damages of any kind, even in respect of such damages not having occurred with regard to the contract item itself, for instance from delay, breach of duty or unauthorised actions, are excluded, unless damage was caused due to intentional or grossly negligent actions, and insofar as by excluding such compensation claims, fulfilment of the contract is not prevented or jeopardised. This limitation of liability applies to the same extent to the Contractor's fulfilment and operations assistants. Claims for damages arising from injury to life, body and health as well as claims under Product Liability Law remain unaffected.

6. The Principal is liable for all items he is provided with on a hire or rental basis, including the exhibition stand, for an amount of up to a total reconstruction costs, or, in case of loss, of up to the amount of the cost of a new replacement item.

#### **XI. Insurance**

1. For any type of transport arranged or undertaken by the Principal, the shipped items will only be insured, to the value of purchasing them as new, at the express instruction of the Principal, and at his cost.

2. The Contractor has to be notified of any damage incurred in transit immediately. In case of shipment via forwarding agents, any damage is to be marked on the consignment note, in case of shipment by train, a confirmation concerning the damage has to be requested from the Railway Office, and sent to the Contractor.

3. Any of the Principal's items taken in by the Contractor for storage under a written agreement, unless otherwise agreed, will be insured at the Principal's expense, for the duration of such storage, for the cost of newly acquiring such items, against fire, water damage and burglary.

#### **XII. Credit basis**

A condition of the Contractor's duty to supply is the Principal's creditworthiness. In case the Principal has supplied incorrect or incomplete details as far as he personally or his creditworthiness is concerned, or he has ceased his payments, or bankruptcy or composition proceedings have been applied for over his assets, the Contractor is not obliged to provide any supplies. In such cases, the Contractor may demand cash in advance or other suitable securities to safeguard his fee entitlements. If the Principal does not comply with these requests, the Contractor may terminate this contract for important reasons in accordance with item XVII of these Terms, or can withdraw from the contract and claim compensation. With regard to the level of such amounts, provisions as per item XVII,3. of these Terms apply.

### **XIII. Retention of Title**

1.  
All delivery items will remain the property of the Contractor until all liabilities under the contractual relationship between the parties have been completely met.

2.  
Without the Contractor's express agreement, the Principal is not entitled to sell on the Retained Title Goods, or to process or use them in any way. Irrespective of this, the Principal assigns any entitlements to payment arising from any resale of the Retained Title Goods to the Contractor at this point. The Contractor accepts this assignment.

### **XIV. Protective Rights, Drafts, Drawings**

1.  
Plans, drafts, drawings, production and installation documentation, concept descriptions etc. including all their attaching rights remain the Contractor's property, even if they have been handed to the Principal. Any transfer of ownership rights and rights of use require express written agreement.

2.  
Unless otherwise agreed in writing, changes to plans, drafts, concepts etc. may only be undertaken by the Contractor. This also applies if such documentation has become the Principal's property.

3.  
If any materials or documentation for producing the contract item are handed over by the Principal, the Principal warrants that by producing and undertaking the supply of works as per his documentation, no third party protective rights are infringed upon. The Contractor is not obliged to check whether details and documentation handed over by the Principal for production and supply are infringing on any third party protective rights. The Principal undertakes to immediately indemnify the Contractor from any possible claims for damages by third parties and to pay any damages arising from the infringement of any protective rights.

### **XV. Terms of Payment**

1.  
Unless otherwise agreed, any amounts invoiced are immediately due for payment upon receipt of the invoice. No deductions of any kind whatsoever apply, advance payments are not liable to payment of interest.

2.  
Unless otherwise agreed, the Contractor is entitled to issue interim invoices or to request payments in part. As a rule, one third of the order sum is payable on placing the order, one third in the interim and one third on handover of the stand.

### **XVI. Set-off and Assignment**

1.  
Any set-off against disputed and not legally acknowledged counter demands by the Principal is excluded. The same applies to claiming retention rights.

2.  
The Principal's rights arising from this contractual relationship are only transferable with the Contractor's prior consent.

### **XVII. Termination**

1.  
The right to proper termination of this contract by the Principal is excluded – in particular, para. 649 BGB does not apply.

2.  
The right to terminate for an important reason remains unaffected, under the condition however that prior to this, an appropriate demand in writing to remove this important reason within a reasonable period of time has been made, and that this deadline has passed without any success. An important reason in particular is the Principal not fulfilling his obligations to pay, or breaching his obligations to refrain under these Terms.

3.  
In case of a termination for an important reason by the Contractor or withdrawal due to reasons in the Principal's responsibility, the Contractor is entitled to claim flat rate compensation amounting to 40% of the order value. The Principal remains at liberty to show that no damage has arisen, or not to the extent claimed. This does not preclude any claim for further damages.

### **XVIII. Data Protection**

Please note that under the scope of this business relationship or in connection with it, personal data, no matter whether they originate with the Contractor himself or with third parties, will be processed in accordance with the Federal Data Protection Law.

### **XIX. Place of Performance and Court of Jurisdiction**

Place of Performance and Court of Jurisdiction for any disputes arising between the parties from this contractual relationship is the Contractor's base, as long as the Principal is a Commercially Registered Merchant, a legal entity of public law or of separate estate public law. The contractual relationship is subject to German Law.

### **XX. Final Clauses**

In case any individual provision is invalid either partially or in its entirety, the effectiveness of all other provisions remains unaffected.