

# General Terms and Conditions of Business of Koelnmesse Service GmbH

## General Section (AGB/AT-Kms)

### Article 1: Area of Application

1 These General Terms and Conditions of Business apply to all services provided by Koelnmesse Service GmbH (hereinafter referred to as "Kms"). These include, but are not limited to, stand construction, surveillance of show stands, media services, catering services, stand-cleaning services, and garbage disposal as well as the brokering of contracts with hotel operators and event organizers of all kinds.

2 Signing and returning the order form or placing an order in some other way signifies recognition of the binding effect of these Terms and Conditions of Business. Furthermore, these Terms and Conditions of Business apply to all present and future business relations between Kms and businesspersons as defined in § 14 German Civil Code (BGB), legal persons under public law and public-law special funds.

3 The Particular Terms and Conditions of Business of Kms specific to the relevant contract, if available, apply in addition to these General Terms and Conditions of Business.

4 Any general terms and conditions of business of the exhibitor/contractual partner that derogate from or add to these General Terms and Conditions of Business, even if known, become an integral part of the contract only if their application is expressly agreed.

### Article 2: Contractual Relations, Service Partner's General Terms and Conditions of Business

1 Unless otherwise agreed, the contractual partner of the exhibitor is exclusively Kms.

2 Kms is entitled to have service partners perform the services ordered as subcontractors. These service partners act in the name of and on behalf of Kms. The responsible service partner is shown in the documents contained in the service package or can be inquired of Kms.

3 If the services ordered are provided by service partners, the terms and conditions of business of the relevant service partner apply secondarily and in addition to these General Terms and Conditions of Business. These general terms and conditions of business can be requested from Kms (e-mail: kms@koelnmesse.de or call: +49 221 821-3998).

4 Here, in derogation of Para. 1, the subject matter of contract merely involves the brokering of services, the service contract comes into being between the exhibitor and the relevant service-provider on the basis of the general terms and conditions of business of the service-provider. The service contract itself does not establish any rights or obligations on the part of Kms vis-à-vis the exhibitor. Unless the type of contract requires otherwise, these General Terms and Conditions of Business govern the broker agreement between Kms and the exhibitor.

5 These General Terms and Conditions of Business do not affect the validity of the Conditions of Participation of Koelnmesse (General and Particular Sections). In the event of conflicting terms, the Conditions of Participation of Koelnmesse take priority.

### Article 3: Type and Scope of Service

1 The services will be performed as agreed in the proposal or purchase order. Kms is not obliged to check the details provided by the exhibitor for completeness and accuracy. Changes or additions to orders are valid only if their type and scope are defined in writing and are confirmed by Kms.

2 A date will be agreed for provision of the service. If the service is to be provided before the event, it will be provided sufficiently early as to be available by the start of the event.

3 However, Kms is entitled to refuse to provide the service (or supply electricity, water, compressed air etc.) until the exhibitor has met its financial obligations vis-à-vis Kms, especially those arising from earlier events.

### Article 4: Acceptance and Warranty

1 Before making use of the services, the exhibitor must satisfy itself that they are in proper condition, safe for the public and complete. The services provided are deemed to be in conformity with the order unless the exhibitor raises objections in writing giving the reasons without delay or, however, at the latest when the exhibitor uses the services. The time, place, type and scope of the defect must be described precisely.

2 Otherwise complaints of all kinds, which refer to the performance of the contractually agreed services, must be notified after discovery without delay in writing to Kms for the purpose of their elimination. Kms is obliged to eliminate the defect through subsequent improvement; if material goods are supplied, Kms may at its discretion undertake subsequent improvement in the form of a replacement delivery.

3 If special technical services are to be provided on the exhibitor's stand at the show, the exhibitor's personnel must be present at the stand at the agreed time. Kms or the Service Partner commissioned are not obliged to check the authority of the persons encountered at the show stand. If no personnel are present at the stand at the agreed time, the service is deemed to have been provided in conformity with the order on completion of the service or when the subject matter of the service has been brought to the stand. From this time onwards, the exhibitor is liable for any loss of, or deterioration in, the subject matter of the service.

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4 Even in the absence of acceptance, the exhibitor remains obliged to pay for the services unless Kms is responsible for non-acceptance.

5 In the event that service partners provide the services, Kms will assign the warranty claims and claims for damages held against the service partner to the exhibitor. Except in the event of intent or gross negligence, no further claims for damages are available against Kms.

### Article 5: Liability

1 The exhibitor's liability for damage to, or the loss of, the property items provided to it begins at the time of acceptance or handover. Damage or losses must be notified to Kms without delay. It is recommended that exhibition insurance be arranged. The exhibitor is obliged to treat the items of property provided in a careful and gentle manner.

2 If Kms uses a service partner to perform its contractual obligations, any limitation or exclusion of liability contained in the general terms and conditions of business of the service partner (Article 2 Para. 3) applies mutatis mutandis in relations between the exhibitor and Kms. Sentence 1 applies mutatis mutandis to the exclusion periods contained in the general terms and conditions of business of the service partner.

3 Unless the liability of Kms is already excluded or limited under Para. 1, the following provisions apply.

4 Liability on the part of Kms is excluded unless Kms or its agents or employees have acted deliberately or with gross negligence.

5 In derogation of Para. 4, Kms is liable for all negligence in the event of a breach of essential contractual duties; however, the duty to compensate for damages is limited to the foreseeable damages that are typical of the contract. No claims can be made for lost profits or other consequential loss.

6 The limitations and exclusions of liability in Paras. 3 and 4 do not apply to damages based on harm to life, physical injury or harm to health.

7 The exhibitor is notified of the fact that Kms and the service partner to provide the service are obliged to notify their insurers in writing of all claims, etc. under the third-party liability insurance without delay, however, within one week at the latest. If they are unable to comply with this requirement due to default on the part of the exhibitor, and if insurance cover is lost as a result, Kms ceases to be liable to the exhibitor. Without prejudice to any shorter period in the general terms and conditions of business of the service partner, the exhibitor is in default if it fails to report a claim to Kms and the contract company in writing without delay, i.e. normally within three working days of occurrence of the loss and after the exhibitor or its legal representatives or

employees or agents have gained knowledge of the same, and, in the event that Kms, the service partner or the liability insurer of one of the two aforementioned companies reject the claim, fails to take court action within three months.

8 Unless the general terms and conditions of the service partner contain lower amounts, the liability of Kms is limited to the following maximum amounts:

- a) EUR 5,000,000.00 for personal injury
- b) EUR 5,000,000.00 for property damage
- c) EUR 100,000.00 for financial loss
- d) EUR 50,000.00 for the loss of contractually protected property

These maximum amounts apply provided that the Particular Terms and Conditions of Business of Kms specific to the contract do not specify different maximum amounts.

9 The above also applies to a breach of pre-contractual duties or a breach of collateral duties under the contract.

### Article 6: Default / Set-off

1 In the event of default in payment, Kms is entitled to charge default interest at a rate of 8%-age points above the applicable base rate under § 1 Discount-Rate Transitional Act (Diskontsatz-Überleitungs-Gesetz [DÜG]).

2 The exhibitor cannot set-off counter claims unless such claims are undisputed or have final and non-appealable effect.

### Article 7: Limitation Period

1 The claims of the exhibitor under the contract and all claims associated with the same become time-barred within one year, unless a shorter statutory period of limitations takes effect or the liability of Kms is based on malicious conduct.

2 This does not affect the longer statutory limitation periods for tort claims, malicious intent and negligent impossibility.

3 The limitation period begins at the end of the month in which the final date of the event falls.

### Article 8: Data Storage and Transmission

Attention is drawn to the fact that the details of the exhibitor, in particular those given on the Kms order forms, are stored in automated procedures and transmitted to third parties in the course of contractual duties subject to the provisions of the Federal Data Protection Act (Bundesdatenschutzgesetz).

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### **Article 9: Place of Performance, Court of Jurisdiction, Applicable Law**

1 Place of performance is Cologne. If the exhibitor is a registered merchant, legal person under public law or public-law special fund then, subject to Para. 2, exclusive court of jurisdiction for all claims directly or indirectly arising from the present contractual relations is Cologne. The same applies if the exhibitor has no general court of jurisdiction in Germany.

2 Kms is entitled, at its discretion, to bring its claims before the court at the place where the exhibitor has its general court of jurisdiction.

3 German law governs all legal relations between the exhibitor and Kms; the German text of these Terms and Conditions of Business is authoritative.

### **Article 10: Concluding Provisions**

1 Should one of these provisions be legally invalid, this shall not affect the validity of the remaining provisions or of the contract as such. In place of the invalid provision, a provision is deemed to have been agreed which best achieves the economic purpose pursued by the parties. The same applies if there should be an omission in this Agreement.

2 All alterations of the contract between the exhibitor and Kms must be made in writing. The same applies to alterations of the written form clause itself.