

**General Terms and Conditions of HR Hospitality GmbH from 12.08.2022**

**§ 1**

**Introduction/Applicability**

(1) The Agency's Terms and Conditions are the only applicable ones. They apply to all offers, deliveries and services by the Agency. If the client had no opportunity to read them in the process of concluding the contract, they will still apply if the client knew or should have known the Terms and Conditions from previous business dealings.

(2) The Agency does not recognize the client's deviating terms and conditions. If the Agency carries out its delivery or services, knowing of such terms and conditions of the client, the Agency nonetheless does not recognize the client's terms and conditions, even if the present Terms and Conditions of the Agency are not in conflict with them.

(3) There have been no additional oral agreements. All future amendments to this contract must be done in writing; this includes the waiver of this formal requirement. The Agency's field staff is not authorized to waive the text form requirement orally, and changes will only become effective once they have been confirmed by the management in writing.

**§ 2**

**Offer – Conclusion of Contract**

(1) The Agency's offers are non-binding, unless stated otherwise.

(2) If the client's order is an offer to enter into a contract, the Agency 14 days to accept this offer.

(3) The Agency retains the right to all property rights and copyrights for depictions, drawings, calculations, concepts, offers, photographs, graphics, texts and other documents. This applies in particular to such written documents that have been marked as „confidential“. Before passing them to third parties or before amending or changing them, the client requires the Agency's explicit written consent. If the client uses documents of the Agency to which the Agency holds the copyright without the Agency's permission, the client must cease doing so and pay damages as well as an appropriate fee.

### **§ 3**

#### **Prices – Payment Terms**

(1) The client's payment is due immediately. The client is advised that he/she will be in default of payment 30 days after receipt of the invoice at the latest. If the client is in default with the payment, he/she owes 5.00 € for the expenses of each (further) reminder. Beyond that, the Agency has all statutory rights, especially those mentioned in § 288 BGB.

(2) The client may only set-off with counterclaims that have been finally determined by a court, which are not disputed or which have been recognized by the Agency. The client may only exercise the right of retention under the same conditions laid out in sentence 1 and only if the counterclaim is based on the same contractual relationship.

(3) The Agency may exercise the right of retention with regard to all claims arising from the business relationship with the client.

**§ 4**

**Provisions of Services**

(1) The relevant information for the provision of services is the Agency's offer. Depictions and descriptions etc. of the Agency in leaflets, on the internet and other descriptions only serve the purpose of illustration and are only "approximations". No guarantee is provided as to their observance.

(2) The commencement of the Agency's service schedule requires that all technical questions have been resolved and that the client's obligations have been properly met in due time. We retain the right to object for non-fulfilment of the contract.

(3) The Agency may use subcontractors to provide the services.

(4) Force majeure or interruptions of the Agency's or their providers or sub-contractor's business, e.g. due to riots, strike, lock-out, natural disaster, storms, traffic impediments, illness, diseases, pandemics etc., which temporarily prevent the Agency from providing the services by the agreed date or within the agreed timeframe without the Agency's fault, will extend the service times indicated by the Agency by the duration of the interruption of services caused thereby. If such a disruption will lead to an extension of the service which is unacceptable for the client, the client may withdraw from the contract.

(5) If the client orders amended or additional services after the initial contract and if the Agency accepts that amendment of the contract, the client has to reimburse the Agency for the resulting costs and to pay a fee in accordance with the usual local fees.

**§ 5**

**Client's Obligations**

(1) The client shall pay all taxes, duties, GEMA fees and further expenses and fees

2) The client must conform to all requirements in accordance with the Law on the Construction and Operation of Gathering Places (VstättVO).

(3) The client must research and adhere to all requirements regarding constructional and fire safety, unless this is part of the Agency's services as per the Agency's offer. The client must obtain all such permissions at the client's expense and the client must inform the Agency about all requirements in due time.

(4) When equipment and technological installations are handed over to the organizer to be used during the event, the client has to check whether they are complete, safe and fully functional. Equipment and technological installations are deemed to have been provided without defects if the client has not raised any objection upon their receipt.

(5) For the whole duration of the event, the client must ensure that all regulatory laws are respected inside and in front of the event location. In particular, this relates to fire-safety rules for the decoration etc. as well as respecting maximum noise levels. If these laws are breached, the client is liable for any resulting damages.

(6) During the event, the client has to be present and has to remain reachable for the Agency. If the client is not present during the event, he/she has to appoint a contact person for the Agency who will be present at the event.

(7) The client must accept the services, provide the subcontractors with the agreed items, grant access and provide and respect the applicable workplace safety rules for the subcontractor's work.

(8) The client shall refrain from directly or indirectly hiring, employing, entering into a contract for services or engage in any other way employees, sub-contractors or service providers of the Agency for two years. If clients violate this provision with culpability, they have to pay liquidated damages of 5,000 € for each case. The Agency retains the right to file for further damages, with the liquidated damages being set-off against the ultimate damages.

## **§ 6**

### **Client's Contribution**

(1) The client must submit the information and materials required for the event to the Agency in due time (e.g. access to locations, agreed equipment of the client, general or specific instructions as well as other contributions by the client that have been agreed).

(2) The client has to provide the necessary material in a standard format that can be used directly. The client will ensure that the necessary rights of use will be granted, in particular rights to copy, publish and process as far as necessary for the event. Checking the legality with regard to intellectual property and copyright laws can only be performed by a lawyer and is not part of the order.

(3) If the client provides the Agency with physical or non-physical items, in particular image, text or sound files, which infringe the rights of third parties, the client has to indemnify the Agency from any claims by third parties upon the contractor's first request. In particular, this includes legal fees.

(4) The client agrees that the Agency lists the services provided to the client as a reference project, mentioning the client's name and using the client's logo. The client may withdraw this consent for the future if there is a legitimate interest in the withdrawal.

## § 7

### **Default of Acceptance and Client's Liability**

(1) If the client is in default of accepting the Agency's services, the client must pay the agreed fee. However, the Agency's saved expenses will be deducted as well as what the Agency earns by using its labour elsewhere. The client is advised that the Agency's work is project-based and that the Agency can only handle several projects simultaneously if there is enough capacity.

(2) If information, documents or contributions like access, keys or instructions are not presented in due time and completely, the Agency has the right to not begin with the work as described in § 4. If the client is responsible for the Agency or its staff having to wait, these waiting times shall be paid like working hours, unless it was possible to deploy the labour elsewhere.

(3) If the client is in breach of his/her duties to information and cooperation, the client shall bear the resulting additional expenses. The Agency is not liable for damages that are due to a violation of the client's obligation to cooperate or due to information that was provided erroneously or incompletely.

## § 8

### **Rights to the Result of the Work**

(1) Insofar as the services provided by the Agency will create rights that are subject to intellectual property protection, the client obtains the simple licence to use the result of the work for contractual purposes – in particular for the booked events. If the client desires further rights, in particular the right to copy, to make accessible, to publish, to amend, to process or other rights of use, these rights have to be agreed and paid for separately.

(2) Insofar as the Agency has a copyright to the results of the work, the client shall name the Agency as the creator, unless something different has been agreed contractually.

**§ 9**

**Jeopardy of Performance, Bankruptcy**

(1) If the Agency realizes after entering into the contract that the (further) performance of the contract is endangered by the client's inability to perform, the Agency may refuse to provide services under this contract until the corresponding payment has been made by the client or security has been deposited.

(2) The Agency may withdraw from the contract or terminate it without notice if the client does not fulfill his/her part of the contract despite a reminder with a reasonable deadline in exchange of the Agency's service or does not post any security.

(3) If the client is insolvent or overindebted or if a bankruptcy or similar proceeding is requested or initiated for his/her assets, the Agency may withdraw from the contract or terminate it without further notice.

(4) If the Agency terminates the contract or withdraws from it pursuant to paragraph 2 or 3, the Agency may request the client to pay damages in lieu of performance or compensation for frustrated expenses.

**§ 10**

**Agency's Liability**

(1) The Agency is not liable for breaches of duty committed with light negligence, unless they concern essential contractual duties or if the Agency has provided a guarantee for the performance of that duty or for the outcome not attained due to the breach of duty. This also applies to such actions by the Agency's officers and vicarious agents.

(2) This exclusion of liability does not apply to loss of life, limb or health or to claims under the Product Liability Act.

(3) The Agency has a corporate insurance and a product liability insurance. As far as this insurance provides cover, the exclusion of liability in paragraph 1 of this clause will not apply, but the entitlement to damages will be limited in each specific case to the maximum coverage of the relevant insurance policy.

(4) Any claim for damages by the client based on the Agency's grossly negligent breach of duty or a grossly negligent tortious act is limited to the damage that the Agency could have foreseen.

(5) Paragraphs 1 through 4 of this clause apply appropriately to torts committed by the Agency's employees and vicarious agents.

(6) The Agency is not liable for mistakes committed by provided personnel, unless the Agency violated its duty to supervise or gave wrong instructions.

## **§ 11**

### **Client's Liability**

(1) The client must obtain all usual and necessary insurance coverage for the event (especially liability insurance for organizers) and must provide the Agency with a confirmation by the insurance provider if the Agency requests it. Herewith, the client assigns the claims against the insurance provider to the Agency. (private events, like weddings, birthdays, etc. are exempt).

(2) The client is liable if the event needs to be terminated, for example due to guests rioting. In particular, the client remains obligated to pay the agreed fee. The client is liable for damage caused to the Agency's or its subcontractor's property by guests.



## § 12

### Data Protection

(1) In accordance with Art. 6 para. 1 lit. b GDPR, contractual data (e.g. name, address and e-mail address, services used, if any, and all other data provided electronically or for data storage required for the performance of the contract) will be collected for the contract, as far as required for establishing, negotiating or changing this contract.

(2) The contractual data will only be passed on to third parties if it is required for the performance of the contract (Art. 6 para. 1 lit. b GDPR), if justified by the overwhelming interest in an effective service (Art. 6 para. 1 lit. f GDPR), or if the person concerned has provided his/her consent (Art. 6 para. 1 lit. a GDPR), or if otherwise permitted by law. The data will not be passed on to a country outside of the EU, unless the EU Commission has determined a similar level of data protection for the relevant country, unless there is consent, or unless standard contractual clauses have been agreed with the third-party provider.

(3) Concerned individuals may at any time and free of charge request information about the personal data stored about them. They may at any time request that incorrect data be corrected (also by way of adding information) as well as the limitation of the processing of their data, or even the deletion of their data. This applies in particular if the reason for the data processing no longer exists, if a required consent has been withdrawn and there is no other legal basis, or if the data processing is illegal. The personal data will then be corrected, blocked or deleted without delay and according to statutory requirements. It is always possible to withdraw the consent for the processing of personal data which had been given previously. This may be done without any formal requirements, for example by e-mail. The withdrawal has no effect on the legality of the data processing carried out up to that point. There is a right to request the transfer of the contractual data in machine-readable form. In the case of a suspected violation of rights by the data processing, a complaint may be filed with the competent supervisory authority.

(4) The data generally will remain stored as long as required by the specific purpose of the relevant act of data processing. Longer storage is possible, particularly where this is still required by legitimate interests or where statute demands that the data remains stored (e.g. tax law, statute of limitations).

### **§ 13**

#### **Mediation**

(1) In the case of disputes arising out of the business relation between the Agency and the client, the parties have to strive for an amicable solution. If no agreement can be reached, they vow to attempt to reconcile their differences in a mediation proceeding before addressing a court of law. This does not exclude the possibility to file for a temporary injunction.

(2) If a party requests mediation from the other party, both parties have to agree on a mediator within eight days. If such an agreement is not reached within due time, upon the request of one of the parties, an attorney – preferably one who offers online mediation – has to be appointed as mediator with binding effect for the parties by the chairperson of the Bar Association of the provider's jurisdiction or one of his/her deputies. This jurisdiction is also the place for the mediation, unless the board of the association will propose an online mediation. The language of the mediation is German, unless all participants agree on a different language.

(3) Addressing a court (or an alternative arbitration procedure, if agreed) is only permitted once the mediation has failed because (a) the parties have unanimously declared the mediation to be over, (b) one party refuses further negotiations after the first mediation session, (c) the mediator has declared the mediation to have failed or (d) no agreement has been reached within 3 months after the beginning of the first mediation session, unless the parties extend this deadline unanimously.

(4) The costs of an unsuccessful mediation are borne by both parties at equal parts in relation to the mediator. Notwithstanding this rule in relation to the mediator, the parties are free to demand reimbursement of these costs and lawyer's fees, if applicable, in a subsequent proceeding; this will be governed by the relevant decision. If the parties reach an agreement, they may also come to an agreement on costs.

## **§ 14**

### **Jurisdiction, Applicable Law, Severability**

(1) The place of performance is at the registered office of the Agency.

(2) For all current and future claims from the business relationship with a user, who is a business person within the meaning of § 14 BGB, the courts at the provider's registered business address have sole jurisdiction. The same jurisdiction applies if the user has no domestic place of general jurisdiction, if the user moves or changes the business registration out of the country after the conclusion of the contract or if the user's residence or habitual residence is unknown at the time of filing a lawsuit. But the provider may also sue the user at the user's place of business or at any other competent jurisdiction at any time.

(3) All contractual relations between the parties are governed by German law exclusively.