

## I. Scope of Application

1. These Terms and Conditions apply to contracts concerning the rental of "hotel rooms" and of conference rooms, banquet rooms and function rooms (hereinafter referred to as "facilities") and to all associated additional services and deliveries (hereinafter referred to as "provision of services") between the hotel operation BRE/Nine Hotel Operations GmbH (hereinafter referred to as the "Hotel") and the Customer (hereinafter referred to as "Customer"; the Hotel and the Customer hereinafter also referred to collectively as the "Parties").
2. The Customer's terms and conditions apply only if the Parties have agreed on this in writing.

## II. Conclusion of Contract

Offers made by the Hotel are subject to confirmation. The contract will come into effect by way of the Hotel's acceptance of the Customer's request. The Hotel is not obligated to confirm the conclusion of the contract in writing.

## III. Subletting/Type of Use

1. Any subletting or re-letting of the rented hotel rooms, facilities, space or display cabinets and invitations to interviews, selling events or other functions require the prior written approval of the Hotel.
2. The Customer undertakes to inform the Hotel without delay and without being asked, but at the time of the conclusion of the contract at the latest, whether the provision of services and/or the function is likely to arouse public interest because of its political, religious or other nature or to affect the Hotel's interests. Newspaper advertisements, other advertising measures or publications containing a reference to the Hotel and/or, for example, invitations to interviews or selling events generally require the written approval of the Hotel. If the Customer breaches this duty to provide information or if a publication appears without such approval, the Hotel shall be entitled to cancel the function. In such case, Clause VI.4 shall apply analogously (payment of agreed consideration).

## IV. Provision, Handover and Return of Rooms

1. The Customer does not acquire an entitlement to provision of specific rooms unless the Hotel has confirmed that a specific room will be provided.
2. Unless otherwise agreed with the Customer, hotel rooms are available on the date of arrival as of 03:00 p.m. (check-in time). The Customer is not entitled to an earlier check-in time.
3. On the date of departure, the rooms are to be vacated by 12 noon at the latest (check-out time). If the rooms are not vacated in due time, the Hotel may charge, beyond the loss incurred by the Hotel, half the rate for the room as shown in the pricelist for the additional use of the room until 6:00 p.m. and the full rate for the room as shown in the pricelist for use of the room after 6:00 p.m. The Customer may, however, provide evidence that the Hotel did not incur any loss whatsoever or a substantially lower loss.

## V. Services/Prices/Payment/Setoff/Lien

1. The Hotel is obligated to have the hotel rooms and facilities booked by the Customer available and to render the agreed services.
2. The Customer is obligated to pay the Hotel's applicable or agreed prices for the provision of services. This applies also to services rendered and outlays paid by the Hotel to third parties as arranged by the Customer. For services provided after 12 midnight, the Hotel is entitled to add reasonable surcharges per hour commenced for the provision of staff for functions or catering.
3. The agreed prices include the applicable Value Added Taxes, provided that the customer uses the hotel rooms, premises and other services for their private life and personal needs. With regard to contracts with non-private customers, the hotel reserves the right to specify, and/or agree upon, net prices.
4. If the time period between the conclusion of the contract and the agreed arrival date exceeds four months and the price generally calculated by the Hotel for the contractual service or the statutory VAT increases, the price stipulated in the contract may be raised reasonably, but not by more than 5 percent.
5. Invoices are issued in euros. In the event of payment with foreign currency, the exchange rate differences and bank charges are to be borne by the party obligated to pay.
6. The prices can be changed by the Hotel if the Customer later requests changes with regard to the number of booked rooms or facilities, the services to be provided by the Hotel or the guests' length of stay and if the Hotel approves such request.
7. Invoices issued by the Hotel without due dates become due ten days after receipt of the invoices. In the event of default, the Hotel is entitled to demand applicable statutory default interest. The Hotel reserves the right to prove that the loss it incurred was greater, and the Customer reserves the right to prove that loss the Hotel incurred was lower.
8. The Hotel is entitled to demand a reasonable payment, not to exceed 10 per cent of the total price, in advance.
9. In deviation from the above Clause 8 and in the event the amount of the advance payments and the due dates for payment are not stipulated differently in writing in the contract, the following advance payments are deemed to be stipulated:
  - a) For accommodating groups for more than 50 room nights
    - 10 per cent deposit at conclusion of contract as guarantee, plus
    - 50 per cent deposit 90 calendar days prior to arrival of the group, plus
    - 30 per cent deposit 30 calendar days prior to arrival of the group
    - Remainder after presentation of the invoice and when due
  - b) For functions with contracts for a volume exceeding €10,000 (for rented space, framework costs, food and drink sales)
    - 10 per cent deposit at conclusion of contract as guarantee, plus
    - 50 per cent deposit 90 calendar days prior to the beginning of the function, plus
    - 30 per cent deposit 30 calendar days prior to the beginning of the function
    - Remainder after presentation of the invoice and when due
10. The Customer may set off a claim against the payments due to the Hotel only if such claim is undisputed or has been finally and absolutely ascertained by a court.
11. The Hotel has the right of lien on the Customer's assets brought into the Hotel as a security for its receivables.

## VI. Failure to Appear (No Show)/Withdrawal of Contract/Cancellation by Customers

1. Withdrawal from the contract concluded with the Hotel by the Customer requires the written consent of the Hotel.
2. The agreed consideration for the rented hotel room is still to be paid if the written consent mentioned in Clause 1 above is not given, the reservation is cancelled by the Customer or the Customer fails to show up. The Hotel must allow the value of the expenditure saved and any benefits that it obtains from an alternative rental of the hotel room other guests to be deducted from the agreed consideration. The Customer is obligated to pay at least 90 per cent of the contractually agreed price for rooms with or without breakfast, 70 per cent of the price for half board arrangements and 60 per cent of the price for full board arrangements. The Customer may, however, provide evidence that the Hotel did not incur any loss whatsoever or a substantially lower loss.

3. The payment agreed for rented facilities is still to be paid if the written consent mentioned in Clause 1 above is not given, the reservation is cancelled by the Customer or the Customer does not show up. If a Customer cancels a reservation for facilities between the eighth and fourth week prior to the date of the function, the Hotel is entitled to charge 30 per cent of the lost revenue from the sale of food in addition to the rental price, and if the cancellation occurs later 70 per cent of the lost revenue from the sale of food. The calculation of such revenue is to be made on the basis of the formula meal price x number of participants. If no price has yet been agreed for the meal, the calculation will be based on the least expensive three-course meal contained in the currently applicable function offer.
4. If a conference package per participant is agreed on, the Hotel is entitled to charge 60 per cent of the conference package times the agreed number of participants in the event of a cancellation between the eighth and fourth week prior to the date of the function and 85 per cent of the conference package times the agreed number of participants in the event of a later cancellation.
5. The above figures do not apply in the event of a breach of the Hotel's obligation to respect the rights, legal assets and interests of the Customer, if it can no longer reasonably be expected of the Customer to adhere to the contract or if the Customer is otherwise entitled to a statutory or contractual right of withdrawal.

#### **VII. Withdrawal by Hotel**

1. If it was agreed in writing that the Customer has a right of rescission within a specified period, the Hotel is also entitled to withdraw the contract within such period if other customers have asked for reservations for the contractually booked rooms and facilities and the Customer does not waive its right of withdrawal after having been asked by the Hotel.
2. If and to the extent it is agreed with the Customer that advance payments will be rendered and the Customer does not render such payments within a reasonable grace period set by the Hotel, combined with a threat of refusal, the Hotel will be entitled to withdraw the contract.
3. The Hotel will also be entitled to withdraw the contract for a legitimate reason, for example, if:
  - *Force majeure* or other circumstances for which the Hotel is not responsible (such as a strike or power failure) make the performance of the contract impossible.
  - Misleading or false statements concerning major facts, such as facts pertaining to the guest or the purpose, are made when booking rooms.
  - The Hotel has reason to believe that provision of the Hotel's services might endanger the smooth operation, the security or the reputation of the Hotel without this being attributable to the Hotel's sphere of control or organisation.
  - The Customer sublets or re-lets the rooms and their use for purposes other than accommodation without the prior written approval of the Hotel.
4. The Customer is not entitled to compensation in the event of a justifiable withdrawal of contract by the Hotel.

#### **VIII. Number of Participants/Billing for Functions**

1. The Customer is obligated to inform the Hotel of the anticipated number of participants at the planned function at the time the contract is concluded. The Hotel must be informed of any change in the number of participants exceeding 5 per cent at least five working days prior to the beginning of the function; any such change will require the written approval of the Hotel.
2. In the invoice for services that the Hotel renders based on the number of registered persons (such as food and drinks), the actual number of persons attending will be charged for in the event of an increase in the number of registered and contractually agreed participants.
3. The Hotel will acknowledge in the invoice a reduction in the number of participants by not more than 5 per cent. In the event of greater differences, the invoice will be based on the originally agreed number of participants minus 5 per cent. In such case the Customer is entitled to reduce the stipulated price by the amount of the expenditure saved because of the lower number of participants, evidence of which must be provided by the Customer.
4. If a minimum turnover was agreed and this is not achieved, the Hotel may charge 60 per cent of the amount of the difference unless the Customer provides evidence of a lower amount of lost profits or the Hotel provides evidence of a higher amount of lost profits.
5. If the agreed beginning or end times of the function are changed without the prior written approval of the Hotel, the Hotel may charge additional costs for the provision of services unless the Hotel is responsible for the changes.
6. For functions ending later than 11:00 p.m., the Hotel may charge staff costs on the basis of an itemised receipts as of this time unless the agreed payment already included a time period extending beyond 11:00 p.m.. The Hotel may also charge travel costs for its staff on the basis of itemised receipts if staff members have to leave for home after the public transportation system has stopped running for the night.

#### **IX. Taking Food/Drinks to Functions**

1. The Customer may not bring along any food and drinks to functions. Exceptions require a written agreement. In such case, there will be a charge. The Hotel is not liable for damage caused by food brought in unless the Hotel is guilty of intent or negligence.
2. The Hotel does not accept liability for damage caused by food and drink taken away after a function by Customers or third parties unless the Hotel is guilty of intent or gross negligence.

#### **X. Technical Equipment and Connections for Functions**

1. As far as the Hotel obtains technical or other equipment from third parties for the Customer at its request, the Hotel acts on behalf, with the authority and on the account of the Customer. The Customer is liable for handling such equipment with due care and for returning it properly. The Customer indemnifies the Hotel from any and all claims of third parties arising from the procurement and provision of such equipment.
2. In the event of an installation of technical extras and equipment, the Hotel may demand that such installation will be inspected by the Technical Control Board (*TÜV*) and that the Customer present the technical test certificate to the Hotel without delay and without special request.
3. Any utilisation of the Customer's own electrical equipment in connection with the Hotel's power grid requires the written approval of the Hotel. The Hotel is entitled to charge a fixed usage fee for this. The Customer is liable for any disruptions or damages to the Hotel's technical facilities occurring because of the utilisation of the Customer's equipment unless this falls within the Hotel's area of responsibility. If damage occurs to property belonging to third parties or towards third parties, the Customer will assume sole liability for such damage and indemnify the Hotel from claims asserted by third parties.
4. The Customer is entitled, with the approval of the Hotel, to use its own telephone, fax and data transfer systems; the Hotel is entitled to charge a connection fee for such use.
5. The Hotel will remedy any problems in the technical or other equipment provided by the Hotel as soon as possible. Payments may not be withheld or reduced if the Hotel is not responsible for such problems.
6. The Customer is obligated to handle the relevant reports and payments to GEMA for any musical performance arranged by the Customer.
7. The Customer must procure any official permits required for a function in due time at the Customer's own expense.

#### **XI. Liability, Materials for Decoration, Exhibited Objects for Functions**

1. The Hotel is to be notified of deliveries of materials for a function five working days prior to the delivery date to warrant an acceptance and storage of the shipment.
2. All objects for exhibition or other objects brought along by the Customer, including personal items, are located in the function rooms or in the Hotel at the risk of the Customer. The Hotel does not assume any liability for loss, destruction or damage, including pecuniary loss, except in the event of the Hotel's gross negligence or intent. This does not include losses arising from death or injury to body, liberty or health. In addition, all cases in which safekeeping is a typical contractual duty by virtue of the circumstances of the individual case are excluded from this limitation of liability. This has no effect on the statutory liability under §§ 701 ff. of the German Civil Code (*BGB*).
3. Any materials for decoration brought along by the Customer must comply with the fire safety regulations. The Hotel is entitled to demand official proof of such compliance. If such proof is not provided, the Hotel will be entitled to remove any materials that have already been brought into the Hotel at the Customer's expense. Any setting up and installing of objects in the Hotel must be agreed upon in advance with the Hotel because of the risk of possible damage.
4. The Customer must remove any exhibited or other objects without delay after the end of the function. In the event of a breach of the obligation set out in the previous sentence, the Hotel will be entitled to remove and store such objects at the expense of the Customer or to charge a reasonable rent for space until they are removed. The Customer is entitled to provide evidence that the above-mentioned entitlement did not arise or did not arise in the requested amount.
5. Packaging materials (cardboard packaging, boxes, plastic, etc.) delivered by the Customer must be disposed of or taken away after the function by the Customer. Should the Customer fail to comply with this obligation, the Hotel may dispose of the packaging materials at the Customer's expense.
6. The above-mentioned provisions apply to objects that are rented from third parties and brought onto the premises of the Hotel at the instruction of the Customer as well.

#### **XII. Customer's Liability for Damage**

1. The Customer is liable for all damage to the building or inventory of the Hotel that is caused by the Customer, by participants in the function or visitors to the function, employees or other third parties.
2. The Hotel may request the Customer to provide adequate security (e.g., insurance policies, deposits, bank guarantee).

#### **XIII. Hotel's General Liability; Limitation**

1. The liability of the Hotel for its own fault and for the fault of its vicarious agents is – regardless of legal foundation, but subject to Clause 2 – limited to intent and gross negligence.
2. This limitation of liability is not applicable to claims arising from product liability, a warranty given by the Hotel and claims based on death, injury to body or health and a breach of so-called cardinal duties, meaning such duties that are essential for the contractual objective to be achieved and that the Customer may rely on being performed. In the latter case, however, the Hotel's liability is limited to compensation for the typical, foreseeable, average loss.
3. Objects brought into the Hotel by the Customer are located in the Hotel at the risk of the Customer. The Hotel does not assume any liability for loss, destruction or damage to such objects except in the event of gross negligence or intent.
4. Clause 3 has no effect on the statutory liability under §§ 701 ff. of the German Civil Code (*BGB*). The Hotel is liable to the Customer for property brought into the Hotel under the provisions of statutory law, thus up to 100 times the room price, €3500 maximum, and up to €800 for money, securities and objects of value. Money, securities and objects of value that do not exceed in value the insurance coverage in the amount of € 800 provided for the individual Hotel may be stored in the room safe. The Hotel advises the Customer to make use of this opportunity. Liability claims are excluded pursuant to § 703 of the Civil Code (*BGB*) if the Customer does not notify the Hotel without delay after becoming aware of loss, destruction or damage.
5. If a parking space in the hotel parking garage or in the hotel parking lot is made available to the Customer – regardless of whether it is provided free of charge or for valuable consideration – this does not constitute a safekeeping contract within the meaning of §§ 688 ff. of the Civil Code (*BGB*). The Hotel is not liable for loss of or damage to the vehicle or its contents except in the event of intent or gross negligence.
6. The Hotel carries out wake-up calls with the greatest care. Compensation claims not based on gross negligence or intent are excluded.
7. Messages, post and shipments of goods for Customers are handled with care. The Hotel will deliver, hold and – on request – forward such items subject to a charge. Compensation claims not based on gross negligence or intent are excluded.
8. Limitation periods for the Customer's claims are generally based on the provisions of statutory law. In deviation from § 195 of the Civil Code (*BGB*), the limitation period for any and all claims asserted by the Customer is one year. This does not apply to claims based on defects in the cases cited under § 438 (1) No. 2 and § 634a (1) No. 2 of the Civil Code (*BGB*). In deviation from § 199(3) No. 1 of the Civil Code and § 199 (4) of the Civil Code, compensation claims and other claims will become time-barred notwithstanding knowledge or a grossly negligent lack of knowledge five years after they arise. The above-mentioned exceptions do not apply if the Hotel is guilty of intent.

#### **XIV. Items Left Behind**

Items that are left behind will be sent on only upon request. The Hotel retains items left behind for six months. After six months, such items are taken to the local lost property office.

#### **XV. Final Provisions**

1. Any amendments or additions to the contract concerning the renting of hotel rooms or these Terms and Conditions must be made in written form to be valid.
2. The place of performance and payment is the registered office of the Hotel's operating company.
3. Exclusive place of jurisdiction – also for lawsuits concerning cheques and bills of exchange – is, for commercial transactions, the registered office of the Hotel's operating company.
4. The laws of the Federal Republic of Germany apply.
5. Should individual provisions of these Terms and Conditions be invalid or void, this does not affect the validity of the other provisions.