

GENERAL TERMS AND CONDITIONS FOR EVENTS (VERSION: JULY 2008) IN HOTEL BIRKE, KIEL

I. SCOPE OF APPLICABILITY

1. These Terms and Conditions shall apply to contracts for the rental of the hotel's conference, banquet, and convention rooms for events such as banquets, seminars, conferences, exhibitions and presentations, etc., as well as all other additional services and goods performed/provided in connection therewith by the hotel for the customer.
2. The hotel's prior written consent is required if the rooms, areas, or display cases are to be rented or sublet to a third party, or if invitations are issued for introductory interviews, sales promotions, or similar events, whereby section 540, para. 1, sentence 2 German Civil Code is waived insofar as the customer is not a consumer.
3. The customer's general terms and conditions shall apply only if this is previously expressly agreed in writing.

II. CONCLUSION OF CONTRACT, PARTIES, LIABILITY, STATUTE OF LIMITATIONS

1. The contract shall come into force upon the hotel's acceptance of the customer's application. These are the parties to the contract.
2. If the customer/ordering party is not the event organizer itself, or if a commercial agent or organizer is being used by the event organizer, then the event organizer shall be liable together with the customer as joint and several debtors for all obligations arising from the contract, insofar as the hotel has received a corresponding statement of the event organizer.
3. The hotel shall be liable to exercise the duty of care of an ordinary merchant with the performance of its obligations arising from the contract. Claims of the customer for reimbursement of damages are precluded except for such which result from death, injury to body or health and the hotel is responsible for the breach of the obligation, other damage which is caused from an intentional or grossly negligent breach of obligation and damage which is caused from an intentional or negligent breach of obligations of the hotel which are typical for the contract. A breach of obligation of the hotel is deemed to be the equivalent of a breach by a statutory representative or vicarious agent. Should disruptions or defects in the performance of the hotel occur, the hotel shall act to remedy such upon knowledge thereof or upon the customer's objection without undue delay. The customer shall be obliged to undertake actions reasonable for him to eliminate the disruption and to keep any possible damage at a minimum. In addition, the customer shall be obliged to notify the hotel in due time if there is a possibility that extraordinarily extensive damage may be incurred.
4. All claims against the hotel shall be generally time-barred one year after the statutory commencement of the contract. Reimbursement of damage claims shall be time-barred after five years, independent of knowledge. The reduction of the statute of limitation periods shall not apply for claims which are based on an intentional or grossly negligent breach of obligation by the hotel.

III. SERVICES, PRICES, PAYMENT, SET-OFF

1. The hotel is obligated to render the services ordered by the customer and agreed upon by the hotel.
2. The customer is obligated to pay the hotel's prices agreed or the customary hotel's prices for such services or other services utilized. This shall also apply to services and expenses of the hotel to third parties caused by the customer, in particular, also for claims of copyright exploitation companies. Value-added tax as required by law is included in the agreed prices.
3. Hotel invoices not stating a due date are payable and due in full within ten days of receipt. The hotel shall be entitled at any time to make accumulating accounts receivable payable and due and to demand payment without undue delay. With default of payment, the hotel shall be entitled to demand the respectively applicable statutory default interest in the amount of currently 8 percent or, with legal transactions with a consumer, in the amount of 5 percent above the base interest rate. The hotel reserves the right to prove greater damage.
4. The hotel is entitled, at the date of the conclusion of the contract, to require a reasonable advance payment or security deposit in the form of a credit card guarantee, an advance payment, etc. The amount and payment date of the advance payment may be agreed in writing in the contract.
5. In justified cases, e.g. the customer's default in payment or expansion of the scope of the contract, the hotel shall be entitled, also after the conclusion of the contract up to the commencement of the event, to demand an advance payment or security deposit within the meaning of the above-mentioned No. 4 or an increase of the advance payment or security deposit agreed in the contract up to the total agreed remuneration.
6. The customer may only set-off or reduce a claim of the hotel with a claim which is undisputed or decided with final, res judicata effect.

IV. REPUDIATION BY THE CUSTOMER (CANCELLATION, ANNULMENT)

1. The written agreement of the hotel shall be required for cancellation by the customer of the contract concluded with the hotel. If such agreement is not given, then the agreed room rate from the contract as well as the services caused to be performed by third parties shall also be paid in any case in the event that the customer does not avail himself of the contractual services and rental to a third party is no longer possible. This shall not apply with the breach of the obligation of the hotel to take into account the rights, objects of legal protection and interests of the customer, if holding to the contract is no longer reasonable or another statutory or contractual cancellation right exists.
2. Insofar as the hotel and the customer have agreed in writing to a date for a cost-free cancellation of the contract, the customer may cancel the contract up to that date without triggering payment or reimbursement claims by the hotel. The cancellation right of the customer shall dissolve if he does not exercise his cancellation right in writing by the agreed date, insofar as no case pursuant to No. 1, sentence 3 *supra* exists.
3. If the customer cancels between the eighth and fourth week prior to the date of the event, the hotel shall be entitled to charge – in addition to the agreed rent – 35 percent of lost food sales (70 percent of food sales for any later cancellation).
4. Food sales are calculated using the following formula: agreed menu price x the number of participants. If no price had yet been agreed for the menu, then the least expensive three-course menu in the current set of event offerings shall apply.
5. If a seminar flat rate per participant has been agreed, then the hotel shall be entitled to charge, with a cancellation between the eighth and fourth week prior to the date of the event, 60 percent of the seminar flat rate x the agreed number of participants (85 percent for any later cancellation).
6. The deduction of saved expenses is taken into account with No. 3 to No. 5 *supra*. The customer shall be free to prove that the above-mentioned claim was not created or not created in the demanded amount.

V. CANCELLATION BY THE HOTEL

1. Insofar as the cost-free right of cancellation by the customer within a certain time period has been agreed in writing, the hotel shall be entitled to cancel the contract itself within this time period if inquiries of other customers for the contractually booked event rooms exist and the customer, upon inquiry by the hotel, does not waive his right of cancellation.

2. Should an agreed advance payment or an advance payment or security deposit demanded pursuant to Item clause III, No. 4 and/or No. 5 not be paid, also after the expiration of a reasonable subsequent payment period fixed by the hotel, then the hotel shall also be entitled to cancel the contract.
3. Furthermore, the hotel is entitled to extraordinary rescission of the contract for justifiable cause, i.e.:
 - If force majeure or other circumstances beyond the hotel's control render fulfillment of the contract impossible;
 - If events are booked using misleading or false representation of material facts such as the identity of the customer or the purpose of his stay;
 - If the hotel has good reason to assume that the event might jeopardize the hotel's smooth operations, security, or public reputation without these being attributable to the hotel's sphere of dominion or organization;
 - If there is a breach of Item clause I., No. 2 *supra*.
4. Upon justified cancellation by the hotel, the customer shall have no claim to reimbursement of damage.

VI. CHANGES IN NUMBER OF PARTICIPANTS AND TIME OF EVENT

1. If the number of participants changes by more than five percent, the hotel must be informed at the latest five business days before the start of the event. Such change must be approved in writing by the hotel.
2. A reduction in the number of participants of no more than five percent by the customer shall be acknowledged by the hotel in its charges. For changes exceeding this amount, the originally agreed number of participants minus five percent will be used. The customer shall have the right to reduce the agreed price by the expenses saved by him as proved due to the reduced number of participants.
3. If there is an upward change, charges will reflect the actual number of participants.
4. If the number of participants changes by more than 10 %, the hotel shall be entitled to re-determine the agreed prices and to exchange the confirmed room reservations unless this is unreasonable for the customer.
5. If the event's agreed starting or ending times change and the hotel agrees to such deviations, the hotel may reasonably charge for the added cost of stand-by service, unless the hotel is at fault.

VII. BRINGING OF FOOD AND BEVERAGES

The customer may not bring food or beverages to events. Exceptions must be agreed in writing with the hotel. In such cases, a charge will be made to cover overhead expenses.

VIII. TECHNICAL FACILITIES AND CONNECTIONS

1. To the extent the hotel obtains technical and other facilities or equipment from third parties for the customer at the customer's request, it does so in the name of, with power of attorney and for the account of the customer. The customer is liable for the careful handling and proper return of the equipment. The customer shall indemnify the hotel against all third-party claims arising from the provision of the facilities or equipment.
2. Written consent is required for the use of the customer's electrical systems on the hotel's electrical circuit. The customer shall be liable for malfunctions or damage to the hotel's technical facilities caused by using such equipment, to the extent that the hotel is not at fault. The hotel may charge a flat fee for electricity costs incurred through such usage.
3. The customer is entitled to use his own telephone, fax, and data transfer equipment with the hotel's consent. The hotel may charge a connection fee.
4. If suitable hotel equipment remains unused because the customer's own equipment is connected, a charge may be made for lost revenue.
5. Malfunctions of technical or other equipment provided by the hotel will be remedied promptly whenever possible. To the extent the hotel was not responsible for such malfunctions, payment may not be withheld or reduced.

IX. LOSS OF OR DAMAGE TO PROPERTY BROUGHT IN

1. Customer shall bear the risk of damage or loss for objects for exhibit or other items including personal property brought into the event rooms/hotel. The hotel assumes no liability for loss, destruction, or damage to or of such objects, also not for property damages, with the exception of cases of gross negligence or intent on the part of the hotel. Excepted here from are cases of damage caused as a result of death, injury to body or health. In addition, in all cases in which the safekeeping represents an obligation typical for a contract due to the circumstances of the individual case, release from this liability shall be prohibited.
2. Decorations brought in must conform to the fire protection technical requirements. The hotel is entitled to require official evidence thereof. Should such proof not be given, then the hotel shall be entitled to remove materials already brought in at the cost of the customer. Due to the possibility of damage, the hotel must be asked before objects are assembled or installed.
3. Objects for exhibit and other items must be removed immediately following the end of the event. If the customer fails to do so, the hotel may remove and store such at the customer's expense. If the objects remain in the room used for the event, the hotel may charge a reasonable compensation for use for the period that they remain there. The customer is free to prove that the above-mentioned claim was not created or not created in the amount claimed.

X. CUSTOMER'S LIABILITY FOR DAMAGE

1. Insofar as the customer is a business owner, it shall be liable for all damage to buildings or furnishings caused by participants in or visitors to the event, employees, other third parties associated with the customer and the customer itself.
2. The hotel may require the customer to provide reasonable security (e.g., insurance, security deposits, sureties).

XI. FINAL PROVISIONS

1. Amendments or supplements to the contract, the application acceptance, or these General Terms and Conditions for Events should be made in writing. Unilateral amendments and supplements by the customer are invalid.
2. Place of performance and payment is the location of the hotel's registered office.
3. In the event of litigation, the courts at the location of the hotel's registered office according to corporate law shall have exclusive jurisdiction for commercial transactions, including disputes regarding checks and bills of exchange. To the extent a party fulfils the requirement of the German Code of Civil Procedure, section 38, para. 2, and does not maintain a general domestic venue, the courts at the location of the hotel's registered office according to corporate law shall have exclusive jurisdiction.
4. The contract is governed by and construed in accordance with German law. The application of the UN Convention on the International Sale of Goods and the conflict of laws are precluded.
5. Should individual provisions of these General Terms and Conditions for Events be invalid or void, the validity of the remaining provisions shall remain unaffected thereby. Moreover, the statutory provisions apply.