

## **General terms and conditions of business of tophotelprojects GmbH**

### **1. Authority**

Our business conditions are part of all deals – following deals included – with the customer. They are accepted by placement of the order or acceptance of the delivery. We do not accept even without written contradiction other business conditions especially buying conditions of the customer.

### **2. Scope of supply and services**

(1) The scope of our supply and services is to record, hold, procure and process information from our own and third party data bases. It further includes its delivery by all kinds of media like email, data carriers and online. Additional services include checking addresses (doubles check), profiling and data-mining data bases. Other services cover all kinds of direct marketing- or telemarketing activities.

(2) The customer is entitled to store the addresses within the bounds of the agreed use on his computer.

(3) Despite continual updates and revisions of the address data and due to the volatile nature of the addresses or branches, we cannot guarantee that, in time of delivery, the addresses and other characteristics of the address are postal correct and the data contains the total target group. Because of the fact that we inter alia gather our addresses from interview actions, we cannot guarantee that the addressee is or still is what he passed himself off as at that time or at the last update - that is why returns are unavoidable.

### **3. Payment conditions**

(1) Our bills are to be paid net directly after having received the receipt with a royalty per year in advance and the inclusion of the valid value added tax (VAT).

(2) If we find out that the customer has hid unfavourable and not recognizable information, which could have led to the assumption that he is incapable of the fulfilment of the contract, we are authorized to withdraw from the contract with an extension and to demand the payment of supply we already made.

(3) Balancing with own claims or withhold of payments can only be asserted by the customer if his requirements are indisputable and legally valid.

(4) For non-timely payment we claim an additional charge of EUR 7.50 in the first dunning. This reminder increases in the following dunning to EUR 10.00 per reminder.

### **4. Delivery and processing**

(1) Reference period of access starts with beginning of the agreed license period. Access to the online database "tophotelprojects.com" is activated latest three working days after payment of the licence fee is received at our bank account.

(2) In case of a culpable overrun of the deadline of delivery, the delay sets in with a written admonition of the customer. In case of the delay, the customer is entitled to withdraw from the contract after a written fixing of an appropriate extension unless tophotelprojects GmbH can't comply within the extension of delivery of time. The activation of access is also understood as delivery in time.

### **5. Guarantee and liability**

(1) Warranty claims of the purchaser only exist if the processing of information or the delivery of information is inadequate for reasons tophotelprojects GmbH is responsible for. tophotelprojects GmbH does not guarantee for the correctness and the completeness of the address data, because the addresses and the additional information are not only being researched directly by tophotelprojects GmbH but it is researched from third parties, too. Also for the number of inquiries in a particular area

tophotelprojects GmbH can't guarantee to store the exact number of addresses because it can't be excluded that – for reasons which are not in the influence of tophotelprojects GmbH - not all construction projects or other information can be inquired.

(2) The replacement of damages to the customer, independent of the legal justification, is impossible in cases of slight negligence except for the ignorance of contract duties. In case of slightly negligent ignorance of contract duties, whose fulfilment is indispensable for the attain of the contract purpose, we are unrestrictedly liable for the injury to persons. In the case of damage to property and fortune only as far as it was expected at the time of the signature of the business deal. The liability for the consequential harm caused by damages which are based on a positive ignorance of the contract is impossible, as far as there do exist neither intension nor rude negligence.

## **6. Copyright and data abuse**

(1) There is a copyright on our address data as well as on market reports (studies) and study results under §§ 4, 87a ff of the copyright law; they can only be used in the agreed extent.

(2) Provided that we did not make a different deal with the customer in regard to multiple use or purchase, all delivered data – even if we, as agents, gathered it from a third party – is only determined for self-orientated use in the bounds of a unique direct promotion of the customer in accordance to the regulations of the copyright law. Provided that a customer uses the addresses for the fulfilment of an order of a third person, it is allowed to use the address data once and exclusively for this client – after the end of this unique use, the data has to be erased from the computer of the user. Further copies are only permitted with our written agreement, except the case that it is legal. Unlawful use attracts an immediate blocking of access to the database.

(3) The customer has to pay a fine of EUR100,000.00 for every time he is responsible for the inadmissible use beyond the agreed extent – especially the complete copying of the data base or the transmission to a permanent storage space. The assertion of ongoing damages is not affected.

## **7. Privity of contract**

All legal questions regarding privity of contract are exclusively applicable to the German law. The international sales law (EKG) does not apply.

## **8. Data protection**

(1) By using the data of tophotelprojects GmbH the customer is obliged to ensure and to keep the protection of data privacy.

(2) According to the Federal Data Protection law, the customer and his representatives are hereby informed that tophotelprojects GmbH stores his complete address and relevant information electronically and processes them electronically for the tasks that are connected with the contract.

(3) Without particular permission, the customer is obliged not to give any information/data of our service "tophotelprojects.com" to a third party. Otherwise we are entitled to stop immediately further delivery of information/data from the service "tophotelprojects.com" respectively block customer access to our data base.

## **9. Written form**

All changes and additions to the contract have to be put down in writing. This is valid for the renunciation of rights from the contract or these conditions. All declarations and messages made after the contract are only valid in writing.

## **10. Subscription and licence services**

(1) All subscription and licence services last for an unlimited period with beginning of the agreed licence period. A minimum subscription period lasts 12 months. Subscription and licence services can be cancelled by both parties three months in advance the termination of the minimum subscription and licence period.

(2) If the customer doesn't cancel the contract in time (3 month before end of the licence period) the subscription and licence extends automatically and without further notice for another 12 months minimum.

(3) The right of extraordinary cancellation due to an important reason remains unaffected for both parties. If the termination is without previous notice and without an important reason, (1) applies.

## **11. Partial invalidity**

If one or more regulations of the contract or these conditions are or become invalid or impossible to carry out, the validity of the ongoing regulations will not be affected.

## **12. Place of fulfilment and court jurisdiction**

In cases at issue regarding the contract or these conditions the court at Rotenburg/Wuemme is having jurisdiction.

Scheessel, 2009  
tophotelprojects GmbH