



# General terms of business of TOPHOTELPROJECTS GmbH

## 1. Scope

These terms of business shall be an integral part of all our offers and contracts relating to database access, provision of addresses, services and other transactions with our customers, including future ones. The general terms of business of the customer shall not bind us even if we fail to expressly revoke them.

Customers in the sense of these terms of business shall be the company as the direct contracting partner. Users shall be all individuals on the side of the contracting partner, who have been granted access to the data or services of TOPHOTELPROJECTS at the request of the customer. The contracting partner shall be fully and solely responsible for all its users in connection with these general terms of business.

## 2. Content of the service

### 2.1. Online databases

- 2.1.1. The contracting partner or its users can register at the TOPHOTELPROJECTS website for a free test account or enter into a contractual relationship in form of a subscription contract. By concluding a subscription contract, the contracting partner shall enter into a business relationship with TOPHOTELPROJECTS, based on the contents of these general terms of business.
- 2.1.2. TOPHOTELPROJECTS shall provide information on its server. Hereby, the TOPHOTELPROJECTS team shall manage new additions and updates to the largest database in the world for new hotel developments and concrete projects, profiles and data of hotel chains and groups as well as other address and market data on a daily basis. Despite the continuous updating and revision of the data and due to the fluctuation within individual address and industry groups it cannot be guaranteed that the addresses and other features in the files are correct or complete at the time of provision. As the data has among other things been obtained from surveys, it can furthermore not be guaranteed that an addressee is or still is what it claimed to be at the time the data was collected or last updated or what a third party claimed the addressee to be.
- 2.1.3. The services shall enable the contracting partner or its users to call up information for their own purposes. Further rights, however, shall not be established by these terms of business.
- 2.1.4. To register, the user must provide information on his company and himself. TOPHOTELPROJECTS reserves the right to suspend registration until such time as it has verified these details. The deliberate entry of incorrect details by the contracting partner or its users shall constitute a breach of these terms of business and result in the immediate exclusion from this service. TOPHOTELPROJECTS is entitled to immediately block the access to the data services and to contest the contract or terminate it without notice. The contracting partner or its users shall in such a case have no claim to the refund of payments already made.
- 2.1.5. Within the scope of the registration the users of the contracting partner shall create an individual password. This password enables access to the services of the ordered databases. Should a user forget or misplace his password, he can create a new password at TOPHOTELPROJECTS after an appropriate security clearance. For this purpose the user will receive an email from TOPHOTELPROJECTS.
- 2.1.6. Changes to the password may be made directly in the access data personally supplied to the user.
- 2.1.7. The contracting partner or its users shall be responsible for all activities carried out using the created access authorisation and passwords, including the use of the access authorisation by third parties.
- 2.1.8. The contracting party or its users undertake to protect their access from unauthorised use by third parties. It is prohibited to pass on access data and passwords. The contracting party shall be liable for any unauthorised use of the access to the areas which require registration made possible by its actions or the actions of the users.
- 2.1.9. Subscription invoices shall be payable without deduction immediately after receipt for each year of the licence in advance, if applicable plus the relevant rate of value-added tax. Maturity date shall be the day the licences period commences.
- 2.1.10.1 **Contract term and notice to terminate subscription services**  
A contract year lasts 12 months from the start of the agreed license period. The contract term shall be extended by 12 further months unless notice to terminate it is given three months prior to the end of the license period in writing by one of the parties.
- 2.1.10.2 Compliance with the notice period and the termination itself shall be subject to the receipt of the notice letter by the relevant party.
- 2.1.10.3 The provision relating to termination for an important reason shall not be affected. If the customer terminates the contract without notice and if there are no grounds for termination without notice, the termination shall act as notice of termination on the next possible date.



## 2.2. Provision of addresses

- 2.2.1. TOPHOTELPROJECTS provides address data in various formats. Hereby, the TOPHOTELPROJECTS shall manage new additions and updates to these data on a daily basis. Despite the continuous updating and revision of the address data and due to the fluctuation within individual address and industry groups it cannot be guaranteed that the postal addresses and other features are correct and that the entire industry or target group is included in the files at the time of provision.
- 2.2.2. The contacting partner has the right to use the addresses for its own purposes and to save them on its own computers. These terms of business, however, shall not establish further rights.

## 2.3. Market data/Analyses/Reports

- 2.3.1. TOPHOTELPROJECTS creates reports and market analyses in various formats using own data and third party sources.
- 2.3.2. The contracting partner has the right to use the data for its own purposes and to save them on its own computers. These terms of business, however, shall not establish further rights.

## 2.4. Conferences/Events

- 2.4.1. TOPHOTELPROJECTS also organises events and congresses independently and/or in cooperation. In the event that no separate terms and conditions have been agreed on within the scope of such an agreement concluded with the contracting partner, these general terms of business shall also apply for such agreements.

## 2.5. Additional services

- 2.5.1. In addition, TOPHOTELPROJECTS also provides various consulting services and further services. In the event that no separate terms and conditions have been agreed on within the scope of such an agreement concluded with the contracting partner, these general terms of business shall also apply for such agreements.

## 3. Terms of payment

- 3.1. All invoices shall be payable without deduction immediately after receipt, if applicable plus the relevant rate of value-added tax.
- 3.2. In the event of late payment an additional fee to the sum of € 25.00 shall become due at the first dunning level. The reminder fee will then continue to increase by € 40.00 per dunning level (EU Directive 2011/7/EU).
- 3.3. If the outstanding amount is not received on the account of TOPHOTELPROJECTS within 7 days, the case will be assigned to a collection agency. The costs incurring for this must be borne in full by the party liable to pay.
- 3.4. In the event of a late payment TOPHOTELPROJECTS will furthermore forward the relevant information to credit insurers, collection agencies and credit bureaus in the region of the party liable to pay.
- 3.5. During default of payment, TOPHOTELPROJECTS shall be exempted from any obligations to provide services to the contracting partner.
- 3.6. If we become aware at a later point in time that the customer has not disclosed unfavourable conditions to us when placing the order which were not detectable for us and which would have given rise the assumption that the contracting party is not capable of fulfilling the contract, we shall be entitled to withdraw from the contract without prior notice and demand the immediate payment of any already provided services.
- 3.7. The customer may only set off counterclaims or retain payments if and in as far as this claims are not disputed or have been established by a court of law.
- 3.8. Payments made via our web shop by credit card (VISA and Master Card) shall be processed by: HUELLEMANN & STRAUSS ONLINESERVICES S.à r.l.. In addition, we are an acceptance partner of American Express.
- 3.9. The possible payment methods (e.g. credit card, debit card, PayPal, SEPA direct debit, payment by invoice, express bank transfer) processed via our payment service provider Heidelpay GmbH, are listed for all services provided on our web shop and may vary. The terms and conditions of the contacting partners must be observed.

## 4. Delivery

- 4.1. The period of service provision via online access shall commence on the first day of the agreed licence period. Access to the online database of TOPHOTELPROJECTS will be activated at the latest 3 working days after receipt of the licence fee on the account of TOPHOTELPROJECTS.
- 4.2. The provision of data not provided via online access, shall be solely determined by the delivery period stated in the offer.
- 4.3. In the event of a culpable delay in the provision of the service, default status shall not be reached until the customer submits a written reminder. In the event of default, the customer shall be entitled to withdraw from the contract after setting a reasonable extended deadline if TOPHOTELPROJECTS fails to comply with its duty to provide service within this extended deadline. The deadline for the provision of service shall also be regarded as enabling access.



#### 5. Warranty and liability

- 5.1. Warranty claims by the contracting partner shall only exist if the preparation and/or the provision of the data is inadequate for a reason in the responsibility of TOPHOTELPROJECTS.
- 5.2. The achievement of set goals or successes based on the provided data lies solely in the responsibility of the contracting partner or its users. TOPHOTELPROJECTS makes no guarantees for this.
- 5.3. Any liability for consequential damage shall be excluded provided that such damage has not been caused by TOPHOTELPROJECTS due to gross negligence or intent.

#### 6. Copy right, data abuse

- 6.1. The content provided by TOPHOTELPROJECTS is protected by copyright pursuant to Sections 4, 87a et seq. of the German Copyright Act; it may only be used for the purposes agreed with us. Your attention is expressly drawn to the penal provisions of the German Copyright Act in the event of infringement.
- 6.2. For the duration of the contract period TOPHOTELPROJECTS shall grant the contracting partner or user the personal, non-exclusive and non-transferable right to access to offered data which TOPHOTELPROJECTS collects and offers within the scope of its own services. The user shall be authorised to use the provided data and works protected exclusively for his own purposes by copyright by loading, displaying, saving and printing these in full or in part. No other type of use, in particular reproduction and distribution both free of charge or in return for a fee, shall be prohibited.
- 6.3. The data may only be forwarded to the user's own employees or contractual distribution partners.
- 6.4. In the event of the unauthorised or abusive use of the data in the responsibility of the customer and for purposes other than those agreed, in particular the complete reproduction of the data medium or the transfer of the data to a permanent data medium, the customer shall be liable to pay a contractual penalty of € 100,000.00. Claims for damages over and above this shall not be affected.

#### 7. Data protection

- 7.1. The customer and its users undertake to ensure and comply with the regulations of the Data Protection Act in force in Germany when using the data.
- 7.2. The provision of fax numbers or email address shall not mean that the recipient has agreed to be approached with promotional content via these communication channels for the contracting partner or its users. In particular the forwarding of bulk mailings by fax or email shall be subject to strict legal conditions, solely in the responsibility of the contracting partner and its users. The contracting partner therefore indemnifies TOPHOTELPROJECTS against any claims.
- 7.3. The contracting partner or its users are hereby notified pursuant to the German Federal Data Protection Act (BDSG) and the German Information and Communications Services Act (IuKDG) that TOPHOTELPROJECTS will store the complete address and other data relevant to the contract in electronic form and may process these data electronically for tasks resulting from the relevant contractual relationship.
- 7.4. By registering or entering into the contracting relationship, the contracting partner or its users declare their consent to the processing and use of their personal data to the extent required for the establishment, content-related design or amendment of a contract for the use of the services as well as for the transfer of data relating to the start and the end of this business relationship and the payment experience accruing from it to credit bureaus in accordance with Section 29 BDSG.

#### 8. Partial invalidity

- 8.1. If one or more provisions of the contract or these terms should be or become invalid or unfeasible, this shall not affect the validity of the other provisions.

#### 9. Place of fulfilment, place of jurisdiction

- 9.1. The place of jurisdiction from or relating to the contract or these terms shall be Rotenburg/Wümme, Germany.
- 9.2. The laws of the Federal Republic of Germany shall apply to these terms of business and the entire legal relationship.

10. Any changes and additions to the contract must be made in writing. This shall also apply to the waiver of rights resulting from the contract or these terms including this written form requirement. All declarations and notifications made in accordance with this contract shall only be effective if made in writing.

**We are looking forward to a successful cooperation with you. Thank you for your trust.**

**Rotenburg/Wümme November 2017**