

# General Terms and Conditions of Business

[Last updated June 2009]



## § 1 Scope of application

1. The multifunctional event center EXPO XXI Köln, located at Gladbacher Wall 5, having its registered office in Cologne (hereinafter "EXPO XXI Köln"). These General Terms and Conditions of Business apply to all contracts and agreements whose subject is the use of the event center or of rooms or spaces located therein.

2. These General Terms and Conditions of Business apply vis-à-vis natural persons (hereinafter referred to as "private individuals"), and vis-à-vis persons and entities engaged in commerce and trade, legal entities existing under private and public law, and special public-law funds (*Sondervermögen*) (hereinafter referred to as "enterprises"). With respect to enterprises, these General Terms and Conditions of Business also apply to all future contractual relationships. Additional contractual terms and conditions, or contractual terms and conditions that vary herefrom, of our lessees apply only if EXPO XXI Köln has expressly acknowledged them in writing. If any provisions to the contrary are agreed upon with the lessee in a contract or agreement or in any addendum or annex thereto, such provisions shall in all cases take precedence over the corresponding provisions of these General Terms and Conditions of Business.

## § 2 Conclusion of the contractual relationship

1. Contracts and agreements with EXPO XXI Köln are not valid unless set out in written form. Contracts and agreements are not deemed to have been concluded until the lessee returns the signed counterpart of the contract or agreement in due time such that it is received by EXPO XXI Köln within the time limit for acceptance as stipulated in the contract offer.

2. No claim to later conclusion of a contract or agreement can be derived from pre-reservation or exercise of a booking option regarding an event space for specific dates and times unless EXPO XXI Köln has expressly undertaken an obligation otherwise within the confirmation of pre-reservation or exercise of a booking option. The lessee and EXPO XXI Köln do, however, agree to provide notice without delay of any plans for another use of the space or plans not to make use of the space on the date and time previously specified.

## § 3 Contracting parties, event organizer, event manager, exhibitor

1. The contracting parties are EXPO XXI Köln and the lessee. If the lessee is a broker or agency, the lessee must designate the event organizer, in writing, in the contract or agreement as "event organizer" and must notify such event organizer of all contractual obligations, including these General Terms and Conditions of Business and the Safety Terms and Conditions for Events. The lessee remains liable to EXPO XXI Köln for the satisfaction of all obligations incumbent upon the event organizer pursuant to this contract. In such a case, the event organizer is deemed an agent in performance (*Erfüllungsgehilfe*) of the lessee. The lessee is responsible for actions and statements undertaken by the event organizer, and by persons commissioned by the event organizer, as for actions and statements of the lessee's own and must allow them to apply for and against the lessee.

2. Provision of rooms and spaces to third parties for their use at no charge, or sub-leasing thereof to third parties for remuneration, whether in whole or in part, requires the written approval of EXPO XXI. Such approval is deemed granted if the third party is designated by name in the contract.

3. Upon request, the lessee must, before the event, designate to EXPO XXI Köln, by name and in writing, a person commissioned to manage the event. Such person shall carry out the function and duties of the event manager pursuant to the *Versammlungsstättenverordnung* [Regulations on Places of Assembly] of the State of North Rhine-Westphalia (hereinafter "VStättVO") for and on behalf of the lessee pursuant to these General Terms and Conditions of Business.

4. Lessees who are holding a trade fair or exhibition are obligated to pass on to their exhibitors the Safety Terms and Conditions for Trade Fairs and

Exhibitions of EXPO XXI Köln on a binding basis. The lessee is obligated to EXPO XXI Köln to ensure that such terms and conditions are complied with.

## § 4 Subject matter of the agreement / visitor spaces

1. Event rooms and spaces are provided for use based on plans of emergency access routes and seating that have been approved by the authorities, with a specified visitor capacity, and for the intended use indicated by the lessee. The exact designation of the object of lease, the maximum visitor capacity, and the intended use thereof shall be specified in writing in the contract or in an addendum or annex thereto. If no indications concerning visitor capacity have been set out in the contract or in an addendum or annex thereto, the lessee may inspect the existing, approved plans of emergency access routes and seating at any time, setting out that it is doing so for its event planning purposes.

2. The lessee is obligated to ensure that for any given event, under no circumstances is the number of tickets in circulation greater than the number of visitor spaces indicated in the plan of emergency access routes and seating.

3. Changes to the rooms or spaces provided, to the plans of emergency access routes and seating, and/or to structures and installed equipment or fixtures may be made only with the written approval of EXPO XXI Köln and only after any official permits or authorizations that may be necessary have been obtained. The duration, costs, and risk associated with the permit process, as well as with any formal construction approval processes that may be required, shall be borne in full by the lessee.

4. Changes to the intended purpose as designated in the contract require the prior written consent of EXPO XXI. The lessee agrees to inform EXPO XXI Köln in writing, without delay, of any and all intentions to change the intended purpose or purposes.

5. If and insofar as the lessee does not lease the entire place of assembly of EXPO XXI Köln, the lessee does not have the right to exclusive use of entrances or exits, foyer areas, restrooms, or coat check facilities. The lessee must tolerate the shared use of these areas of the place of assembly by other lessees, their visitors, and EXPO XXI Köln. If multiple events take place within the place of assembly at the same time, each lessee must conduct itself such that, if at all possible, no disruptions of other events take place. The lessee has no contractual claim to imposition of any restrictions upon any event of another lessee.

6. EXPO XXI Köln is entitled, during the setup and dismantling phase for an event, to enter the object of lease at any time, including accompanied by third parties (customers of EXPO XXI Köln), for inspection and tour purposes.

## § 5 Term of use, transfer of the premises, times of use

1. Upon the transfer of the rooms and spaces, the lessee is obligated, at the request of EXPO XXI Köln, to inspect the object of lease, including the technical equipment and fixtures, emergency exits, and emergency access routes. If the lessee detects any defects or damage present in the object of lease, such items must be set out in writing in a joint record. At the end of the term of use, the parties shall likewise draw up a joint record of any and all damage.

2. Objects, structures, decorations, and similar items brought into the premises by the lessee, or by third parties acting on the lessee's behalf, during the term of use must be removed by the lessee, by the agreed end of the term of use, without leaving any residue and the original condition of the premises must be restored. After the expiration of the term of use, these objects may be removed for a fee, at the lessee's expense.

3. The timeframes for loading and unloading in the delivery zones as well as the regulations governing vehicle entry and exiting shall be stipulated by EXPO XXI Köln.

## § 6 Rent, ancillary expenses

1. The contractually agreed rent and ancillary expenses are geared toward a specific event duration. If the term of use is exceeded, the lessee shall be obligated to remit payment in the proportional amount due for the use of the premises. EXPO XXI Köln reserves the right to assert claims for damage or losses in excess thereof. The use of the event premises for necessary setup and dismantling days is likewise subject to remuneration and must be agreed upon with EXPO XXI Köln upon finalization of the lease agreement.

2. EXPO XXI Köln is entitled to demand that the lessee remit advance or partial payments and/or payments to serve as security (security deposit) in

each case. Unless otherwise agreed in the contract, a partial payment is due six weeks before the event, in the amount of the agreed rent plus the ancillary expenses that are to be expected.

3. Settlement of all payments and ancillary expenses incurred shall take place after the event has been held. The advance payments that have been remitted shall be applied toward such settlement.

4. All payments are due and payable immediately following issuance of the invoice, without any deductions. In the event of default in payment, default interest shall be charged; the amount thereof for enterprises shall be 8%, and for private individuals 5%, above the then-applicable base interest rate set by the European Central Bank. EXPO XXI Köln reserves the right to furnish proof that the damage or loss sustained through the default is greater than the foregoing amount. All prices are to be understood as plus value-added tax at the statutory rate applicable at the time of payment.

### **§ 7 Management / catering**

Management of the place of assembly in the fields of foodservice / catering, coat check services, booth construction, rental furnishings, audio and media technology, and installation of suspension points may be organized by the lessee itself at no charge or, upon request, may be handled by EXPO XXI Köln via "preferred partners." The lessee must inform EXPO XXI Köln, by no later than six weeks before the commencement of the lease, of any and all contractual agreements that may be in place with third parties.

### **§ 8 Services**

1. For safety reasons in particular, electrical and water installation and/or telecommunications and electronic data processing services, use of security personnel to ensure safety and security within the premises, provision of an on-site technician, placement of orders for cleaning services involving interim and final cleaning as well as cleaning during the event, and use of plumbing and sanitation services and fire safety technicians are performed exclusively by approved contract partners of EXPO XXI Köln.

2. If stage, studio, or technical lighting fixtures or equipment are to be set up for the event, "event technology supervisors" or "event technology specialists," as the case may be, must be provided in accordance with the provisions of § 40 VStättVO.

3. The scope of the services specified in Subsections 1 and 2 above (number of persons to be provided) depends on the type of event, the number of attendees, and the event-specific risks that apply in the individual case. The costs incurred through the presence and use of such services must be borne by the lessee. To the extent possible, the costs that will be incurred shall be indicated to the lessee at the time at which the contract is entered into.

### **§ 9 Advertising; liability for illicit advertising measures**

1. Advertising for the event is the lessee's responsibility. Advertising measures within the premises and on the outdoor premises require the approval of EXPO XXI. EXPO XXI Köln is entitled to make reference to the event in its calendar of events and on the Internet unless the lessee stipulates otherwise in writing.

2. The lessee shall irrevocably indemnify and hold harmless EXPO XXI Köln from any and all claims arising as a result of any circumstance in which the event, or the advertising for the event, violates or infringes rights of third parties (particularly copyright, rights to images and names, trademark rights, rights under the law of competition, protected personal rights) or other provisions of law. This obligation of indemnification also extends to any and all costs that may arise in connection with cease and desist requests or orders, court costs, and costs of litigation.

3. Use of the name and logos of EXPO XXI Köln is permitted exclusively by arrangement with EXPO XXI Köln; proposed uses thereof must be presented to EXPO XXI Köln prior to publication.

4. All printed materials, posters, entry tickets, invitations, etc. must indicate the event organizer in order to make it clear that a legal relationship will come into effect between the event visitor and the event organizer (lessee), and not, for instance, between the visitor or third parties and EXPO XXI.

### **§ 10 GEMA fees**

Timely reporting of works for which GEMA fees are due to the GEMA as well as timely remission of GEMA fees are the sole responsibility of the lessee. EXPO XXI Köln may demand, in a timely fashion before the event, that the lessee furnish written proof of registration of the event with the GEMA, of remission of GEMA fees, and/or of issuance of an invoice by the GEMA to

the lessee. If and insofar as the lessee is unable or unwilling to furnish such proof, EXPO XXI Köln may demand that the lessee furnish a security payment in the amount of the estimated GEMA fees that are to apply.

### **§ 11 Production of audio, audiovisual, and visual recordings**

1. Audio recordings, audiovisual recordings, visual recordings, and other recordings and transmissions of the event, irrespective of the nature thereof (radio, TV, Internet, loudspeaker, etc.) require the written consent of EXPO XXI as well as being subject to the consent of the copyright holders and beneficiaries of other protected or intellectual property rights who are involved. EXPO XXI Köln is entitled to render its consent hereto dependent on the parties' reaching an agreement as to a sum to be paid as remuneration.

2. Unless the lessee stipulates otherwise in writing, EXPO XXI Köln has the right to produce, or have other parties produce, audiovisual recordings as well as drawings of event processes or of objects exhibited or utilized therein for purposes of documentation or for its own publications.

### **§ 12 Official permits and authorizations and statutory reporting obligations**

1. For the event, the lessee is required to satisfy all reporting obligations required by the authorities or stipulated by law, obtain any and all permits and authorizations that may be necessary (unless otherwise specified in these General Terms and Conditions of Business), and implement orders, conditions, and specific terms imposed by the authorities.

2. The lessee is obligated to comply with the relevant laws and regulations applicable at the time of the event, particularly the provisions of the Versammlungsstättenverordnung [Regulations on Places of Assembly], the Landesbauordnung [State Construction Ordinance], the Arbeitsschutzgesetz [Occupational Safety and Health Act], the Arbeitszeitgesetz [Act on Working Hours], the Gewerbeordnung [Trade, Commerce, and Industry Regulation Act], and the accident prevention regulations of the workers' compensation boards (*Berufsgenossenschaften*).

3. EXPO XXI Köln is obligated to report commercial dance events held within the object of lease to the Treasury and Tax Office (*Kassen- und Steueramt*) of the City of Cologne. Pursuant to § 2 No. 1 of the Satzung der Stadt Köln über die Erhebung einer Steuer auf Vergnügungen besonderer Art [Ordinance of the City of Cologne Concerning Application of a Tax on Certain Types of Entertainment], dated December 16, 2005 (VergnStS), commercial dance events are subject to entertainment tax. The lessee shall remit the applicable entertainment tax. The lessee shall also remit value-added tax on all income generated by the event (ticket sales, program sales, etc.).

### **§ 13 Lessee's liability**

1. The lessee is liable to EXPO XXI Köln for any and all damage or losses caused by the lessee or by any of its agents in performance or vicarious agents (*Erfüllungs- und Verrichtungsgehilfen*), guests, or visitors in connection with the event.

2. The lessee shall indemnify and hold harmless EXPO XXI Köln from any and all claims of third parties arising in connection with the event, insofar as such claims are the responsibility of the lessee or of any of its agents in performance or vicarious agents (*Erfüllungs- und Verrichtungsgehilfen*), guests, or visitors. This obligation of indemnification also extends to administrative fines imposed by the authorities and to administrative offenses (e.g., due to disturbing the peace, blockage of emergency access routes, failure to comply with prohibitions on smoking, or violations of the VStättVO) that may be imposed upon EXPO XXI Köln, as the operator of the place of assembly, in connection with the event.

3. The lessee is obligated to enter into a liability insurance policy for events that provides coverage for personal injury and property damage up to three (3) million euros as well as one (1) million euros for financial losses.

4. If and insofar as the lessee fails to furnish proof of insurance coverage by no later than 21 days before the event, EXPO XXI Köln is entitled to enter into an appropriate insurance policy at the lessee's expense.

### **§ 14 Liability of EXPO XXI Köln**

1. Liability on the part of EXPO XXI Köln, irrespective of fault, for payment of damages for incipient defects in the object of lease provided is ruled out.

2. Reduction in the rent paid due to defects in the object of lease is permitted only if the intent to reduce the rent has been announced to EXPO XXI Köln during the term of the lease.

3. In the event of violation of non-essential contractual obligations, EXPO XXI Köln is liable for all instances of gross negligence and wrongful intent.

4. In the event of violation of essential contractual obligations, the obligation of EXPO XXI Köln to render damages for instances of ordinary negligence is limited to the average, direct amount of damages that is foreseeable in accordance with the nature of the event and typical of contracts of this type.

5. EXPO XXI Köln assumes no liability for loss of objects, equipment or fixtures, structures, or other valuables brought into the venue by lessees, exhibitors, or visitors unless EXPO XXI Köln has undertaken a duty to safeguard such items against payment of a fee. Upon the lessee's request in the individual case, EXPO XXI Köln shall provide a special security service against reimbursement for the costs thereof.

6. If and insofar as liability is ruled out or limited pursuant to the provisions of these terms and conditions of rental, this also applies to the agents in performance and vicarious agents (*Erfüllungs- und Verrichtungsgehilfen*) of EXPO XXI.

7. The foregoing disclaimers and limitations of liability do not apply in the event of culpable loss of human life, personal injury, or impairment of human health.

#### § 15 Cancellation of lease

1. If, for a reason for which EXPO XXI Köln is not responsible, the lessee does not hold the event, the lessee is obligated to pay the following lump sums as liquidated damages, with respect to the agreed rent for the space (without utilities), in the event of cancellation within the following periods:

- up to 12 months before the beginning of the event 25%
- from then until 9 months before the beginning of the event 50%
- from then until 6 months before the beginning of the event 75%
- thereafter, 100%

2. The lessee has the right to furnish proof that EXPO XXI Köln has not sustained any damage or loss as a result, or that the damage or loss sustained by EXPO XXI Köln has been lower in amount than the foregoing. If EXPO XXI Köln has sustained damage or loss in an amount higher than the foregoing, EXPO XXI Köln is entitled to demand payment of damages in a corresponding amount.

#### § 16 Rescission / termination

EXPO XXI Köln is entitled to rescind the contract in the event of violation of essential contractual obligations, where it has set a grace period for remediation of such violations and such grace period has elapsed fruitlessly and EXPO XXI Köln has threatened to rescind the contract. This applies in particular in the event of:

- Violation of contractually agreed payment obligations
- Substantial changes in the intended use without prior approval
- Provision of the event spaces to third parties without the consent of EXPO XXI Köln (e.g., unauthorized sub-leasing)
- Lack of official permits or authorizations for the event
- Violation of official conditions imposed, or permits granted, with respect to the event
- Violation of provisions of law that concern the safety of the event
- Violation or serious endangerment of the rights of third parties as a result of the event
- Endangerment of public safety and order
- Initiation of insolvency proceedings concerning the lessee's assets, or rejection of an application for initiation of insolvency proceedings for lack of assets, as well as the lessee's issuance of an affidavit concerning its asset circumstances, or financial collapse of the lessee, if and insofar as the lessee has not already satisfied all obligations to render payment and furnish security under the existing contract.

If EXPO XXI Köln avails itself of the right of rescission, EXPO XXI Köln shall retain its claim to payment of the agreed sums of remuneration pursuant to § 15. EXPO XXI Köln must, however, permit the costs of expenditures that have not been made to be deducted from such claims.

#### § 17 Force Majeure

If, due to events of *force majeure*, the event cannot take place, each contracting party shall itself bear its own costs in the amount thereof that has arisen until such time. If EXPO XXI Köln has advanced costs on the lessee's behalf and such costs would be subject to reimbursement under contract, the lessee is, in all cases, obligated to reimburse EXPO XXI Köln for such costs. Cancellation by individual artists, or failure on the part of one or more partici-

pants to arrive on time, as well as poor weather, including ice, snow, and storms are under no circumstances deemed to constitute "force majeure."

#### § 18 Exercise of authority as the possessor of the premises (*Hausrecht*)

1. The lessee is obligated to ensure, within the assembly spaces leased, that the event is held in a safe, orderly fashion. The lessee is obligated to enforce authority as the possessor of the premises (*Hausrecht*) vis-à-vis the visitors and guests of the event and to comply with existing bans on smoking. In the event of violations, the lessee must take the necessary steps to prevent further violations.

2. In addition to the lessee, EXPO XXI Köln, and persons commissioned by it for such purpose, are moreover entitled to exercise authority as the possessor of the premises (*Hausrecht*) during the entire duration of the use thereof (cf. § 38 Paragraph 5 Clause 2 VStättVO). The persons commissioned by EXPO XXI Köln for such purpose must, within the context of exercise of such authority, be granted free access to all premises at all times.

#### § 19 Discontinuation of events

In the event of violation of essential contractual obligations or of provisions of law or regulations that are relevant to safety, and in the event of particularly hazardous circumstances, EXPO XXI Köln may demand that the object of lease be vacated and returned to it immediately. If the tenant fails to comply with a demand to that effect, EXPO XXI Köln is entitled to have the space vacated at the lessee's expense and risk. In such a case, the lessee remains obligated to pay the full amount of remuneration.

#### § 20 Compliance with safety terms and conditions with respect to events

1. If, for an event, decorations are brought into the leased premises, podiums/seating stands/scenery areas are used or erected, or stage, studio, or technical lighting fixtures or equipment, or other technical fixtures or equipment, are set up, the Safety Terms and Conditions for Events of EXPO XXI Köln must absolutely be complied with. These safety terms and conditions shall be appended to the contract as an annex thereto if and insofar as it is to be expected, already at the time at which the contract is entered into, that such equipment or fixtures will be set up or used for the event. In all other cases, the safety terms and conditions shall be sent to the lessee at any time upon request.

2. If there are plans to hold trade fairs and exhibitions and to erect exhibition booths within the place of assembly or on the outdoor premises, the Safety Terms and Conditions for Trade Fairs and Exhibitions apply in addition. The lessee is obligated to pass along these terms and conditions, on a binding basis, to its exhibitors along with the registration. The lessee remains liable to EXPO XXI Köln for compliance with these terms and conditions.

#### § 21 Final provisions and place of jurisdiction

1. The contractual relationship between the parties is subject exclusively to German law. The place of performance and place of jurisdiction is Cologne.

2. Should individual provisions of these General Terms and Conditions of Business, the Safety Terms and Conditions for Events, or the Safety Terms and Conditions for Trade Fairs and Exhibitions be or become invalid, such circumstance shall not affect the validity of the remaining provisions of the contract. In such a case, the invalid provision shall be appended or amended such that its intended purpose is achieved to the greatest extent possible.

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## House Rules

These House Rules determine the rights and obligations of every visitor during the entire term of his or her stay within the place of assembly. The lessee is obligated to ensure compliance with these obligations vis-à-vis visitors, guests, and employees.

Only those visitors who hold valid entry tickets and guests of the lessee are permitted to be within the place of assembly. Each visitor must proceed to and occupy the space designated on his or her entry ticket, for the respective event, and must utilize only the access routes intended for such purpose. Upon the visitor's departure from the place of assembly, the entry ticket shall cease to be valid.

All equipment and furnishings of the place of assembly must be used **with care**. Within the place of assembly, each person must comport him- or herself such that no other person is injured, endangered, or – except to the extent made unavoidable by the circumstances – impeded or inconvenienced.

There is **no smoking** in the place of assembly. The notices to this effect must be observed.

**Closure of rooms**, buildings, and open areas and vacating of the same may be ordered for safety and security reasons. All persons who are within the place of assembly and on the outdoor premises must follow instructions to this effect without delay and must leave the place of assembly immediately if an order to vacate the premises is given.

The contents of **purses, containers, and clothing brought into the venue**, such as coats, jackets, and shawls, may be checked. Visitors who do not agree that objects that could pose a hazard to the event or to other visitors may be held for safekeeping by the service responsible for maintaining control or public order on the premises will be barred from entering the event. Any visitor thus refused entry shall have no claim to reimbursement of the cost of entrance. Visitors may be prohibited to take purses and similar containers with them into the event depending on the particular nature of the event.

Persons who are recognizably **under the influence of alcohol or drugs** will be barred from entering the event and must leave the place of assembly. Any visitor thus refused entry shall have no claim to reimbursement of the cost of entrance.

The provisions of the Jugendschutzgesetz [Act on Protection of Youth] apply. Special provisions apply only in the case of express notice thereof at the cash registers and in the admission areas.

**All persons are prohibited from carrying the following objects into the venue:**

- Weapons or hazardous objects as well as items that, if thrown, could cause personal injury
- Gas spray bottles, substances that cause corrosion or discoloration, or pressure containers for gases that are highly flammable or harmful to health, with the exception of standard commercially available pocket lighters and hair-spray
- Containers made of fragile material or material that breaks into splinters or shards
- Fireworks, rockets, flares, smoke bombs or powder, or other pyrotechnic objects
- Mechanically and electrically operated instruments that generate noise
- Any and all foods and beverages
- Drugs
- Animals
- Propaganda material of a racist, xenophobic, or radical nature
- Audio or visual recording devices for purposes of commercial use (unless the event organizer has given its consent thereto)

**Right of persons to their own likeness:** If employees of EXPO XXI Köln, the event organizer, or any of their subcontractors take photographs or prepare film or video recordings in the area of the place of assembly for reporting or advertising purposes, such recording activity must not be impeded or otherwise adversely affected. All persons who enter or stay within the place of assembly are hereby notified that photographs, film recordings, and video recordings are prepared in the area of the place of assembly. By entering the place of assembly, those people whose likenesses are recognizably featured in such recordings and photographs grant their consent to the use of such recordings and photographs for both reporting and advertising purposes and state that they will not assert any claims against EXPO XXI Köln.

**Volume in the case of musical events:** Visitors are notified that during the event, noise levels are attained in the audience area, over a longer period, that could contribute to the occurrence of permanent hearing damage. To reduce the risk of hearing damage, we recommend in particular that hearing protection devices be used. The event organizer shall provide visitors with hearing protection earplugs upon request.

**If a specific person is banned from entering the premises**, the ban applies to all current and future events held anywhere on the premises of EXPO XXI Köln. Cancellation of a ban on a person's entering the premises requires a written request, citing the reasons; decisions in such cases will be rendered within three months.