

General Contractual Terms and Conditions for the Purchase of Hotel Services (Status 03/2012)

1. Scope of Application and Integral Parts of the Agreement

- 1.1 The following contractual provisions shall apply to the Purchase of Hotel Services for Bayerische Motoren Werke Aktiengesellschaft and for its affiliated companies within the meaning of Paragraph 15 German Stock Corporation Act (*AktG*) (hereinafter together referred to as "BMW").
- 1.2 Any deviating or additional contractual or delivery conditions of the Contractor shall not become an integral part of the Agreement, even if they are not expressly rejected. If the Contractor confirms BMW's order in deviation from the purchase order or the contractual provisions, said deviations shall only apply if they are expressly acknowledged by BMW in writing.
- 1.3 The order shall come into existence by virtue of the written purchase order and, as the case may be, call-off order by BMW and by virtue of the Contractor's acceptance. The same shall apply *mutatis mutandis* to changes and additions to the order.
- 1.4 These Terms and Conditions of the principal order shall also apply *mutatis mutandis* to all addenda and revised orders.
- 1.5 In the event of any conflict between the integral parts of the Agreement, the following order shall apply:
 - BMW's purchase order
 - Documentation of invitation to tender including all schedules
 - BMW's General Contractual Terms and Conditions for the Purchase of Hotel Services
 - Schedule of Services (*Auftragsleistungsverzeichnis*), Project Specification (*Lastenheft*), Requirement Specification (*Pflichtenheft*) (i.e. the technical content revised following negotiation)
 - Technical part of the tender

2. Execution of the Order

- 2.1 In the event BMW has booked one or more rooms and the Hotel is overbooked, the Contractor will arrange accommodation or function rooms of an equal category and price as confirmed. Additionally, the Contractor will take care and pay for the transport to the other hotel. The Contractor has to inform BMW prior to the group arrivals about the overbooking. For the new accommodation an approval by BMW is required. The Contractor guarantees to avoid overbookings regarding the booked services of the Customer's group.
- 2.2 The rooming list will be provided at the latest 7 days before arrival of the group by BMW. For further questions the Contractor will contact the named contact person.
- 2.3 Check-in is at 03:00 p.m. The Contractor will make every effort to provide rooms for the guests arriving before that time. Check-out is at 12:00 a.m. If there is a late check-out required by the guests, the Contractor will try to offer it free of charge. This term is subject to availability.
- 2.4 The Contractor accepts the following credit cards: Visa, American Express, Diners, Master Card and JCB. Furthermore, the Contractor accepts EC cards.
- 2.5 The Contractor guarantees to deny bookings of other automotive/motorcycle manufacturers during the same period of time of the BMW event. Should a further automotive/motorcycle manufacturer make a booking request during the same period of time, the Contractor is obliged to forward this information before booking to the contact named in the order. The Contractor guarantees that throughout the hotel including all rooms and exterior areas pertinent to the Contractor there will be no advertisement and branding of other automotive/motorcycle manufacturer except for newspapers and magazines.

3. Remuneration

- 3.1 Unless otherwise agreed, the remuneration shall, however, not be paid until after the services have been rendered in accordance with the contract and 30 days following receipt by BMW of a proper and auditable invoice.
- 3.2 Insofar as deposits are agreed said deposits shall be made, at BMW's option, in return for a bank guarantee by a major German bank or by a group guarantee. The guarantee must apply for any and all claims arising out of any failure to execute the order in accordance with the contract, statements of account or warranty with a waiver of the defences of voidability, set-off and benefit of discussion as well as with any possibility of deposit excluded; however, it shall not exclude any further-reaching claims. The defence of set-off does not have to be waived to the extent that the Contractor's claim is not disputed by BMW, has become ripe for judgment or has been decided and become final and unappealable.
- 3.3 Payment shall be effected by bank transfer or by cheque. All payments are made subject to subsequent audit and the possible enforcement of claims for payment back together with claims for interest. The Contractor cannot therefore invoke, for example, any lapse of undue enrichment (Paragraph 818 German Civil Code (*BGB*)).
- 3.4 The Contractor must state the following details on its invoice; otherwise it will be rejected (Paragraph 14 German Act on Value Added Tax (*UStG*):
 - Complete name and address of the Contractor and of the recipient of the goods or services
 - Contractor's tax or value added tax ID number
 - Consecutive invoice number
 - Issue date or invoice date
 - Time when the goods or services were delivered
 - Trade description of the goods / services
 - Quantity
 - Net amount
 - Tax rate, amount of tax
 - Any reduction in remuneration agreed in advance if not already taken into account in the remuneration
- 3.5 All mentioned rates and prices include the actual valid Value Added Tax. In case of a governmental change of the VAT rate, the VAT for all mentioned rates will be modified accordingly.

4. Insurance

- 4.1 With regard to the liability for personal injury and damage to property and economic loss due to implementation of the contract, the Contractor must ensure that there is adequate insurance cover both on the merits and in quantum and must provide proof thereof upon request.
- 4.2 The following minimum sums insured apply to the above obligation to insure:
A flat-rate of EUR 5,000,000 for personal injury and other damage (damage to property and/or economic loss).
- 4.3 The Insurance coverage shall include loss of or damage to guest's valuables and property, including vehicles, being in care, custody or control of the Contractor.
- 4.4 Taking out insurances and concluding the above sums insured does not have the effect of limiting the Contractor's liability.

5. Maintaining Secrecy, Advertising

- 5.1 The Contractor undertakes to keep all information obtained from BMW in connection with the execution of the order secret. This shall not apply to the extent that it can be shown that the information concerned is in the public domain, comes into the public domain without any intent or negligence on the part of the Contractor, was lawfully obtained from a third party or if the Contractor already had the information.



- 5.2 This obligation of maintaining secrecy also extends to all employees and agents of the Contractor irrespective of the type and legal structure of the collaboration. The Contractor undertakes to impose corresponding obligations to maintain secrecy on this group of persons to the extent that this has not already been done. It shall also, in addition, take all reasonable precautions to prevent third parties from accessing the work results or the information obtained from BMW.
- 5.3 Advertising with the business relationship with BMW and other statements to the public or to administrative agencies regarding said business relationship are permitted only with prior written consent unless said statements are required by reason of mandatory legal provisions.
- 5.4 The above obligations under this Clause shall continue to endure beyond termination of this Agreement.

6. Data Protection

The Contractor shall ensure that all persons entrusted with the performance of this Agreement observe the statutory provisions on data protection and that they will not pass on to third parties, or exploit in any other way, information derived from BMW unless said information is in the public domain. Any obligation to maintain data secrecy required under data protection law must be imposed on said persons before they first start their work and must be evidenced to BMW upon request.

7. Environment

- 7.1 While performing under the Supply Contract Contractor shall use the necessary resources (in particular materials, energy and water) efficiently and shall reduce the environmental impact (in particular with respect to waste, wastewater, air pollution and noise) to a minimum. This also applies to the effort and expense of transportation and logistics.
- 7.2 The Contractor shall ensure that all and any of its sub-contractors are contractually bound to comply with the terms of this Provision 7.

8. Social Responsibility

- 8.1 For BMW it is of paramount importance that corporate activities take account of the social responsibility to employees and society as a whole. This applies both to BMW itself and to its suppliers. BMW's and Contractor's aim shall be to comply with the Directives of the UN Initiative Global Compact (Davos, 01/99) and the principles and rights set approved by the International Labour Organisation (ILO) in its "Declaration on fundamental principles and rights at work" (Geneva 06/98). The following principles are of particular importance:
- Preservation of human dignity and human rights, ban on child and forced labour;
 - Implementation of equal opportunities and family-friendly policies;
 - No discrimination on the basis of religion, origin, nationality, age, handicap, marital status, sexual orientation, political affiliation, membership of a trade union or the like, gender and veteran status;
 - The protection of indigenous rights;
 - Ban on bribery and blackmail;
 - Maintenance of adequate social working conditions;
 - Protection from individual arbitrary personnel measures;
 - Provision of conditions that enable employees to enjoy a reasonable standard of living;
 - Positive and negative freedom of association;
 - Maintenance of employability by basic and advanced training;
 - Provision of information to personnel on the objectives, economic situation and current topics that affect the company and the personnel;
 - Responsible action by all personnel in relation to the environment;
 - Compliance with industrial health and safety standards;
 - Compliance with current laws and regulations.

- 8.2 Contractor's aim shall be that all and any of its sub-contractors are contractually bound to comply with the terms of this Provision 8.

9. Termination

- 9.1 If the Contractor becomes unable to pay, ceases to make payments or if a petition is filed for the opening of insolvency proceedings or of court composition proceedings over the assets of the Contractor or one of its owners, BMW can rescind the non-performed part of the Agreement without prejudice to other rights.
- 9.2 BMW has the right to cancel the Agreement immediately, if the hotel is sold or if significant construction or renovation activity takes place at the hotel during the time of stay. This shall furthermore apply if it is not reasonable for guests to stay in the hotel subject to terrorism and/or responses thereto, acts of God, government regulations, disasters, strikes or disruption of transportation facilities. All cancellations have to be made in writing. Already paid deposits have to be transferred back to the Customer immediately. For the rest the statutory cancellation regulations apply.

10. Written Form

Any amendments, additions to and the termination of the Agreement are required to be in writing. This requirement of writing can be waived only by a declaration in writing.

11. General Provisions

- 11.1 The legal relationship between the parties shall be governed by German law as applicable between German merchants (*Kaufleute*). The application of the United Nations Convention on Contracts for the International Sale of Goods ("CISG") of 11th April 1980 is excluded.
- 11.2 Munich shall be the exclusive place of jurisdiction for any and all disputes arising from or in the context of this Agreement for both Parties unless a different place of jurisdiction is bindingly prescribed by law.
- 11.3 In the event that a provision of these Terms and Conditions of Contract or another provision between the contract parties is or becomes ineffective, the validity of the remainder of the Agreement shall not be affected thereby. The contract parties are obliged within the scope of that which is reasonable to, in good faith, replace the ineffective provision by a valid provision which has the equivalent outcome in terms of subject matter and economically provided that the content of the Agreement is not thereby materially changed.