

General Terms and Conditions of Business

I. Scope of application

1. All contracts of ewerk GmbH with promoters (notably permission for use contracts) shall be subject to these General Terms and Conditions exclusively.
2. Terms and conditions of the Promoter (of whatever kind) shall not become an integral part of the contract except with the express consent of ewerk GmbH.

II. Tasks and duties of the Promoter

1. Duty of care, safety, damage
 1. The Promoter acknowledges that the event will be held in a building of high architectural value. The Promoter shall be obliged to take a precautionary approach and advise its legal representatives and/or vicarious agents to take special care. It shall procure that the premises transferred including the installations and equipment located therein are treated with due care and consideration and maintained in a clean condition.
 2. Any safety impairments or damage shall be notified to ewerk GmbH or its agents without undue delay. In the event of imminent danger, the Promoter itself shall cause the necessary steps to be taken to prevent the occurrence of, or to mitigate the consequences of a loss. If the Promoter fails to make such notification or to take the necessary immediate measures, it shall be obliged to compensate the damage arising therefrom.
2. Statutory provisions, official permits and orders
 1. The Promoter shall take into due account the statutory regulations, notably the ordinance on the operation of special buildings [*Betriebsverordnung*], the ordinance on noise abatement [*Lärmschutzverordnung*] and the applicable regulations on the prevention of accidents.
 2. The Promoter shall, at its own responsibility, take into account and comply with the provisions of trade and industry law, the regulatory authorities and the fire authorities applicable for the intended use as well as the requirements of the laws for the protection of youths.
 3. It shall be responsible, to the extent applicable for the personal or company-specific conditions for approval, to obtain the official permits required for itself and its business at its own cost, to maintain the same during the term of use and to comply with any instructions by the regulatory authorities, even if issued subsequently. Upon request of ewerk GmbH, the Promoter shall prove the existence of the official permits in good advance before the commencement of the event.
3. Setup and clearance
 1. For setup and clearance, sufficient time shall be allowed for, so as to be able to perform the work completely and without risk. The dates for such work shall be coordinated so as to ensure proper workflow and – independent of the setup and clearance times determined by contract – agreed with ewerk GmbH in due time.
 2. The Promoter shall not be entitled to hammer nails into floors, walls, ceilings, etc., to install screws and/or to connect any other installations and equipment or devices firmly with the building.
 3. At the end of the term of use, the Promoter shall be obliged to perform all work required in order to restore the location of ewerk GmbH back into the condition it was in before commencement of the setup work. The Promoter shall fully remove any type of fittings and equipment applied by the Promoter at the transferred location provided or installed by third parties upon the Promoter's instruction.
 4. A joint inspection report shall be issued on the return of the transferred location. This shall state any complaints and/or defects as well as deadlines for corrective action. The record shall be signed by both Parties.
4. Equipment
 1. The scope of equipment to be contributed by the Promoter (e. g. superstructures and fittings, machinery, devices, furniture, decorating materials, etc.) shall be agreed with ewerk GmbH in advance.
 2. The equipment may only be contributed and installed in compliance with the existing statutory safety provisions. It shall notably be in compliance with fire protection regulations and permissible only in flame-resistant execution (DIN 4102 B1).
 3. The contribution of equipment must not obstruct or otherwise restrict the functionality of entrance and exit ways as well as escape routes. Safety lighting and pictographs must not be covered. Manoeuvring and parking spaces for police cars and rescue vans as well as fire fighting, fire detection and fire alarm systems shall be kept clear at all times.
 4. Superstructures, decorations, lighting and any other devices must be executed in a workmanlike manner, sustainable and stable. Injuries due to splinters or sharp edges and any other damage to health must be excluded. Suspended interior decorations must remain at least 2.5 metres clear from the floor. This shall not apply, however, to the equipment on specified stages and scenes.
 5. Between the external walls/supports and the equipment, a corridor with a clearance of at least 1 m in width must remain.
 6. It shall be prohibited to install conductors not complying with VDE standards.

7. The use of open fire or light as well as combustible materials shall not be allowed. The use of soot-free candles as table decoration shall be an exception.
 8. Artistic equipment, dangerous scenic performances and the ingress and involvement of animals shall be prohibited.
5. Organisational management/conduct of the event
1. The Promoter shall be responsible for ensuring the due and smooth functioning of the event.
 2. The Promoter shall ensure duly qualified organisational management in which the instructing and decision-making powers are clearly laid down. It shall name a person responsible to ewerk who shall be present at all times during the event and during setup and removal and ensure proper use according to the contract.
 3. The Promoter shall be responsible for ensuring sufficient aptitude of the personnel it assigned. The Promoter shall be responsible for providing the necessary number of suitably qualified personnel for the machinery and devices used. Only experienced and reliable persons older than 18 years may be instructed to operate technical stage installations and equipment, lighting, sound, media as well as machinery systems.
 4. The agents of ewerk GmbH must be granted access to the location at any time.
 5. ewerk GmbH shall be entitled to request that staff of the Promoter, including third-party personnel, be replaced to the extent that a factual reason exists (e. g. misconduct).
6. Valuables and coats
1. If events are held in rooms, the visitors shall be obliged pursuant to the regulations of the fire authorities to leave their coats at the cloakroom.
 2. ewerk GmbH shall not assume any liability for valuables, cash, clothes and any other objects brought by the Promoter, its employees, its agents, any sub-lessees, visitors or third parties.

III. Change in the type of use, subletting, other transfer of use

1. The location may be used by the Promoter only for the purpose agreed by contract and for the period agreed therein. Any change or expansion of the type of use shall require the express prior consent of ewerk GmbH.
2. Subletting – also in part – or any other transfer of use to third parties shall only be allowed with the express consent of ewerk GmbH.
3. In the event of subletting or other transfer of use, the Promoter shall be liable for the conduct of the sub-lessee or the party to whom it transferred the use of the location to the same degree as for its own conduct.

IV. Warranty, legal duty to maintain safety, liability, term of use

1. Warranty
 1. The location shall be taken over after thorough inspection. Upon takeover, the Promoter acknowledges that the location shall be in a condition in accordance with the contract.
 2. In the event of any defects impairing the suitability of the location for the use agreed by contract, the Promoter shall only be entitled to retain or reduce the remuneration for use if it notified the defect to ewerk GmbH immediately according to its type and extent without delay and ewerk GmbH is in default with its actions to repair such defects, despite the fact that a reasonable deadline was set.
2. Legal duty to maintain safety

Upon takeover of the location until full clearance, the Promoter shall assume the legal duties to maintain safety and shall indemnify ewerk GmbH against all claims based on breach of the legal duty to maintain safety with respect to the premises and installations and equipment used by it. ewerk GmbH's duties of maintenance (upkeep) remain unaffected.
3. Liability of ewerk GmbH
 1. The liability of ewerk GmbH under the contract and outside the contract shall be limited as follows:
 - a) in the event of fraudulent concealment of defects, if a guaranteed condition does not exist and in the event of culpable injury to life, limb or health, without restrictions, to the extent that such liability is not excluded or restricted by statute;
 - b) in the event of intentional or grossly negligent breach of duty, provided, however, that in the event of gross negligence on the part of non-executive employees the liability for damage to property and pecuniary loss shall be limited to the damage typical and foreseeable for the relevant type of contract;
 - c) for any other negligence, for damage to property and pecuniary loss only in the event of breach of material contractual duties (cardinal duties), provided, however, that the liability shall also be limited to the damage typical and foreseeable for the relevant type of contract.
 2. To the extent that, pursuant to lit. b) and c) above, the liability for damage to property and pecuniary loss is limited to the damage typical and foreseeable for the relevant type of contract, this shall also apply for lost profits and cost savings failing to occur. Also in all other cases of this kind, liability for consequential damage shall be excluded.

3. To the extent that liability is excluded or limited pursuant to paras. 1 to 2 above, this shall also apply for the personal liability of employees, agents or vicarious agents of ewerk GmbH.
4. Exceedance of the term of use
The term of use shall comprise the agreed setup and clearance times and the duration of the actual event. In the event that the term of use is exceeded, the Promoter shall pay a flat charge for use in the amount of EUR 375.00 for each hour or fraction of an hour. For times between 11 p.m. and 8 a.m., double this amount shall be paid. Any further going statutory claims for compensation for damages shall remain unaffected thereby, with the flat charge for use incurred being set off against the amount of compensation for damage.

V. Termination, cancellation

1. The Parties shall be entitled to terminate the permission for use contract for good cause without notice. Good cause shall notably exist for ewerk GmbH if
 - a) the Promoter seriously breaches its obligations under this contract (e. g. missing consent in the event of material change to the type of use, serious breach of the safety provisions and requirements stipulated in the Contract and its Annexes),
 - b) due to the intended event, disruptions of safety and order are to be expected or conducting the event breaches applicable law and/or orders and requirements by official authorities or if permits required from public authorities are not granted.
2. If ewerk GmbH uses its right of termination without notice, the claims for payment of the agreed compensation for use and any other ancillary costs shall remain with ewerk GmbH, with cost savings being set-off.
3. If the event is cancelled for a reason attributable to the Promoter, the following graduation shall apply: 24 weeks before the date of the event = 40%, 16 weeks before the date of the event = 60%, 12 weeks before the date of the event = 80%, 8 weeks before the date of the event=100 % of the agreed compensation for use shall be paid to ewerk GmbH.

VI. Miscellaneous

1. In all announcements for events, the venue shall be described as follows: ewerk, Wilhelmstrasse 43 (opposite the Ministry of Finance).
2. The logo of ewerk GmbH may only be used after prior consultation with ewerk GmbH, taking into account the corporate design. All documents, posters, internet presences or other media on or for which the logo is to be used must be submitted to ewerk GmbH for approval before publication. The same shall apply for all other printed matter and media presences produced in connection with the event as well as for any press releases.
3. Advertising means, boards, banners, etc. may be applied inside and outside the location only with the express prior consent of ewerk GmbH. They shall be removed again within the agreed term of use.
4. The Promoter may not allow any photos or shots to be taken at events for the purpose of commercial recording except with the prior consent of ewerk GmbH.
5. The Promoter itself shall be responsible for registering the event with GEMA and any other collecting societies (for images, text, etc.) as well as for paying the social contribution for artists. It shall indemnify ewerk GmbH against all claims of third parties in the event that these obligations were not complied with.
6. The Promoter shall be obliged to treat any operational procedures and data of ewerk GmbH becoming known in the context of the event confidential throughout the agreed contract term and beyond, and to comply with the provisions of the Federal Data Protection Act [*Bundesdatenschutzgesetz - BDSG*]. The Promoter shall impose the same obligation on any subcontractors.