

## **GENERAL TERMS AND CONDITIONS OF HOSPITALITY DIGITAL GMBH FOR THE WEB LISTING SERVICE**

Hospitality Digital GmbH Metro-Straße 1, 40235 Düsseldorf ("H.d") offers companies in the hotel and catering industry ("Customer") the use of the web listing service. The service is made available in a basic version that is free of charge and a chargeable premium version (together referred to as the "Services"). Both services are described in more detail below.

### **1. Scope of Application**

- 1.1 H.d provides the Services and other services exclusively on the basis of the following contractual conditions ("T&Cs").
- 1.2 H.d provides the Services exclusively to Customers who are not consumers within the meaning of Article 13 BGB (German Civil Code).
- 1.3 The Customer's alternative conditions shall not apply even when H.d does not expressly reject them and/or provides services and/or products without reservation despite knowledge of the Customer's contrary and/or deviating conditions.

### **2. Scope of Services**

- 2.1 The services provided by H.d in the basic version include the following free services during the term of the contract:
  - (a) Collection and storage of Customer information.

In connection with the delivery of the services, the Customer provides the following information for a location/store:

General information (company name, category), local availability (address and opening hours), telecommunications information (telephone numbers, email addresses, websites), services and products offered.

- (b) Publication on online platforms ("Publishing")

The services enable the automatic transfer of this information to third parties for publication on online platforms operated by those parties. In the basic version, the Customer is not offered all networked online platforms, but merely a selection of these. If information within the service is updated, these updates are automatically forwarded to the connected online platforms.

(c) Assumption of management rights ("Claiming")

In the event of a preexisting entry with a third-party provider, the assumption of the management rights to this publication will be initiated and, if necessary, obtained with the cooperation of the Customer, provided that the third-party provider makes this possible. This also enables the automated updating of information about the services.

(d) Reputation management

The Services enable the (automated) query and aggregated display of customer feedback such as ratings, reviews or questions, on third-party platforms. The Services make it possible to respond to customer feedback or to report inappropriate content, as far as this facility is provided by the third-party provider. In the basic version, some of these additional services are limited to a certain number of responses or notifications (e.g. limited to five per month).

(e) Statistics & analyses

The Services offer the collection, sorting and aggregated display of usage statistics of the content for third-party providers (e.g. page views, displaying search queries). The basic version provides a limited range of usage statistics and filtering/sorting options.

2.2 The services provided by H.d in the premium version include the following chargeable services in addition to the services provided by the basic version during the term of the contract:

(a) Collection and storage of Customer information

As in 2.1 (a).

(b) Publication on online platforms ("Publishing")

The premium version enables publication on all platforms linked to the Services. It is also possible to manage several stores/locations via the Services and according to the conditions of the platforms. It is possible to search for and suppress duplicate entries with third-party providers. Entries with third-party providers are checked regularly for incorrect changes made by third parties.

(c) Assumption of management rights ("Claiming")

As in 2.1 (c).

(d) Reputation management

In the premium version, the number of responses and notifications is unlimited. In addition, all filtering and sorting options are available.

(e) Statistics & analyses

In the premium version, the full range of usage statistics and filter/sorting options is available to the Customer.

(f) Content publishing

The premium version gives the Customer the opportunity to compose news for publication with third-party providers and to transfer this for publication (e.g. special offers, news, events), provided this is supported by the third-party providers.

2.3 H.d may offer the Customer additional services in connection with the basic and premium version or make necessary changes - but not to the Customer's disadvantage - to the range of available services. These additional services are provided in accordance with the terms of these General Terms and Conditions.

2.4 H.d may adapt the Services and other services to the state of the art and to technical developments or requirements, if such measures are tenable to the Customer.

- 2.5 Furthermore, H.d may discontinue the Services with a reasonable notice period. H.d shall inform the Customer of the service discontinuation in a timely manner (at least two weeks beforehand).

### **3. Obligations of the Customer**

- 3.1 Throughout the contract period the Customer is obligated to keep the business and contact data specified at the time of the conclusion of the contract permanently updated, and to notify H.d immediately of any change in writing or by email. The Customer must also ensure that the email address communicated to H.d is regularly checked to obtain information relevant to the contract.
- 3.2 The Customer shall protect login data given to it by H.d. from being accessed by unauthorized third parties. The Customer shall inform H.d immediately should the Customer have reasonable suspicion or knowledge about a possible misuse of the login data provided. In this case, H.d is entitled to temporarily block the Customer's login data to the Services until the suspicion of misuse no longer exists. If there is an actual case of misuse, H.d is entitled to block the login data permanently and to assign the Customer other login data.
- 3.3 The Customer bears sole responsibility for the accuracy and completeness of the information the Customer has provided. H.d. will not carry out any checks itself. In this respect, H.d does not accept any liability here (also see Clause 6).

### **4. Special Provisions for Services Software**

- 4.1 H.d grants the Customer the right to access the Services software without demanding a fee in the basic version beyond the relevant services described in these T&Cs. Use is only permitted for the Customer's own internal business purposes. The Customer hereby undertakes not to use the Services in an unlawful manner or for unlawful purposes.
- 4.2 Access to the services or their use by the Customer for third parties or other purposes is not permitted. In particular, the Customer does not have the right to reproduce the Services software, make it available or accessible to third parties, disassemble or otherwise alter it.

- 4.3 The Customer is not permitted to grant usage rights for the Services software to third parties. In particular, the Customer may not share login details the Customer has received for the Services without the express prior consent of H.d, even during the term of the contract.
- 4.4 The Customer hereby agrees that H.d may store and analyze all the data that the Customer provides (the “data”), and that H.d may use it for the purpose of analyses.
- 4.5 In return for providing the Services software, the Customer additionally grants H.d permission to augment the Customer’s data with other data (e.g. from publicly accessible third-party sources [such as analysis portals and social media] or other data sources accessible to H.d), to combine and evaluate it at the discretion of H.d for its own purposes, and to share these analyses with and make them accessible to third parties (especially, but not limited, to those involved in the [further] development and operation of the Services software as subcontractors as well as partner companies of H.d that offer digital solutions or other services for the Customer’s business operations).
- 4.6 H.d may continue to use the data and the associated analysis results without restrictions even after notice to terminate. This does not include personal data concerning the Customer or employees of the Customer, which may be used after the contract ends only to the extent permitted by law.

## **5. Conclusion of contract, term, termination**

- 5.1 The contract comes into force either directly during the sales process when the Customer provides an electronic signature or when H.d accepts the Customer’s offer to conclude a contract concerning the Services, which is concluded when the Customer registers online. In this case, acceptance shall be effected by corresponding granting of access to the Services software or by commencement of service provision by H.d.
- 5.2 In the basic version, the contract is concluded for an indefinite period and may be terminated by the Customer at any time, and by H.d with a notice period of two (2) weeks.
- 5.3 In the premium version, the contract is likewise concluded for an indefinite period of time, unless otherwise stated in the specific commercial offer. If no minimum term is established under the commercial offer, the Customer may also terminate the premium

version at any time. H.d may terminate the premium version with a notice period of two (2) weeks.

- 5.4 Unless another form is made available by H.d, notices of termination must be given in writing or by email. A deletion of the account by the Customer is equivalent to a termination and shall be treated as such.
- 5.5 The right of the parties to terminate the contract without notice for good cause shall remain unaffected. Good cause applies especially when the Customer breaches an obligation arising from Clauses 3.1, 4, 6.4 and 8.2.
- 5.6 After the contract ends, for whatever reason, H.d shall delete all data stored by the Customer in the storage space in connection with the contractual relationship within thirty (30) days, unless the Customer deletes this data themselves using the software. In addition, H.d shall delete the ownership and management rights to third-party publications from its systems or accounts with the third-party providers. As far as this is possible, H.d will invite the Customer to take over the management listing themselves. In this case, the Customer must contact the providers directly in order to delete the listings from the third-party providers. The conditions of the providers apply.

## **6. Warranty and liability, indemnity**

- 6.1 Regarding the Services and products that H.d provides to the Customer, H.d shall only compensate the Customer for the damage incurred by the Customer due to fraudulently concealed defects. H.d is not otherwise liable for legal and/or material defects in connection with the Services or products provided.
- 6.2 H.d, their vicarious agents or their legal representatives shall be liable for the Services and products provided by H.d to the Customer only in cases of intent, gross negligence, or for culpably causing death or personal injury, or for fraud. Liability pursuant to the Product Liability Act is not be affected.
- 6.3 In the fulfillment of the contract, H.d is dependent on third parties due to the nature of the Services. H.d can therefore accept no liability whatsoever in the event that third-party providers change their terms of use or technical connections such that further use of our Services is restricted or, in extreme cases, is no longer possible. For this reason,

H.d cannot make any promises regarding the connection to individual third-party providers.

- 6.4 The Customer is responsible for the accuracy of the data and guarantees it possesses the necessary rights to the data. The necessary rights include all consents required from data subjects as well as usage and exploitation rights.
- 6.5 The Customer shall release H.d, its vicarious agents and legal representatives and the companies affiliated with H.d according to Article 15 AktG (German Stock Corporation Act) at their first request from third-party claims asserted against H.d, its vicarious agents and legal representatives and/or the companies affiliated with H.d due to or in connection with the Services and/or other services, including third-party claims based on the illegal use of data and/or a lack of data subjects' consent and/or breaches of the personality rights of the Customer's employees. This indemnity clause also covers the necessary legal costs including arbitration costs.

## **7. Data protection, secrecy**

- 7.1 H.d processes the personal data of the Customer, the Customer's employees and other third parties, where provided by the Customer, exclusively in order to execute this contract, for example in order to establish contact and to provide the Services. This includes both the usage data generated during use of the Services, and also the data provided by the Customer. It is not possible to execute the contract without providing this personal data. This processing of personal data is based on Article 6(1)(b) General Data Protection Regulation (GDPR). The personal data of the Customer will be deleted following termination of the contract, unless there are legal obligations which require that personal data is stored for a longer period. In this case, the personal data will first be blocked for use for other purposes and then deleted as soon as the legally prescribed retention period has expired. For the purposes of executing the contract, H.d receives support from service providers, for example in the area of hosting, for maintenance and other services. These service providers may be external companies as well as companies affiliated with H.d according to Articles 15 et seq. German Stock Corporation Act. Through contractual agreements concluded with the service providers, H.d ensures that this personal data is processed in accordance with the provisions of the GDPR. This also applies insofar as the personal data is designated processing outside the EU/EEA. The Customer may exercise its rights according to the GDPR regarding

- information regarding the processing of their personal data and to obtain a copy of this data (Article 15 GDPR),
- rectification of inaccurate data and completion of incomplete personal data (Article 16 GDPR),
- erasure of the Customer's personal data and, insofar as this has been disclosed, H.d is required to inform other responsible parties about the deletion request (Article 17 GDPR),
- restriction of the processing of the Customer's personal data (Article 18 GDPR),
- data portability, such that the Customer's personal data is given to the Customer in a structured, common and machine-readable format and the right to transfer this data to another responsible party without hindrance by H.d (Article 20 GDPR)
- objection to data processing (Article 21 GDPR)

To do this, the Customer may contact H.d's data protection officer at any time (privacy@hd.digital). The Customer also has the right to lodge a complaint with the competent supervisory authority if it considers the data processing to be incompatible with the GDPR (Article 77 GDPR).

- 7.2 The parties must refrain from disclosing confidential information to third parties including after the end of the contract period, nor to use it for other purposes other than for the fulfillment of the contract. All information regarding all technical information and know-how made available to the Customer as well as other information that is marked as confidential by one of the two parties and that has economic value is considered confidential. This expressly includes business and trade secrets.
- 7.3 The non-disclosure obligation does not apply to information which has already become known to the other party or has entered the public domain without either party breaching Clause 7.2 or which must be disclosed due to a legal, judicial or official order or which is to be examined by third parties subject to a duty of confidentiality in connection with a proposed corporate acquisition.

## **8. Fee**

- 8.1 The prices for the Services in the premium version are displayed in a separate price list or the respective commercial offers shown online. In the case of a purchase order, the Customer will receive a confirmation email containing all relevant information.

- 8.2 The Customer is obligated to make the due payment within the payment period. If the customer is in arrears with a payment, H.d. reserves the right to withhold services until payment has been made, or to terminate the existing contract for good cause subsequent to another unsuccessful request for payment. In this case, H.d reserves the right to claim for damages and to make other claims.

## **9. Payment processing**

- 9.1 If the Customer chooses the chargeable premium version of the Services, the following applies to the payment process: H.d uses Wirecard AG, Einsteinring 35, 85609 Aschheim and Stripe Payments Europe Ltd., The One Building, 1 Grand Canal Street Lower, Dublin 2, Ireland (the "Payment Service Providers") to process payments.
- 9.2 Using this process, the payment service providers accept the Customer's payments via the various payment methods into their own account held with a bank and pay the funds to H.d. The available payment methods include, but are not limited to, prepayment, PayPal, and credit card.

## **10. Other provisions**

- 10.1 H.d may arrange for any or all of the measures required from H.d under this Agreement, in particular Services, to be performed by subcontractors.
- 10.2 H.d may amend these T&Cs following prior notification, including the intended changes vis-à-vis the Customer. H.d can amend the T&Cs only to the extent that this is tenable for the Customer, the amendments do not affect the essential contractual obligations, and the Customer is not worse off overall as a result of the amendment. The Customer may object to an amendment to the T&Cs within four (4) weeks of receipt of the notification, or it may terminate the contract without notice. Insofar as the Customer does not object to the amendment to the T&Cs, or fails to do so in due time, it will be deemed that the Customer has agreed to the amendment. H.d will notify the Customer of the consequences of the failure to raise an objection and of the right to terminate the contract without notice following notification of amendments to the T&Cs.

- 10.3 If a provision of this contract is or becomes completely or partially void, invalid, impracticable or unenforceable (a “Defective Provision”), then this shall not affect the validity or enforceability of the remaining provisions. The parties instead undertake here and now, within the limits of what is legally feasible, to replace the Defective Provision with one that which most closely fulfills that which the parties would have agreed according to the sense and purpose of the contract, had they recognized that the provision was defective. If the defectiveness of a provision relates to a measurement of performance or time specified therein (time limit or deadline), the parties will then agree the provision that contains a measurement closest to that of the original.. The same applies to any loopholes in this contract. It is the express intention of the parties that this severability clause not result in a mere reversal of the burden of proof, but that Article 139 BGB (German Civil Code) is waived altogether.
- 10.4 The contract and all claims and rights arising from, or in connection with the contract are governed exclusively by German law to the exclusion of the rules on the conflict of laws, and must be interpreted and enforced in accordance with German law. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded. The place of performance is Düsseldorf.
- 10.5 The sole legal venue for all disputes arising from or in connection with this contract, its conclusion or its execution is, where legally permissible, Düsseldorf.

Version: August 2019/AG

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