

General Terms and Conditions of Rauschenberger Restaurants (As of September 2022)

§ 1 Scope of Application

These General Terms and Conditions apply to all contracts of Cube Restaurant GmbH & Co. KG, Schaflandstraße 6, 70736 Fellbach, managing general partner: RCR Verwaltungs GmbH, Managing Director: Natascha Flamm.

2. The Contractor's Terms and Conditions apply exclusively, unless the Contractor has expressly agreed to the application of other terms and conditions. The terms and conditions of the Client or of third parties ("third-party terms") do not apply, even if the Contractor does not separately object to their application in an individual case. Even if the Contractor refers to a letter that contains or refers to third-party terms, this does not constitute agreement to the application of those third-party terms.

§ 2 Conclusion of Contract, Amendments to the Contract

1. The Client may accept any of the Contractor's offers for the conclusion of a booking, insofar as they are not expressly marked as non-binding, within 10 days of receipt, unless a shorter acceptance period has been specified.
2. The booking, including these General Terms and Conditions, is solely decisive for the legal relationship between the Contractor and the Client. It fully reflects all agreements between the contracting parties regarding the subject matter of the contract. Verbal commitments made by the Contractor prior to the conclusion of this contract are not legally binding, and verbal agreements between the contracting parties are superseded by the written contract, unless it is expressly stated therein that they remain binding.
3. The conclusion of the contract for the booking, as well as any additions to or amendments of the agreement reached, including these General Terms and Conditions, must be made in text form to be effective. With the exception of managing directors or authorized signatories, the Contractor's employees are not authorized to make verbal agreements deviating from this.

§ 3 Services, Changes to the Number of Persons, the Menu Sequence, Buffet Services

1. The Contractor is obligated to provide the services ordered by the Client and confirmed by the Contractor. In particular, the service is owed only at the contractually agreed time. At the Client's request, the Contractor may continue to provide services after the contractually agreed end of the event, subject to these General Terms and Conditions and to any separately agreed pricing and service conditions for this purpose; however, the Contractor has no obligation to do so without an express contractual agreement.
2. An increase in the number of persons by more than 5% must be reported to the Contractor no later than 5 business days before the start of the event; it requires the Contractor's consent, which should be given in text form. Unless otherwise agreed, the agreed price increases accordingly, insofar as prices have been agreed depending on the number of persons. The cancellation terms of these General Terms and Conditions apply to any reduction in the number of participants.
3. The Client may not bring food or beverages, either personally or through third parties, for consumption at events. Exceptions require an agreement with the Contractor, potentially including an agreement on a flat compensation fee for any resulting loss of revenue.
4. The Client may notify the Contractor of any requested changes to an agreed menu sequence up to 10 days before the event.
5. Insofar as food is served in the form of a buffet, only the maintenance of the buffet for a reasonable period, usually three hours, is owed ("buffet time"); in the case of unfavorable climatic conditions, the buffet time may be reasonably shortened by the Contractor if a longer service period is not possible due to the risk of microbiological changes to the food offered. Buffets are dimensioned such that a certain selection remains available even for the last guests toward the end of the buffet time.

6. Unless otherwise specifically agreed, the Client has no claim to take away food not consumed during the buffet time. Insofar as taking away food is specifically permitted contractually, the Contractor owes only the remaining food, with quality potentially diminished by the display time and no longer suitable for consumption.

§ 4 Prices, Payment

1. The price stated in offers (§ 2 para. 1 of these terms) includes statutory value-added tax unless stated otherwise. Insofar as only an estimated total price is stated in offers, the actual total price may depend on the actual services used during the event.
2. The Client is obligated to pay the Contractor's prices agreed upon or applicable for the services included in the contract and for any further services used at the Client's request. This also applies to services commissioned by the Client directly or through the Contractor, which are provided by third parties and advanced by the Contractor. This applies in particular to claims by copyright collecting societies.
3. In particular with regard to expenses incurred in advance due to the event and the lack of alternative use of preparatory services, the following advance payments by the Client shall be due unless otherwise agreed:
 - a. An advance payment of 50% of the estimated total costs upon placing the order;
 - b. A further advance payment of 35% of the estimated total costs 4 weeks before the event.
 - c. Unless otherwise agreed, and subject to the right to demand payment when due, advance payments must be credited to the Contractor's account no later than the 14th day before the event.
4. Final invoices are due immediately and must be paid within 10 days of receipt of the invoice. Advance payments are taken into account in the final invoice. No cash discount is granted.
5. Set-off against counterclaims of the Client, or withholding payments because of such claims, is permitted only insofar as the counterclaims are undisputed or have been legally established.

§ 5 Withdrawal, Cancellation by the Client

1. The Client may withdraw from the contract concluded with the Contractor regarding the booking only if a right of withdrawal has been expressly agreed in the contract, another statutory right of withdrawal exists, or the Contractor expressly agrees to the cancellation of the contract. Any agreement on a right of withdrawal, as well as any consent to a cancellation of the contract, must be made in text form.
2. If the Contractor and the Client have agreed on a date up to which free withdrawal is possible, the Client may withdraw from the contract by declaration in text form, which must be received by the Contractor by that date, without triggering any payment or damages claims by the Contractor. The right of withdrawal expires if not exercised by the agreed date.
3. If a right of withdrawal has not been agreed or has already expired, or if there is also no statutory right to withdraw free of charge, the provisions set out in paragraphs 4–8 below shall apply in the case of announced ("cancellation") or unannounced ("no-show") non-use of the service.
4. The Client must pay in full any costs agreed under the booking contract independently of the actual level of consumption ("fixed costs"), whereby a flat-rate deduction is made from the fixed costs to account for saved expenses and/or alternative use, or malicious non-use, of labor and/or any alternative allocation of reserved tables, graduated as follows:
 - a. For cancellations up to and including the day that is 8 weeks before the event, a flat-rate deduction of 50% is applied; the Client must pay 50% of the fixed costs.
 - b. For cancellations up to and including the day that is 4 weeks before the event, a flat-rate deduction of 35% is applied; the Client must pay 65% of the fixed costs.

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- c. For cancellations up to and including the day that is 1 day before the event, a flat-rate deduction of 10% is applied; the Client must pay 90% of the fixed costs.
5. The Client must pay in full any costs agreed under an exclusive-hire booking contract independently of the actual level of consumption ("fixed costs"), whereby a flat-rate deduction is made from the fixed costs to account for saved expenses and/or alternative use, or malicious non-use, of labor and/or any alternative use of restaurant premises, graduated as follows:
 - a. For cancellations up to and including the day that is 16 weeks before the event, a flat-rate deduction of 35% is applied; the Client must pay 65% of the fixed costs.
 - b. For cancellations up to and including the day that is 12 weeks before the event, a flat-rate deduction of 25% is applied; the Client must pay 75% of the fixed costs.
 - c. For cancellations up to and including the day that is 7 weeks before the event, a flat-rate deduction of 15% is applied; the Client must pay 85% of the fixed costs.
 - d. For cancellations up to and including the day that is 1 week before the event, a flat-rate deduction of 5% is applied; the Client must pay 95% of the fixed costs.
 - e. For cancellations less than 1 week before the event, or in the case of no-shows, a flat-rate deduction of 0% is applied; the Client must pay 100% of the fixed costs.
6. The Client is expressly permitted to prove that, due to saved expenses and/or alternative use, or malicious non-use, of labor and/or any alternative use of reserved tables and restaurant premises, a higher deduction from the fixed costs should be made and/or that the Contractor's claim to payment of the fixed costs does not exist at all, or is substantially lower than determined by the flat-rate deduction.
7. These provisions apply correspondingly to partial cancellations for a reduced number of participants at the event.
8. The Contractor's right to prove substantially lower savings in the event of the Client's cancellation, and thereby to demand a higher share of the fixed costs in accordance with statutory provisions, remains unaffected.

§ 6 Withdrawal by the Contractor

1. If it has been agreed that the Client may withdraw from the contract free of charge within a certain period, the Contractor is likewise entitled to withdraw from the contract during that period if unconditional offers from other customers without free-cancellation reservations are available, and the Client, upon the Contractor's inquiry with a reasonable deadline, does not waive its contractual right of withdrawal.
2. If the advance payment (insofar as owed) is not made, the Contractor is entitled to withdraw from the contract after the expiry of a reasonable grace period.
3. Furthermore, subject to further statutory rights of withdrawal, the Contractor is entitled to withdraw from the contract for the following reasons:
 - a. Force majeure and other events not foreseeable by, and not attributable to, the Contractor that make fulfillment of the contract impossible;
 - b. If an event is booked culpably based on misleading or false information, or by concealing material facts; material facts may in particular include the identity of the Client, its creditworthiness, or the purpose of the event;
 - c. If the Contractor has justified reason to believe that the event may endanger the smooth operation of the business, safety, or the Contractor's public reputation, without this being attributable to the Contractor's sphere of control or organization;
 - d. If the purpose or occasion of the event is unlawful.

4. The exercise of a right of withdrawal does not exclude the assertion of claims for damages.

§ 7 Technical Facilities, Furnishings, and Connections

1. Insofar as the Contractor procures technical or other facilities such as furnishings from third parties on behalf of the Client and at the Client's request, the Contractor acts in the name, with the authority, and for the account of the Client. The Client is liable for careful handling and proper return of such items. The Client shall indemnify the Contractor against all third-party claims arising from the provision of these facilities.
2. The use of the Client's own electrical equipment and the use of the Contractor's power supply require the Contractor's consent. Any disruptions or damage to the Contractor's technical facilities caused by the use of such equipment shall be borne by the Client, unless the Contractor is responsible for them. The Contractor may charge the resulting electricity costs on a flat-rate basis.
3. Disruptions to technical or other facilities provided by the Contractor will, where possible, be remedied promptly. Payments may not be withheld or reduced insofar as the Contractor is not responsible for such disruptions.

§ 8 Decorative Material Brought by the Client

1. Decorative material brought onto the premises must comply with fire safety requirements. The Contractor is entitled to request official proof of compliance. If no such proof is provided, the Contractor is entitled to remove any material already brought in at the Client's expense. To avoid possible damage, the placement and installation of any items must be coordinated with the Contractor in advance.
2. Any exhibition items or other objects brought in by the Client must be removed immediately after the end of the event. Should the Client fail to do so, the Contractor may arrange for their removal and storage at the Client's expense. If such items remain in the event room, the Contractor may charge reasonable compensation for the use of the room for the duration for which it remains unavailable.

§ 9 Liability

1. The Contractor's strict (no-fault) guarantee liability for initial defects in a rented item (including restaurant premises) is excluded; the Contractor is liable for initial defects only in the case of fault.
2. Unless otherwise specified below, claims for damages are excluded regardless of legal basis. The Contractor is liable for damages only: in cases of intent; in cases of gross negligence; in cases of culpable injury to life, body, or health; in cases of defects that the Contractor fraudulently concealed; within the scope of a guarantee commitment; and for defects in a delivered product, insofar as liability applies under the Product Liability Act for personal injury or property damage to privately used items. In the event of culpable breach of material contractual obligations (obligations whose fulfillment is essential to the proper performance of the contract and on whose observance the Client may regularly rely), the Contractor shall also be liable in cases of slight negligence, but limited to the foreseeable damage typical for this type of contract.
3. Should disruptions or defects occur in the Contractor's services, the Contractor will make reasonable efforts to remedy them upon becoming aware of them or upon prompt notice from the Client. The Client is obligated to contribute what can reasonably be expected in order to resolve the disruption and keep any potential damage to a minimum. Furthermore, the Client is obligated to notify the Contractor in good time of the possibility of unusually high damages arising.

§ 10 Final Provisions

1. The place of performance and payment shall be the registered office of the Contractor.
2. Insofar as the Client is a merchant within the meaning of §§ 1 et seq. of the German Commercial Code (HGB), a legal entity under public law, or a special fund under public law, the exclusive place of jurisdiction

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for all disputes arising from or in connection with this contract, including its validity, shall be the registered office of the Contractor.

3. German law shall apply. The application of the UN Convention on the International Sale of Goods (CISG) and conflict of laws provisions is excluded.
4. Should individual provisions of the contract and these General Terms and Conditions be or become invalid or void, or contain gaps, the validity of the remaining provisions shall not be affected. Insofar as the contract or these General Terms and Conditions contain gaps, those legally effective provisions shall be deemed agreed to fill such gaps which the contracting parties would have agreed upon in accordance with the economic objectives of the contract and the purpose of these terms, had they been aware of the gap.