



## **TERMS AND CONDITIONS OF THE ELBPILHARMONIE UND LAEISZHALLE BETRIEBSGESELLSCHAFT MBH**

You will find our Terms and Conditions below (**valid from 29 April 2019**):

**It is split into three parts:**

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### **Part I:**

#### **Terms and Conditions of the Elbphilharmonie und Laeishalle Betriebsgesellschaft mbH for the Purchase of Admission Tickets**

##### **I.1. Scope**

- I.1.1. These Terms and Conditions apply to events, guided tours and visits to the Elbphilharmonie Plaza offered by Elbphilharmonie und Laeishalle Betriebsgesellschaft mbH (hereinafter: ELBG) either in its own name or on behalf of the respective event Promoter.
- I.1.2. Should further Terms and Conditions be included in the contract, in particular the Promoter's own Terms and Conditions, these Terms and Conditions shall take precedence over further Terms and Conditions in the event of contradictions. This does not apply to Clauses I.12. and I.13. The General Insurance Conditions [GIC] of the insurer also apply to ticket insurance.
- I.1.3. In addition to these Terms and Conditions, the house regulations available at the venue shall apply. In case of contradictions, these Terms and Conditions take precedence over the house regulations.

##### **I.2. Contractual Partner / Services**

- I.2.1. ELBG sells tickets exclusively on behalf of the respective Promoter, unless it itself is expressly designated as the Promoter (e.g. when visiting the Plaza or on guided tours of the Elbphilharmonie). The rights and obligations arising from the event contract are therefore established between the respective Promoter and the customer, so that the customer's claims arising from the event contract (e.g. regarding the organisation of the event, cancellation, relocation, etc.) must be asserted directly against the Promoter.



- I.2.2. ELBG is commissioned by the Promoter with the execution and processing of ticket sales (execution of the purchase process, dispatch of tickets, payment processing, etc.). The respective Promoter remains the contractual partner. For a quicker handling of questions or problems, the customer is asked to contact ELBG.
- I.3.3. Neither ELBG nor the Promoter are contractual partners with regard to any claim for transport with the transport companies in the Hamburger Verkehrsverbund (HVV) connected with the conclusion of the event contract. Rather, the contracting party is the responsible transport company of the Hamburger Verkehrsverbund with regard to transport. ELBG collects the travel costs included in the ticket price for the transport company. With the exception of events at the Elbphilharmonie, not all admission tickets are eligible for transport, but only those designated as »Kombi-Tickets«. The customer has no right to choose between a »Kombi-Ticket« and a standard ticket.

### **I.3. Order / Conclusion of Contract**

- I.3.1. The order of the customer through a ticket shop, by telephone or through the online shop represents the offer to conclude the event contract, which is accepted by the respective Promoter, represented by ELBG, in accordance with the following regulations.
- I.3.2. The contract is concluded when the customer places an order at a ticket shop of ELBG or another authorised sales outlet and the admission ticket is handed over.
- I.3.3. In the case of an order via telephone, the contract is concluded by the declaration of acceptance of the ELBG employee on the telephone.
- I.3.4. When placing an order in the online shop, the contract is concluded as follows: the customer selects the tickets he intends to buy and places them in his/her shopping basket. Via the button »Checkout« the customer is asked to enter his/her personal data or to log in and to specify the desired delivery method. The available payment methods are then displayed to the customer. After selecting the payment method, all purchase data is displayed to the customer on the order overview page »Summary«. As soon as the customer has confirmed that he/she has read the Terms and Conditions and the Privacy Policy and then clicked on the »Buy Now« button, he/she triggers the purchase and thus submits his/her offer to conclude the contract. The Promoter's declaration of acceptance will be sent by email.

As long as the button »Buy Now« has not been clicked, the order data can be changed or the purchase can be cancelled at any time. To change the order data, the customer can either click on the »Back« button (also via the »Back« function of the browser) or use the individual buttons of the shopping basket system to access the desired page of the purchase process and make changes there.

The concrete contract text of the purchase is not stored. Before completing the purchase, however, it is possible to view the contract data, print it using the browser's print function and save the data yourself. These can also be viewed in the customer account at any time after the purchase.

- I.3.5. If tickets are issued at random, e.g. due to high demand, the customer can select tickets in a certain price category as part of the application process and participate in the application process. If the customer is then randomly allocated or offered an admission ticket of the price category chosen by him/her or another price category, an event contract will only be concluded with him/her after that.



Participation in the application procedure is non-binding for the customer; the Promoter and ELBG shall not charge any costs for participation in the application procedure.

Participation in the application process takes place in such a way that the customer selects the desired tickets in the online shop and then clicks on the »Apply Now« button. After the tickets have been issued at random, each participant will be informed by email whether or not he/she has been allocated tickets. In the event of notification of successful allocation, this shall also constitute the Promoter's offer to conclude the event contract, which the customer may then accept. There is no obligation to do so.

In the case of random allocation, legal recourse is excluded. No rights can be derived solely from participation in the application process at random.

Participation in the application process is only permitted for the specified maximum quantity of admission tickets. Participants who circumvent this rule, e.g. by specifying different names, can be excluded from the allocation of tickets. The same applies to persons who are excluded from the purchase of admission tickets for other reasons.

- I.3.6. Part III of these Terms and Conditions applies for purchases of vouchers sold by ELBG. Vouchers and any remaining credit can be redeemed up to the end of the third year after the purchase date of the voucher. Vouchers are transferable. ELBG can free itself from its obligation by making a payment to the bearer. If the voucher is lost, there is no entitlement to a replacement. There is no entitlement to a pay-out of the value of the voucher or any remaining credit.

Vouchers can only be redeemed in the ticket shops, by phone or in the online shop for admission tickets or publications sold there by the ELBG either in its own name or on behalf of the respective Promoter. Vouchers cannot be redeemed in the Elbphilharmonie Shop on the Plaza. A voucher can only be redeemed if tickets are available for the desired event.

#### **I.4. Price Components / Shipping Costs / Terms of Payment**

- I.4.1. The amount to be paid by the customer for the admission tickets may exceed the prices printed on the admission tickets, as, for example, the advance booking offices may charge separate advance booking fees. If processing and shipping costs are charged in ELBG's online shop, however, these are visible in the shopping basket before the customer's purchase is completed, so that the total price to be paid is always recognisable. All prices quoted in the online shop include the applicable statutory value-added tax.
- I.4.2. If tickets are delivered by post, they will be sent by standard mail. The customer shall bear the shipping fees.
- I.4.3. Depending on the event and order models, the customer can choose between the following payment methods within the scope of his/her purchase:
- Cash payment (only at ticket shops)
  - Payment in advance
  - Credit card (Visa, MasterCard / EuroCard)
  - SOFORT Überweisung (direct bank transfer)
  - PayPal
  - Amazon Pay



- I.4.4. If payment is made in advance, the total price must be transferred to the account specified by ELBG by the date stated by ELBG in the invoice. The tickets purchased will not be dispatched until the full amount has been received.
- I.4.5. If an instant payment system (PayPal, SOFORT Überweisung, Amazon Pay) has been selected as payment method, the customer will either be redirected to the purchase overview page or to the corresponding website of the provider of the instant payment system. There, the appropriate selection or entry of personal data must then be made.
- I.4.6. The Promoter and ELBG reserve the right to restrict the use of the above payment methods individually to the use of one or only certain payment methods.

#### **I.5. Payment Date / Retention of Proprietary Rights / Chargeback**

- I.5.1. The purchase price becomes due immediately upon conclusion of the contract, unless otherwise notified by the Promoter or ELBG (e.g. in the case of payment in advance).
- I.5.2. Tickets remain the property of the Promoter until full payment has been received.  
Should a payment be debited back in the case of payment by credit card, the customer is obliged to reimburse the costs incurred by the chargeback, in particular the fees of third parties, such as the banks involved. Further claims of the Promoter due to delay or non-performance of the customer remain unaffected by this. In order to avoid the costs associated with the direct debit, the customer is asked not to object to the direct debit in the event of withdrawal from the purchase contract, a return or a complaint, but to agree with ELBG on the reversal of the payment.

#### **I.6. Delivery / Transfer of Risk**

- I.6.1. Tickets are either handed over to the customer directly on site, delivered on request or are available as print@home tickets or mobile tickets. The dispatch of the tickets is possible only 10 days or more before the respective event. For events at the Elbphilharmonie, only the first use of the barcode printed on the ticket entitles the holder to admission – irrespective of whether it is shown on an original ticket, as a print@home printout or as a mobile ticket via mobile device. It is the customer's responsibility to protect his/her customer account, print@home printout or mobile ticket from unauthorised access by third parties. If a print@home ticket is used at other venues, only the first printout presented to the admission staff is valid. Copies or reprints of this ticket are made at the customer's own risk.
- I.6.2. If the tickets are dispatched at the customer's request, the risk of accidental loss, loss or accidental deterioration shall pass to the customer as soon as the Promoter or ELBG has handed over the tickets to the shipping company. The selection of the shipping company is made by the Promoter or ELBG.
- I.6.3. If tickets are deposited at a ticket shop or at the box office at the customer's request, the customer may only collect the tickets from there during opening hours.

#### **I.7. Maximum Order Quantity / Contractual Penalty**

- I.7.1. Each customer may – irrespective of the number of order transactions – order no more than the maximum number of admission tickets stated as a maximum quantity. Circumvention of this prohibition, e.g. by giving different names, is prohibited.
- I.7.2. In the event of a violation of this prohibition, the Promoter is entitled to withdraw from the event contracts concluded by the customer for this event in excess of the maximum quantity, e.g. by blocking the admission tickets. In addition, the customer is obliged to



pay a **contractual penalty** to the Promoter, the amount of which is to be determined by the Promoter at its reasonable discretion and which, in the event of a dispute, may be reviewed by the relevant court, but which may not exceed five times the value of the tickets covered by the cancellation. If the customer is entitled to a refund due to the withdrawal, the Promoter can offset this against the **contractual penalty**. Any other contractual penalties shall be taken into account when determining the **contractual penalty**. The Promoter's claims for damages shall remain unaffected, whereby the contractual penalties shall be offset against claims for damages based on the same facts.

#### **I.8. Entitlement to Attend the Event, Entering into the Event Contract, Entering Name on the Admission Ticket, Ticket Resale and Transfer Prohibitions, Consequences of Infringements, Contractual Penalties (»Personalised Tickets«)**

- I.8.1. Once they have entered into the event contract and paid the price in full as outlined in I.4.1. the customer becomes entitled to attend the event (right to attend). To prove that they are the Promoter's contractual partner and that they have the right to attend, the visitor must present the admission ticket and – if required to do so by the Promoter – a photo ID. The Promoter retains the right to refuse entry to the event to ticket holders who do not have the right to attend, and expressly to do so by blocking the admission ticket. If the Promoter grants the ticket holder entry, the Promoter is freed from their performance duty towards the contractual partner, even if the ticket holder is not the contractual partner/has no right to attend. Only one person is entitled to attend the event for each right to attend.
- I.8.2. The entitlement to attend the event applies only on the basis of the event contract, which the customer has concluded with the Promoter or into which agreement they have entered subject to the preconditions of Clause I.8.3. Another precondition for attending the event is that the customer must present the ticket with their name on the front. If, in an authorised handover of the event contract and the associated transfer of the ticket, a name has already been entered, that name must be crossed out and the name of the person entering into the contract noted on the free space on the front of the ticket, taking care not to write over the barcode.
- I.8.3. The purchaser can only transfer the rights and duties arising from the event contract (and thereby also the right to attend) to a third party when that third party enters into the event contract in their place, thereby taking on all the rights and duties arising from the contract (transfer of contract). This requires the approval of the Promoter, which is hereby granted in advance subject to limitations outlined in Clause I.8.4. The transfer of individual rights from the event contract, in particular the right to attend, is excluded if the third party does not at the same time take on all the rights and duties arising from the event contract with the approval of the Promoter. Where the purchaser has, in a legitimate way, acquired several rights to attend under a single event contract, and passes on the rights to attend in a legitimate way to a number of third parties by means of a transfer of contract, this results in the formation of separate event contracts with each of the persons entering into them.
- I.8.4. ELBG and the Promoter have an interest in preventing the selling-on of tickets at inflated prices and the danger of criminal offences in connection with the attendance of the event. For that reason, the Promoter does not issue approval for a third party to enter into the event contract pursuant to Clause I.8.3. in the following cases:



- In the sale of admission tickets if the resale price exceeds the fee owed by the contractual partner for the respective admission ticket pursuant to Clause I.4.1., including any fees such as advance booking, processing and service fees and shipping costs plus a lump sum of 5.00 EUR, by more than 10%; this also applies, in particular, within the scope of a private transfer;
  - The sale of admission tickets within the framework of auctions (in particular on the Internet) itself or through third parties;
  - The sale of admission tickets commercially without the express prior written consent of the Promoter or ELBG;
  - The sale or transfer of admission tickets free of charge without the express prior written consent of the Promoter or ELBG for purposes of advertising, marketing, as a bonus, promotional gift, prize or part of a hospitality or travel package;
  - The intentional sale or transfer of admission tickets to persons who are banned from the venue or event spaces.
- I.8.5. The resale and transfer of admission tickets in violation of Clause I.8.4. is prohibited. The same applies to the offer of admission tickets if the resale or transfer corresponding to the offer would violate Clause I.8.4.
- I.8.6. For each violation of the prohibition mentioned in Clause I.8.5., the customer is obliged to pay a **contractual penalty** to the Promoter, the amount of which is to be determined by the Promoter at its reasonable discretion and which in the event of a dispute may be reviewed by the relevant court, which may not exceed 2,500.00 EUR per violation. The number of tickets illegally offered or transferred or the number of tickets transferred for which the name and address of the recipient was not disclosed shall be decisive for the number of infringements. Any other contractual penalties shall be taken into account when determining the **contractual penalty**. The Promoter's claims for damages shall remain unaffected, whereby the contractual penalties shall be offset against claims for damages based on the same facts.
- I.8.7. In the event of a violation of the prohibition pursuant to Clause 1.8.5., the Promoter is entitled, in addition to the demand for a **contractual penalty**, to withdraw from the event contract and/or to block the admission ticket and to deny the ticket holder the access to the event. Where the customer is entitled to a refund due to the withdrawal from the contract, the Promoter shall take this into account when determining the **contractual penalty**; the Promoter can offset the refund claim against the **contractual penalty**.
- I.8.8. In the event of a violation of the prohibition pursuant to Clause 1.8.5., the Promoter is entitled to exclude the customer from the purchase of admission tickets in the future without prejudice to the contractual freedom of the Promoter.
- I.8.9. In the event of a sale or transfer of an admission ticket, the contractual partner must provide the Promoter with the name and address of the recipient of the admission ticket when requested by the Promoter.
- I.8.10. If the contractual partner does not fulfil their duties pursuant to Clause I.8.9. within a reasonable period of time and if the Promoter is, as a result, unable – in the event of a violation of the prohibition pursuant to Clause I.8.5. by the recipient or any other transferee – to enforce a **contractual penalty**, the Promoter is entitled to demand a **contractual penalty** from the contractual party. The penalty amount is to be determined with the appropriate application of Clause I.8.6. and taking into due consideration any other contractual penalties, and can, where disputed, be reviewed by the competent court.



- I.8.11. Because of its position as the Promoter's representative, ELBG is also expressly entitled to exercise the Promoter's rights outlined in Clauses I.8.6. to I.8.10. on their behalf and in their name.

#### **I.9. Acquisition Under a Third Party's Name or by a Representative / Contractual Penalty**

- I.9.1. The purchase of admission tickets under a third party's or fake name with the intent to realise a profit is prohibited.
- I.9.2. The Promoter is entitled to withdraw from or terminate the contract if an admission ticket is purchased contrary to the prohibition in Clause I.9.1. and the contract was initially concluded due to lack of knowledge of the Promoter of the violation.
- I.9.3. The purchaser of the admission ticket is also obliged to pay a **contractual penalty** to the Promoter for each violation of the prohibition in Clause I.9.1., the amount of which is to be determined by the Promoter at its reasonable discretion and which may be reviewed in the event of a dispute by the relevant court, but may not exceed 2,500.00 EUR per violation. The number of tickets purchased under a third party's name is decisive for the number of infringements.
- I.9.4. If the customer is entitled to a claim for reimbursement due to the withdrawal pursuant to Clause I.9.2., the Promoter may offset this against the **contractual penalty** pursuant to Clause I.9.3. Any other contractual penalties shall be taken into account when determining the **contractual penalty**. Further claims for damages shall remain unaffected, whereby the contractual penalties shall be offset against claims for damages based on the same circumstances.
- I.9.5. Due to its position as representative of the Promoter, ELBG is in particular entitled to exercise the rights of the Promoter regulated in Clauses I.9.1. to I.9.4. for the latter and on its behalf.

#### **I.10. Discounts / Verification of Data**

- I.10.1. Attendance of an event at a reduced price is only possible if the respective discount entitlement still exists on the day of the event. Proof of eligibility must be provided to the admission staff upon request. If no proof is provided, admission to the event is only possible if the difference to the full ticket price is paid. The combination of discounts (e.g. student discounts and reductions for people with disabilities) is excluded.
- I.10.2. If the right to a discount is not yet available at the time of conclusion of the contract, but is acquired at a later date, there is no claim to subsequent reduction or withdrawal from the contract. The same applies if a Promoter introduces and offers discounts at a later date.
- I.10.3. The customer is obliged to check the tickets immediately upon receipt for their correctness with regard to number, date and location of the event, time, discount, etc., and to assert any complaints without delay. If an admission ticket is purchased at a ticket shop, it must be checked immediately on site. The same applies to the confirmation email sent to the customer, which must also be checked for accuracy of the data immediately upon receipt. Complaints about tickets not purchased on site can be made by telephone via the ELBG hotline (+49 40 357 666 66) or by email to **tickets@elbphilharmonie.de**.



### **I.11. Wheelchair Users / Guide and Assistance Dogs**

Places are available for wheelchair users. The right to an accessible place only exists if a corresponding request has been registered before the purchase of an admission ticket and the Promoter or ELBG as its representative has confirmed that such a place is available. Guide and assistance dogs must be registered in advance.

### **I.12. Cancellation, Relocation and Modification of Events**

- I.12.1. Pursuant to Clause I.1.2. Sentence 2 of the Terms and Conditions, the following terms of this Clause I.12. only apply insofar as they do not differ from any of the Promoter's own Terms and Conditions.
- I.12.2. The Promoter reserves the right to cancel or terminate an event due to force majeure (in particular, storms, earthquakes, floods, fire, war, strikes, external operational disruptions – for example, due to a power failure), because the state security authorities advise against or prohibit the execution or continuation of the event due to the risk of a terrorist attack, or because of the hindrance, illness or death of a performer, if no replacement is available or this is indicated for reasons of piety. In this event, the customer will receive the ticket price back in full or – if the event is terminated after it has begun – proportionately. Further claims of the customer are excluded if the Promoter is not responsible for the reason for the cancellation or termination of the event. The Promoter's statutory rights to cancel or terminate an event remain unaffected.
- I.12.3. The Promoter reserves the right, in the event of the hindrance, illness or death of a performer, to change the cast and/or the programme at its reasonable discretion or to move the event to a different location or to a different date at its reasonable discretion for a reason stated in Clause I.12.2., provided this is reasonable for the customer, taking into account the interests of the Promoter. In this case, the customer's rights of withdrawal and reduction are excluded. The Promoter's statutory rights to relocate or change an event remain unaffected.
- I.12.4. The Promoter reserves the right to allocate the customer a different seat for the event in question at its reasonable discretion even after conclusion of the contract if the seat shown on the admission ticket is not available (e.g. due to a defect) and this is reasonable for the customer taking into account the interests of the Promoter. In this case, the customer's rights of refund and reduction of ticket price are excluded. The Promoter's legal rights to change the venue remain unaffected.
- I.12.5. In the case of a guided tour through the Elbphilharmonie, there is no claim to certain spaces being visited. ELBG endeavours to make it possible to visit the Grand Hall on every guided tour; however, this may be excluded in individual cases, due to rehearsals etc. taking place there.





### **I.13. Liability of the Promoter and its Vicarious Agents and Legal Representatives**

- I.13.1. Pursuant to Clause I.1.2. Sentence 2 of the Terms and Conditions, the following terms of this Clause I.13. only apply insofar as they do not differ from the Promoter's own Terms and Conditions.
- I.13.2. The liability of the Promoter for damages resulting from injury to life, body or health, which is not based on a culpable (i.e. intentional or negligent) breach of duty by the Promoter or its legal representatives or vicarious agents, is excluded.
- I.13.3. The Promoter is only liable for damages other than those resulting from injury to life, body or health if they are based on intent or gross negligence on the part of the Promoter or its legal representatives or vicarious agents. However, insofar as the damages are based on the breach of essential contractual obligations (i.e. obligations whose fulfilment is essential for the proper performance of the contract and on whose compliance the contractual partner regularly relies and may rely), the Promoter shall be liable for any fault, however, in the case of slight negligence limited to the foreseeable, contract-typical damage.
- I.13.4. Liability under the Product Liability Act, which governs a manufacturer's liability for products, remains unaffected by Clauses I.13.2. and I.13.3.
- I.13.5. The regulations according to Clauses I.13.2. to I.13.4. apply accordingly to the liability of vicarious agents and legal representatives of the Promoter. They also apply accordingly to the liability of ELBG and its vicarious agents and legal representatives.
- I.13.6. The burden of presenting the case and the burden of proof remain unaffected by this Clause I.13.

### **I.14. Revocation (Cancellation)**

The customer may not revoke his/her declaration directed towards the conclusion of the contract, as there is no right of revocation pursuant to § 312 g Paragraph 2, Sentence 1, No. 9 BGB (German Civil Code). Tickets are therefore not refundable.

### **I.15. Data Protection**

The data collected in connection with orders in the online shop and in telephone sales are collected, processed and used in accordance with the valid data protection regulations for the purpose of processing the order, delivering the purchased articles and handling payments. You can find further information in our Privacy Policy at [www.elbphilharmonie.de/en/privacy-policy](http://www.elbphilharmonie.de/en/privacy-policy).

### **I.16. Dispute Resolution**

The EU provides an online platform for out-of-court dispute resolution for consumers at <http://ec.europa.eu/consumers/odr/>

ELBG is not obliged to participate in dispute resolution proceedings before a consumer arbitration body. However, it is prepared to participate in such a dispute settlement procedure in cases where it is itself the Promoter. The same applies to the Promoter HamburgMusik gGmbH.



### **I.17. Choice of Law / Agreement on International and Local Jurisdiction**

- I.17.1. The law of the Federal Republic of Germany shall apply exclusively, with the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- I.17.2. The German courts shall have exclusive international jurisdiction for legal disputes arising from or in connection with the event contract if the customer has concluded the contract for a purpose which can be attributed to his/her professional or commercial activity or if the customer had his/her place of residence or usual abode in the Federal Republic of Germany when the contract was concluded. In all other respects, the statutory rules of jurisdiction shall apply.
- I.17.3. If the German courts have international jurisdiction and if the customer was a merchant at the time the contract was concluded, the courts in Hamburg-Mitte (Amtsgericht Hamburg-Mitte or Landgericht Hamburg) shall have exclusive local jurisdiction. In all other respects, the statutory rules of jurisdiction shall apply.



## **Part II:**

### **Terms and Conditions of the Elbphilharmonie und Laeiszhalle Betriebsgesellschaft mbH for the Purchase of Subscriptions**

#### **II.1. Scope**

- II.1.1. These Terms and Conditions apply to subscriptions offered by Elbphilharmonie und Laeiszhalle Betriebsgesellschaft mbH (hereinafter: ELBG) either in its own name or on behalf of the respective event Promoter.
- II.1.2. Should further Terms and Conditions be included in the contract, in particular the Promoter's own Terms and Conditions, these Terms and Conditions shall take precedence over further Terms and Conditions in the event of contradictions. This does not apply to NDR subscriptions – here, additional NDR's Terms and Conditions for the Purchase of Subscriptions shall take precedence over the ELBG's Terms and Conditions in the event of contradictions. The General Insurance Conditions [GCI] of the insurer also apply to ticket insurance.
- II.1.3. In addition to these Terms and Conditions, the house regulations available at the venue shall apply. In case of contradictions, these Terms and Conditions take precedence over the house regulations.

#### **II.2. Contractual Partner / Services**

- II.2.1. ELBG sells subscriptions exclusively on behalf of the respective Promoter. The rights and obligations arising from the subscription contract are therefore established between the respective Promoter and the customer, so that the customer's claims arising from the subscription contract (e.g. regarding the organisation of the event, cancellation, relocation, etc.) must be asserted directly against the Promoter.
- II.2.2. ELBG is commissioned by the Promoter with the execution and processing of subscription sales (execution of the purchase process, dispatch of subscription cards, payment processing, etc.). The respective Promoter remains the contractual partner. For a quicker handling of questions or problems, the customer is asked to contact ELBG.
- II.2.3. Neither ELBG nor the Promoter are contractual partners with regard to any claim for transport with the transport companies in the Hamburger Verkehrsverbund (HVV) connected with the conclusion of the subscription contract. Rather, the contracting party is the responsible transport company of the Hamburger Verkehrsverbund with regard to transport. ELBG collects the travel costs included in the ticket price for the transport company. With the exception of events at the Elbphilharmonie, not all admission tickets are eligible for transport, but only those designated as »Kombi-Tickets«. The customer has no right to choose between a »Kombi-Ticket« and a standard ticket.

#### **II.3. Order / Conclusion of Contract**

- II.3.1. The customer can order a subscription through a ticket shop, by telephone, through the online shop or by email at [abo@elbphilharmonie.de](mailto:abo@elbphilharmonie.de).
- II.3.2. When placing an order in the online shop, the contract is concluded as follows: the customer selects the subscription(s) he intends to buy and places them in his/her shopping basket. Via the button »Continue« the customer is asked to specify the number of seats, the price category and his/her seat request. Then via the button



»Checkout« the customer is asked to log in or to enter his/her personal data and to specify the names of the seat holders. Afterwards, all purchase data is displayed to the customer on the order overview page »Order Summary«. As soon as the customer has confirmed that he/she has read the Terms and Conditions and then clicked on the »Buy Now« button, he/she triggers the purchase and thus submits his/her offer to conclude the contract. The Promoter's declaration of acceptance will be sent by email.

As long as the button »Buy Now« has not been clicked, the order data can be changed or the purchase can be cancelled at any time. To change the order data, the customer can either click on the »Back« button (also via the »back« function of the browser) or use the individual buttons of the shopping basket system to access the desired page of the purchase process and make changes there.

The concrete contract text of the purchase is not stored. Before completing the purchase, however, it is possible to view the contract data, print it using the browser's print function and save the data yourself. These can also be viewed in the customer account at any time after the purchase.

- II.3.3. If subscriptions are issued at random, e.g. due to high demand, the customer can request seats for a subscription in a certain price category as part of the application process and participate in the application process. If the customer is then randomly allocated or offered a subscription of the price category chosen by him/her or another price category, a subscription contract will only be concluded with him/her after that.

Participation in the application procedure is non-binding for the customer; the Promoter and ELBG shall not charge any costs for participation in the application procedure.

Participation in the application process takes place in such a way that the customer selects the desired subscription(s), for which he/she would like to conclude a subscription contract, and places it in his/her shopping basket. Via the button »Continue« the customer is asked to specify the number of seats and the price category. Afterwards, all application data is displayed to the customer on the overview page »Order Summary«. As soon as the customer has confirmed that he/she has read the Terms and Conditions and then clicked on the »Apply Now« button, he/she participates in the application process. After the subscriptions have been issued at random, each participant will be informed by email whether or not he/she has been allocated his/her requested subscription. In the event of notification of successful allocation, this shall also constitute the Promoter's offer to conclude the subscription contract, which the customer may then accept.

In the case of random allocation, legal recourse is excluded. No rights can be derived solely from participation in the application process at random.

Participation in the application process is only permitted for the specified maximum quantity of subscriptions. Participants who circumvent this rule, e.g. by specifying different names, can be excluded from the allocation of subscriptions. The same applies to persons who are excluded from the purchase of subscriptions for other reasons.

## **II.4. Period of Validity and Extension / Price Components**

- II.4.1. A subscription is valid for the booked series during the booked concert season, and is automatically extended for another season unless it is terminated in writing by the subscriber or the Promoter by 31 May of the current concert season.



This does not apply for subscriptions for »Hasi Concerts« by Symphoniker Hamburg e.V. (Symphoniker Hamburg), which automatically expire at the end of the season. However, the subscriber will, where available, receive an offer from Symphoniker Hamburg to take out a corresponding subscription for the following season, which they can accept or decline, e.g. if their children are no longer in the specified age group. There is, however, no legal entitlement to a subscription offer for the following season.

- II.4.2. The subscription price is calculated by adding the prices of the individual events and deducting the subscription discount. The total price of the subscription is made up of the subscription price plus any applicable processing and shipping charges.

## **II.5. Payment Methods / Payment Date / Retention of Proprietary Rights / Chargeback**

- II.5.1. Depending on the event and order models, the customer can choose between the following payment methods within the scope of his/her purchase:

- Cash payment (only at ticket shops)
- Payment in advance
- Credit card (Visa, MasterCard / EuroCard)
- SOFORT Überweisung (direct bank transfer)
- PayPal
- Amazon Pay

- II.5.2. If payment is made in advance, the total price must be transferred to the account specified by ELBG by the date stated by ELBG in the invoice. If the customer is in default of payment, and if the invoice amount due is not paid in time despite a prior reminder/overdue notice, the subscription will be cancelled.

- II.5.3. If an instant payment system (PayPal, SOFORT Überweisung, Amazon Pay) has been selected as payment method, the customer will either be redirected to the purchase overview page or to the corresponding website of the provider of the instant payment system. There, the appropriate selection or entry of personal data must then be made.

- II.5.4. The Promoter and ELBG reserve the right to restrict the use of the above payment methods individually to the use of one or only certain payment methods.

- II.5.5. Subscription cards remain the property of the Promoter until full payment has been received. Subscriptions cards will not be dispatched until the full amount has been received.

Should a payment be debited back in the case of payment by credit card, the customer is obliged to reimburse the costs incurred by the chargeback, in particular the fees of third parties, such as the banks involved. Further claims of the Promoter due to delay or non-performance of the customer remain unaffected by this. In order to avoid the costs associated with the direct debit, the customer is asked not to object to the direct debit in the event of withdrawal from the purchase contract, a return or a complaint, but to agree with ELBG on the reversal of the payment.

## **II.6. Subscription Cards / Delivery / Risk of Loss**

- II.6.1. If the Promoter issues a subscription pass (subscription card), the concert dates, the booked seat and the name of the subscriber will be entered on it. The subscription card is valid as an admission ticket for all concerts included in the subscription and must be presented to gain admission; it is not possible to have individual tickets printed for individual events.



If the Promoter does not issue a subscription pass (subscription card), but rather issues individual admission tickets for each event included in the subscription, each ticket entitles the bearer to be admitted to the event noted on the admission ticket.

Both the subscription pass (subscription card) and individual tickets from a subscription are described in these Terms and Conditions as »subscription tickets«.

The Elbphilharmonie Card is included in the HamburgMusik gGmbH (HamburgMusik) and Ensemble Resonanz e.V. (Ensemble Resonanz) subscriptions. The Elbphilharmonie Card grants a concession of 10% when purchasing up to two tickets for HamburgMusik events. The HamburgMusik subscription card is valid as an Elbphilharmonie Card. The Elbphilharmonie Card is also issued to Ensemble Resonanz subscribers.

The Symphoniker Hamburg subscription card entitles the holder to a concession of 10% on two tickets for selected Elbphilharmonie Hamburg concerts and Symphoniker Hamburg concerts during the current season.

- II.6.2. The subscription tickets (subscription card or individual tickets) are sent out automatically by standard mail by the end of August at the latest, and that free of charge for HamburgMusik subscriptions. In all other cases the customer must pay for shipping costs.

The risk of accidental loss, destruction or deterioration passes over to the customer as soon as the Promoter or ELBG has handed over the subscription tickets to the shipping company. The Promoter or ELBG chooses the shipping company.

## **II.7. Inability to Attend / Credit**

If the customer is unable to attend one of the events in the subscription series, they can give up their right to attend that event, in which case they will be issued credit to the value of the weighted subscription price proportion apportioned to that right to attend. The customer can redeem the credit for an admission ticket for any event by the same Promoter within the same concert season as long as that concert is not sold out. This kind of »exchange« can be done a maximum of two times in one concert season. A request for an exchange must be submitted in person, by phone or in writing at least one week before the concert included in the subscription. Since the issuance of credit is based solely on the reduced subscription price, an additional payment is required as a rule. No refunds are issued for events that have not been attended. This Clause II.7. does not apply to subscriptions for »Hasi Concerts« with Symphoniker Hamburg; in that instance it is not possible to make such exchanges.

## **II.8. Purpose of Use / Transfer to Third Parties/ Contractual Penalty**

II.8.1. ELBG and the Promoter have an interest in preventing the resale of subscription cards at excessive prices and the risk of criminal offences in connection with attending the events. For this reason, the following regulations apply to the use and transfer of subscription cards.

II.8.2. Subscription cards may only be purchased and used for private purposes.

II.8.3. It is prohibited,

- to resell subscription cards or individual visiting rights if the resale price exceeds the fee paid by the customer for each subscription card or for the visiting rights mentioned in Clause II.4.2., including any fees such as advance booking, processing and service fees and shipping costs plus a lump sum of 5.00 EUR, by more than 10%; this also applies, in particular, within the scope of a private transfer (the sum



- apportioned to an individual visiting right to attend is calculated from the weighted subscription price apportioned to the respective event);
- to sell subscription cards or individual visiting rights within the framework of auctions (in particular on the Internet) itself or through third parties;
  - to sell subscription cards or individual visiting rights via Internet marketplaces or consumer-to-consumer Internet platforms or Internet ticket exchanges themselves or through third parties;
  - to sell subscription cards or individual visiting rights commercially without the express prior written consent of the Promoter or ELBG;
  - to sell or transfer subscription cards or individual visiting rights free of charge without the express prior written consent of the Promoter or ELBG for purposes of advertising, marketing, as a bonus, promotional gift, prize or part of a hospitality or travel package;
  - to intentionally sell or transfer subscription cards or individual visiting rights to persons who are banned from the venue or event spaces;
  - to sell or transfer subscription cards or individual visiting rights without agreeing with the person who takes over the subscription card or individual visiting right that this person is bound to these Terms and Conditions – in particular to the regulations in Clause II.8. – in connection with the Promoter after the transfer and that the Promoter is therefore also entitled to the rights arising from this contract in connection with the transferee of the subscription card or individual visiting right [contract in favour of third parties].
- II.8.4. The resale and transfer of subscription cards or individual visiting rights in violation of Clauses II.8.2. and II.8.3. is prohibited. The same applies to the offer of subscription cards or individual visiting rights if the resale or transfer corresponding to the offer would violate Clauses II.8.2. and II.8.3.
- II.8.5. In the event that a subscription card or individual visiting right is resold or transferred, the customer is obliged, at the request of the Promoter, to inform the latter within 14 days of the name and address of the recipient.
- II.8.6. For each violation of the prohibition mentioned in Clause II.8.4. or the requirement mentioned in Clause II.8.5., the customer is obliged to pay a contractual penalty to the Promoter, the amount of which is to be determined by the Promoter at its reasonable discretion and which in the event of a dispute may be reviewed by the relevant court, which may not exceed 2,500.00 EUR per violation. The number of subscription cards or individual visiting rights illegally offered or transferred or the number of subscription cards or individual visiting rights transferred for which the name and address of the recipient was not disclosed shall be decisive for the number of infringements. Any other contractual penalties shall be taken into account when determining the contractual penalty. The Promoter's claims for damages shall remain unaffected, whereby the contractual penalties shall be offset against claims for damages based on the same facts.
- II.8.7. For each violation of the prohibition mentioned in Clause II.8.4. or the requirement mentioned in Clause II.8.5., the Promoter is entitled, in addition to the demand for a contractual penalty, to withdraw from the subscription contract and/or to block the subscription card and to deny the cardholder the access to the event. In addition, the Promoter is entitled to exclude the customer from the purchase of subscription cards or admission tickets in the future without prejudice to the contractual freedom of the



Promoter. If the customer is entitled to a refund due to the withdrawal, the Promoter can offset this with the contractual penalty.

- II.8.8. If, when transferring the subscription card or the visiting right, the customer has not agreed with the transferee that the transferee is bound towards the Promoter in these Terms and Conditions after transferring it – in particular to the regulations in Clause II.8. – and if, for this reason, it is not possible to assert a contractual penalty against the transferee, the Promoter is entitled to demand a contractual penalty from the customer. Clause II.8.6. shall apply accordingly for the determination of the contractual penalty; in the event of a dispute, the contractual penalty may be reviewed by the relevant court. The Promoter's claims for damages shall remain unaffected, whereby the contractual penalties shall be offset against claims for damages based on the same circumstances.
- II.8.9. Due to its position as representative of the Promoter, ELBG is, in particular, entitled to exercise the rights of the Promoter as provided for in Clauses II.8.2. to II.8.8. for the Promoter and on its behalf.

## II.9. Acquisition Under a Third Party's Name or by a Representative / Contractual Penalty

- II.9.1. The purchase of subscription cards under a third party's or fake name with the intent to realise a profit is prohibited.
- II.9.2. The Promoter is entitled to withdraw from or terminate the contract if a subscription card is purchased contrary to the prohibition in Clause II.9.1. and the contract was initially concluded due to lack of knowledge of the Promoter of the violation.
- II.9.3. The purchaser of the subscription card is also obliged to pay a **contractual penalty** to the Promoter for each violation of the prohibition in Clause II.9.1., the amount of which is to be determined by the Promoter at its reasonable discretion and which may be reviewed in the event of a dispute by the relevant court, but may not exceed 2,500.00 EUR per violation. The number of subscription cards purchased under a third party's name is decisive for the number of infringements.
- II.9.4. If the customer is entitled to a claim for reimbursement due to the withdrawal pursuant to Clause II.9.2., the Promoter may offset this against the **contractual penalty** pursuant to Clause II.9.3. Any other contractual penalties shall be taken into account when determining the **contractual penalty**. Further claims for damages shall remain unaffected, whereby the contractual penalties shall be offset against claims for damages based on the same circumstances.
- II.9.5. Due to its position as representative of the Promoter, ELBG is in particular entitled to exercise the rights of the Promoter regulated in Clauses II.9.1. to II.9.4. for the latter and on its behalf.

## II.10. Discounts / Verification of Data

- II.10.1. Attendance of an event at a reduced price is only possible if the respective discount entitlement still exists on the day of the event. Proof of eligibility must be provided to the admission staff upon request. If no proof is provided, admission to the event is only possible if the difference to the full ticket price is paid. The combination of discounts (e.g. student discounts and reductions for people with disabilities) is excluded.
- II.10.2. If the right to a discount is not yet available at the time of conclusion of the contract, but is acquired at a later date, there is no claim to subsequent reduction or withdrawal from





the contract. The same applies if a Promoter introduces and offers discounts at a later date.

- II.10.3. If a Promoter offers a youth subscription for young people under 28, this subscription for young people under 28 can only be extended if the subscriber's 28th birthday does not fall into the season for which the subscription is being booked.  
The youth subscription is only valid with an ID document.
- II.10.4. The customer is obliged to check the subscription card immediately upon receipt for their correctness with regard to number, date and location of the event, time, discount, etc., and to assert any complaints without delay. If a subscription card is purchased at a ticket shop, it must be checked immediately on site. The same applies to the confirmation email sent to the customer, which must also be checked for accuracy of the data immediately upon receipt. Complaints about subscription cards not purchased on site can be made by telephone via the ELBG hotline (+49 40 357 666 66) or by email to **abo@elbphilharmonie.de**.
- II.10.5. The customer must give notification of any change in name or address. If a valid email address has been provided, the customer will receive up-to-date information about last-minute changes and other important additional information relating to their concert attendance in good time before the concert date.

## **II.11. Wheelchair Users / Guide and Assistance Dogs**

Places are available for wheelchair users. The right to an accessible place only exists if a corresponding request has been registered before the purchase of a subscription and the Promoter or ELBG as its representative has confirmed that such a place is available. Guide and assistance dogs must be registered in advance.

## **II.12. Cancellation, Relocation and Modification of Events**

- II.12.1. In deviation from Clause II.1.2. Sentence 1 of the Terms and Conditions, the following terms of this Clause II.12. apply only insofar as they do not differ from the Terms and Conditions of the Promoter.
- II.12.2. The Promoter reserves the right to cancel or terminate an event due to force majeure (in particular, storms, earthquakes, floods, fire, war, strikes, external operational disruptions – for example, due to a power failure), because the state security authorities advise against or prohibit the execution or continuation of the event due to the risk of a terrorist attack, or because of the hindrance, illness or death of a performer, if no replacement is available or this is indicated for reasons of piety. In this event, the customer will receive the weighted subscription price for the event in question back in full or – if the event is terminated after it has begun – proportionately. Further claims of the customer are excluded if the Promoter is not responsible for the reason for the cancellation or termination of the event. The Promoter's statutory rights to cancel or terminate an event remain unaffected.
- II.12.3. The Promoter reserves the right, in the event of the hindrance, illness or death of a performer, to change the cast and/or the programme at its reasonable discretion or to move the event to a different location or to a different date at its reasonable discretion for a reason stated in Clause II.12.2., provided this is reasonable for the customer, taking into account the interests of the Promoter. In this case, the customer's rights of withdrawal and reduction are excluded. The Promoter's statutory rights to relocate or change an event remain unaffected.



II.12.4. The Promoter reserves the right to allocate the customer a different seat for the event in question at its reasonable discretion even after conclusion of the contract if the seat shown on the subscription card is not available (e.g. due to a defect) and this is reasonable for the customer taking into account the interests of the Promoter. In this case, the customer's rights of refund and reduction of the weighted subscription price for the event in question are excluded. The Promoter's legal rights to change the venue remain unaffected.

### **II.13. Liability of the Promoter and its Vicarious Agents and Legal Representatives**

- II.13.1. In deviation from Clause II.1.2. Sentence 1 of the Terms and Conditions, the following terms of this Clause II.13. apply only insofar as they do not differ from the Terms and Conditions of the Promoter.
- II.13.2. The liability of the Promoter for damages resulting from injury to life, body or health, which is not based on a culpable (i.e. intentional or negligent) breach of duty by the Promoter or its legal representatives or vicarious agents, is excluded.
- II.13.3. The Promoter is only liable for damages other than those resulting from injury to life, body or health if they are based on intent or gross negligence on the part of the Promoter or its legal representatives or vicarious agents. However, insofar as the damages are based on the breach of essential contractual obligations (i.e. obligations whose fulfilment is essential for the proper performance of the contract and on whose compliance the contractual partner regularly relies and may rely), the Promoter shall be liable for any fault, however, in the case of slight negligence limited to the foreseeable, contract-typical damage.
- II.13.4. Liability under the Product Liability Act, which governs a manufacturer's liability for products, remains unaffected by Clauses II.13.2. and II.13.3.
- II.13.5. The regulations according to Clauses II.13.2. to II.13.4. apply accordingly to the liability of vicarious agents and legal representatives of the Promoter. They also apply accordingly to the liability of ELBG and its vicarious agents and legal representatives.
- II.13.6. The burden of presenting the case and the burden of proof remain unaffected by this Clause II.13.

### **II.14. Revocation (Cancellation)**

The customer may not revoke his/her declaration directed towards the conclusion of the contract, as there is no right of revocation pursuant to § 312 g Paragraph 2, Sentence 1, No. 9 BGB (German Civil Code). Subscription cards are therefore not refundable.

### **II.15. Data Protection**

The data collected in connection with orders in the online shop and in telephone sales are collected, processed and used in accordance with the valid data protection regulations for the purpose of processing the order, delivering the purchased articles and handling payments. You can find further information in our Privacy Policy at [www.elbphilharmonie.de/en/privacy-policy](http://www.elbphilharmonie.de/en/privacy-policy).

### **II.16. Dispute Resolution**

The EU provides an online platform for out-of-court dispute resolution for consumers at <http://ec.europa.eu/consumers/odr/>

ELBG is not obliged to participate in dispute resolution proceedings before a consumer arbitration body. However, it is prepared to participate in such a dispute settlement procedure



in cases where it is itself the Promoter. The same applies to the Promoter HamburgMusik gGmbH.

**I.17. Choice of Law / Agreement on International and Local Jurisdiction**

- I.17.1. The law of the Federal Republic of Germany shall apply exclusively, with the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- I.17.2. The German courts shall have exclusive international jurisdiction for legal disputes arising from or in connection with the event contract if the customer has concluded the contract for a purpose which can be attributed to his/her professional or commercial activity or if the customer had his/her place of residence or usual abode in the Federal Republic of Germany when the contract was concluded. In all other respects, the statutory rules of jurisdiction shall apply.
- I.17.3. If the German courts have international jurisdiction and if the customer was a merchant at the time the contract was concluded, the courts in Hamburg-Mitte (Amtsgericht Hamburg-Mitte or Landgericht Hamburg) shall have exclusive local jurisdiction. In all other respects, the statutory rules of jurisdiction shall apply.



## **Part III:**

### **Terms and Conditions of the Elbphilharmonie und Laeiszhalle Betriebsgesellschaft mbH for the Purchase of Goods (not incl. Admission Tickets)**

#### **III.1. Scope / Definitions**

- III.1.1. These Terms and Conditions apply to purchase contracts for goods and vouchers concluded between the  
Elbphilharmonie und Laeiszhalle Betriebsgesellschaft mbH  
Platz der Deutschen Einheit 4, 20457 Hamburg  
phone: +49 40 357 666 0  
registered in the Commercial Register of Hamburg Local Court under HRB 107803,  
represented by the managing directors Christoph Lieben-Seutter and Jochen Margedant, VAT Identification No. DE262934253  
- hereinafter »ELBG« -  
and their customers, via the ELBG online shop at [www.elbphilharmonie.com](http://www.elbphilharmonie.com), by telephone or an ELBG sales outlet.
- III.1.2. Part III of these Terms and Conditions do not apply to the purchase of admission tickets for events or for the purchase of subscriptions. Parts I and II of these Terms and Conditions apply to the purchase of admission tickets for events and for the purchase of subscriptions respectively.
- III.1.3. Deviating Terms and Conditions of the customer are not accepted by ELBG unless ELBG expressly agrees to their validity in writing.
- III.1.4. The customer is a consumer, as far as the purpose of the ordered deliveries and services cannot be predominantly attributed to his/her commercial or self-employed professional activity. By contrast, an entrepreneur is any natural or legal person or partnership with legal capacity who, when concluding the contract, acts in the exercise of his/her commercial or self-employed professional activity.

#### **III.2. Conclusion of Contract**

- III.2.1. The order of the customer in the online shop of ELBG, by telephone or from an ELBG sales outlet represents the offer to conclude a purchase contract, which is accepted by ELBG according to the following regulations.
- III.2.2. In the case of an order placed by the customer at an ELBG sales outlet, the contract is concluded by the handing over of goods.
- III.2.3. In the case of an order by telephone, the contract is concluded by the declaration of acceptance of the ELBG employee on the telephone.
- III.2.4. When placing an order in the online shop, the contract is concluded as follows: The customer selects the goods he/she intends to buy and places them in his/her shopping basket. Via the button »Checkout« the customer is asked to enter his/her personal data or to log in and to specify the desired shipping method. The available payment methods are then displayed to the customer. After selecting the payment method, all order data is displayed to the customer on the order overview page »Summary«. As soon as the customer has confirmed that he/she has read the Terms and Conditions and the Privacy Policy and then clicked on the »Buy Now« button, he/she triggers the order and thus submits his/her offer to conclude the contract. The ELBG's declaration of acceptance will be sent by email.



As long as the button »Buy Now« has not been clicked, the order data can be changed or the purchase can be cancelled at any time. To change the order data, the customer can either click on the »Back« button (also via the »back« function of the browser) or use the individual buttons of the shopping basket system to access the desired page of the order process and make changes there.

The concrete contract text of the order is not stored. Before completing the order, however, it is possible to view the contract data, print it using the browser's print function and save the data yourself. These can also be viewed in the customer account at any time after ordering.

The contents of the contract will be sent to the customer on a permanent data carrier (email or paper printout) at the latest upon delivery of the goods.

### **III.3. Delivery / Availability of Goods**

- III.3.1. If the goods are sold at a point of sale, they will be handed over immediately, unless otherwise stated.
- III.3.2. The delivery times stated by ELBG in the online shop and in telephone sales are calculated from the time of the order confirmation, provided that the purchase price has been paid in advance (except for purchase on account). If no delivery time or no deviating delivery time is indicated, it is 10 days.
- III.3.3. In the case of an order by telephone, the contract is concluded by the declaration of acceptance of the ELBG employee on the telephone.

### **III.4. Price Components / Shipping Costs / Terms of Payment**

- III.4.1. All prices quoted include the applicable statutory value added tax.
- III.4.2. The shipping costs are indicated to the customer in the order form of the online shop or verbally in the telephone sales and are to be borne by the customer, as far as the customer does not make use of his/her right of withdrawal.
- III.4.3. In the event of withdrawal, the customer shall bear the direct costs of the return shipment.

### **III.5. Terms of Payment**

- III.5.1. Depending on the order modalities, the customer can choose between the following payment methods:
  - Cash payment (only at ticket shops)
  - Payment in advance
  - Credit card (Visa, Mastercard / Eurocard)
  - SOFORT Überweisung (direct bank transfer)
  - PayPal
  - Amazon Pay
- III.5.2. If payment is made in advance, the total price must be transferred to the account specified by ELBG by the date stated by ELBG in the invoice. The goods will not be dispatched until the full amount has been received.



- III.5.3. If an instant payment system (PayPal, SOFORT Überweisung, Amazon Pay) has been selected as the payment method, the customer will be forwarded to either the order overview page or the corresponding website of the provider of the instant payment system. There, the appropriate selection or entry of personal data must then be made.
- III.5.4. ELBG reserves the right to restrict the use of the above payment methods individually to the use of one or only certain payment methods.

### **III.6. Payment Deadline / Retention of Proprietary Rights / Chargeback**

- III.6.1. The purchase price becomes due immediately upon conclusion of the contract, unless otherwise notified by ELBG (e.g. in the case of advance payment).
- III.6.2. The goods remain the property of ELBG until full payment has been made by the customer.
- III.6.3. Should a payment be debited back in the case of payment by credit card, the customer is obliged to reimburse the costs incurred by the chargeback, in particular the fees of third parties such as the banks involved. Further claims of ELBG due to delay or non-performance of the customer remain unaffected by this. In order to avoid the costs associated with the direct debit, the customer is asked not to object to the direct debit in the event of withdrawal from the purchase contract, a return or a complaint, but to agree with ELBG on the reversal of the payment.

### **III.7. Delivery / Transfer of Risk**

- III.7.1. The goods are dispatched by post.
- III.7.2. The shipping risk is borne by ELBG if the customer is a consumer and he/she buys the goods for purposes that cannot predominantly be attributed to any commercial or self-employed professional activity of the consumer.

### **III.8. Warranty for Material Defects / Guarantee**

- III.8.1. ELBG is liable for material defects according to the applicable statutory provisions, in particular according to §§ 434 ff. of the German Civil Code. However, the warranty period for items delivered by ELBG to entrepreneurs is 12 months.
- III.8.2. An additional guarantee exists for the goods delivered by ELBG only if this was expressly given in the order confirmation for the respective article.

### **III.9. Liability**

- III.9.1. The liability of ELBG for damages arising from injury to life, body or health which is not based on a culpable (i.e. intentional or negligent) breach of duty by ELBG or its legal representatives or vicarious agents is excluded.
- III.9.2. ELBG shall only be liable for damages other than those resulting from injury to life, body or health if they are based on intent or gross negligence on the part of ELBG or its legal representative or vicarious agents. However, to the extent that the damages are based on the breach of material contractual obligations (i.e. obligations whose fulfilment is essential for the proper execution of the contract and on whose compliance the contractual partner regularly relies and may rely), ELBG shall be liable for any fault, however in the case of slight negligence limited to the foreseeable, contract-typical damage.
- III.9.3. Liability under the Product Liability Act, which regulates a manufacturer's liability for products, shall remain unaffected by Clauses III.9.1. and III.9.2.



- III.9.4. The limitations of liability resulting from Clauses III.9.1. and III.9.2. do not apply if ELBG maliciously concealed the defect or assumed a guarantee for the quality of the goods. The same applies if ELBG and the customer have concluded an agreement on the quality of the goods.
- III.9.5. The regulations according to Clauses III.9.1. to III.9.4. apply accordingly to the liability of the vicarious agents and legal representatives of ELBG if claims are asserted directly against them.
- III.9.6. The burden of presenting the case and the burden of proof remain unaffected by this Clause III.9.

### **III.10. Revocation (Cancellation) Instruction**

- III.10.1. When concluding a distance contract, consumers generally have a statutory right of revocation [cancellation], about which ELBG provides information in accordance with the legal model below. The exceptions to the right of revocation are regulated in Clause III.10.2. Clause III.10.3. contains a template withdrawal form.

#### **REVOCAION INSTRUCTION**

##### **Right of Revocation (Cancellation)**

You have the right to revoke this contract within fourteen days without giving reasons.

The period of revocation shall be fourteen days from the date on which you or a third party appointed by you who is not the carrier took possession of the goods.

To exercise your right of revocation, you must contact us (Elbphilharmonie und Laeiszhalle Betriebsgesellschaft mbH, Platz der Deutschen Einheit 4, 20457 Hamburg, Germany, phone: +49 40 357 666 0, email: [info@elbphilharmonie.de](mailto:info@elbphilharmonie.de)) by means of a clear declaration (e.g. a letter sent by post, fax or email) about your decision to revoke this agreement. You can use the attached template cancellation form, but this is not mandatory.

In order to comply with the revocation period, it is sufficient that you send the notice of the exercise of the right of revocation before the expiry of the revocation period.

##### **Consequences of the Revocation**

If you cancel this contract, we will refund all payments we have received from you, including delivery costs (with the exception of additional costs resulting from you choosing a different type of delivery than the cost-effective standard delivery offered by us), immediately and at the latest within fourteen days from the day we receive notice of your cancellation of this contract. We will use the same means of payment for this refund as you used for the original transaction, unless otherwise expressly agreed with you; in no event will you be charged any fees for this refund. We may refuse to refund until we have received the goods back or until you can prove that you have returned the goods, whichever is earlier.

You must return or hand over the goods to us immediately and in any event at the latest within fourteen days from the day on which you inform us of the revocation of this contract.

The deadline is met if you send the goods before the expiry of the fourteen-day deadline.

You bear the direct costs of returning the goods.

You only have to pay for any loss in value of the goods if this loss in value is due to handling of the goods, which is not necessary for checking the quality, properties and function of the goods.



- III.10.2. The right of revocation does not apply to the sale of goods or vouchers in ELBG sales outlets.
- III.10.3. ELBG provides information about the template revocation form, in accordance with the statutory provisions, as follows:

**REVOCATION FORM (TEMPLATE)**

(If you wish to revoke the contract, please complete and return this form.)

- To the Elbphilharmonie und Laeiszhalle Betriebsgesellschaft mbH, Platz der Deutschen Einheit 4, 20457 Hamburg, Germany, email: [info@elbphilharmonie.de](mailto:info@elbphilharmonie.de)
- I/we (\*) hereby cancel the contract concluded by me/us (\*) for the purchase of the following goods (\*) / the provision of the following service (\*)
- Ordered on (\*) / received on (\*)
- Name of the purchaser(s)
- Address of the purchaser(s)
- Signature of the purchaser(s) (only if communicated on paper)
- Date

(\*) Delete as applicable

**III.11. Data Protection**

The data collected in connection with orders in the online shop and in telephone sales are collected, processed and used in accordance with the valid data protection regulations for the purpose of processing the order, delivering the ordered articles and handling payments. You can find further information in our Privacy Policy at [www.elbphilharmonie.de/en/privacy-policy](http://www.elbphilharmonie.de/en/privacy-policy)

**III.12. Dispute Resolution**

The EU provides an online platform for out-of-court dispute resolution for consumers at <http://ec.europa.eu/consumers/odr/>  
ELBG is not obliged to participate in dispute resolution proceedings before a consumer arbitration body, but is prepared to do so.





### **III.13. Choice of Law / Agreement on International and Local Jurisdiction**

- III.13.1. The law of the Federal Republic of Germany shall apply, with the exclusion of the UN Sales Convention. If the customer is a consumer and has concluded the contract for a purpose which cannot be attributed to his/her professional or commercial activity, the choice of law pursuant to Sentence 1 shall not affect the protection which the mandatory provisions of the law applicable without choice of law offer the consumer.
- III.13.2. The German courts shall have exclusive international jurisdiction for legal disputes arising from or in connection with the event contract if the customer has concluded the contract for a purpose that can be attributed to his/her professional or commercial activity or if the customer was domiciled or habitually resident in the Federal Republic of Germany when the contract was concluded. In all other respects, the statutory rules of jurisdiction shall apply.
- III.13.3. If the German courts have international jurisdiction and if the customer was a merchant at the time the contract was concluded, the courts in Hamburg-Mitte [Amtsgericht Hamburg-Mitte or Landgericht Hamburg] shall have exclusive local jurisdiction. In all other respects, the statutory rules of jurisdiction shall apply.

Last updated: 29. April 2019