

GENERAL TERMS AND CONDITIONS FOR ACCOMMODATION CONTRACTS (APRIL 2019)

**§ 1 +Area of Application**

- (1) These terms and conditions apply solely to contracts for the rental use of hotel rooms for lodging purposes, as well as all other goods and services rendered by the hotel for the guest in this context (accommodation contract).
- (2) The guest's terms and conditions shall apply only if these are previously expressly agreed.

**§ 2 Conclusion of Contract, Parties, Subletting & Re-letting**

- (1) The accommodation contract shall come into force upon the hotel's acceptance of the guest's request. At its discretion, the hotel may confirm the room reservation orally, in written form, e.g. email or fax, or action implying intention, e.g. service provision.
- (2) Parties to the contract are the hotel and the guest. If a third party has made the reservation on behalf of the guest, this party shall be liable to the hotel jointly and severally together with the guest for all obligations arising from the contract. This shall not apply if the guest confirms to the hotel that the reservation was made on behalf of him/her. Notwithstanding the above, any ordering party is obliged to pass all booking-related information on to the guest, in particular these general terms and conditions.
- (3) Subletting and re-letting of rooms as well as their use for other than lodging purposes require the hotel's prior expressive consent. Section 540 (1) second sentence of the German Civil Code (BGB) is waived insofar as the guest is not a consumer.

**§ 3 Services, Prices, Payment, Set-Off**

- (1) The hotel is obliged to have the booked rooms available and to render the services as agreed in accordance with the accommodation contract.
- (2) The guest is obliged to pay the agreed or applicable rates for rooms provided and other services agreed. This also applies to services ordered by the guest directly or via the hotel, which a third party provides and the hotel disburses.
- (3) Unless otherwise agreed by the parties, the prices include all taxes and local taxes in effect at the time of the conclusion of contract. This does not include locally levied taxes, which are owed by the guest himself according to the particular municipal law, e.g. visitor's tax (Kurtaxe). If the value added tax (VAT) is changed or if local taxes concerning the rooms and services are newly introduced, changed or abolished after these have been contractually agreed upon, the prices will be adjusted accordingly. This only applies to contracts concluded with consumers, if four months have passed between the conclusion and fulfillment of the contract.
- (4) The hotel can make its consent to the guest's later request for a reduction of the number of reserved rooms, services of the hotel or the agreed length of stay dependent on the increase of the price for the rooms and/or for the other services.
- (5) Hotel invoices not stating a due date are payable without deduction and due immediately upon receipt of the invoice. With default of payment, the hotel shall be entitled to demand the respectively applicable statutory default interest in the amount of currently 8 % or, with legal transactions with a consumer, in the amount of 5 % above the base interest rate. The hotel reserves the right to prove greater damage.
- (6) The hotel is entitled to require a reasonable advance payment or a security, e.g. a credit card guarantee, from the guest upon conclusion of the contract. The amount of the advance payment and payment dates may be agreed in the contract. For package travels the statutory provisions concerning advance payments or a security remain unaffected.
- (7) In justified cases, e.g. the guest's default in payment or expansion of the scope of the contract, the hotel shall be entitled, also after the conclusion of the contract up to the commencement of the stay, to demand an advance payment or a security within the meaning of the above-mentioned § 3 (6) or an increase of the advance payment or a security agreed in the contract up to the total agreed remuneration.
- (8) Furthermore, the hotel shall be entitled, at the commencement and during the guest's stay, to demand a reasonable advance payment or security deposit within the meaning of the above-mentioned § 3 (6) for existing and future accounts receivable from the contract, insofar as such has not already been paid pursuant to the above-mentioned § 3 (6) and/or § 3 (7).
- (9) As far as mutually interdependent demands are not concerned the guest may only set-off a claim by the hotel with a claim which is undisputed or decided with final, res judicata effect.

**§ 4 Withdrawal of the Guest / Non-utilization of Hotel's Services**

- (1) Insofar as the hotel and guest have agreed upon a date for a cancellation at no cost, the guest may withdraw from the contract up to that date without incurring payment or damage compensation claims by the hotel. The guest's right of withdrawal shall expire, if he/she does not exercise his/her right of withdrawal in written form, e.g. by email or fax, vis-à-vis the hotel by the agreed date.
- (2) In case a right of withdrawal pursuant to § 4 (1) is not agreed or already expired the guest can only withdraw from the contract if another statutory right of withdrawal exists or if the hotel gives its explicit consent to the withdrawal in written form, e.g. by email or fax.
- (3) The hotel is entitled to the contractually agreed rate, if a contractual right of withdrawal pursuant to § 4 (1) was not agreed or has expired, a statutory right of withdrawal or cancellation is not given and the hotel does not give its consent to the cancellation of the contract. This applies also even if the rooms are not used by the guest ("No-Show"). The hotel must credit the income from renting the rooms to other parties as well as the saved expenses in these cases. If the rooms are not alternatively rented, the hotel can demand the contractually agreed rate and assess a lump sum for the saved expenses of the hotel. In this case, the guest is obligated to pay at least 90 % of the contractually agreed rate for lodging with or without breakfast as well as all-inclusive arrangements with contracted services, 70 % for half-board and 60 % for full-board arrangements. The guest is at liberty to prove that the above-mentioned claim was or has not amounted to the demanded sum.

**§ 5 Cancellation by / Withdrawal of the Hotel**

- (1) Insofar as it was agreed pursuant to § 4 (1) that the guest can withdraw from the contract at no cost within a certain period of time, the hotel is entitled for its part to withdraw from the contract during this period of time if inquiries from other guests regarding the contractually reserved rooms exist and the guest, upon inquiry thereof by the hotel with a reasonable deadline set, does not waive his right of withdrawal.
- (2) The hotel is likewise entitled to withdraw from the contract, if an agreed advance payment or an advance payment or a security demanded pursuant to the above-mentioned § 3 (6) and/or § 3 (7) is not made even after a reasonable grace period set by the hotel has expired.

- (3) Moreover, the hotel is entitled to effect extraordinary withdrawal from or cancellation of the contract for a materially justifiable cause, in particular
- if force majeure or other circumstances beyond the hotel's control render the fulfillment of the contract impossible;
  - if rooms or accommodations are booked with culpably misleading or false information or concealment regarding essential facts; the identity or solvency of the guest or the purpose of his stay can constitute essential facts;
  - if the hotel has justified cause to believe that use of the hotel's services might jeopardize the smooth operation of the hotel, its security or public reputation, without being attributable to the hotel's sphere of control or organization;
  - in the case of an unauthorized subletting or re-renting pursuant to § 2 (3);
  - in case the hotel has knowledge that the financial situation of the guest has deteriorated considerably after conclusion of the contract, in particular if the guest does not settle the hotel's due claims or insolvency proceedings has been instituted against him/her.
- (4) In these cases, the withdrawal by the hotel constitutes no claims for damages for the guest.

**§ 6 Arrival and Departure**

- (1) With his/her booking the guest does not acquire the right to be provided specific rooms except this was expressly agreed.
- (2) Booked rooms are available to the guest starting at 3:00 p.m. on the agreed arrival date. The guest does not have the right to earlier availability.
- (3) The guest shall check in no later than 6:00 p.m. on the agreed arrival day. Unless a later time of arrival has expressly been agreed upon, the hotel has the right to allocate the booked rooms to other guests after 6:00 p.m. In this case the guest cannot claim any compensation here from and the hotel is entitled to a right of withdrawal.
- (4) Rooms must be vacated and made available to the hotel no later than 11:00 noon on the agreed departure date. After that time, on the grounds of the delayed vacating of the room for use exceeding the contractual time, the hotel may charge 50 % of the full accommodation rate for the additional use of the room until 6:00 p.m. (after 6:00 p.m.: 90 %). Contractual claims of the customer shall not be established hereby. The customer is at liberty to prove that the hotel has no or a much lower claim for charges for use of the room.

**§ 7 Liability of the Hotel, Statute of Limitation**

- (1) The hotel is liable for harm inflicted on life, limb and physical health. Further it is liable for other damage caused with full intent or gross negligence or due to intentional or grossly negligent violation of obligations typical for the contract. A breach of obligation of the hotel is deemed to be the equivalent to a breach of a statutory representative or vicarious agent. All other claims for damages are excluded, if not determined differently in this § 7.
- (2) In case of disruptions or deficiencies in the service of the hotel, it shall endeavor to remedy the same without delay as soon as it is notified by the guest. The guest shall be obliged to undertake actions reasonable for him/her to eliminate the disruption and to keep any possible damage to a minimum.
- (3) The hotel is only liable for items brought into the hotel by the guest according to the legal provisions of section 701 et seq. of the German Civil Code (BGB). The hotel recommends depositing valuables in the hotel safe. Liability claims are forfeited if the guest does not notify the hotel immediately after suffering loss, destruction or damage. If the guest wishes to bring money, securities, stocks, bonds or valuables with a value of more than 800 € or other things with a value of more than 3,500 € into the hotel, a separate safekeeping agreement is necessary.
- (4) Insofar as a parking space in the hotel garage or a hotel parking lot is provided to the guest, this does not constitute a safekeeping agreement, even if a fee is charged. The Hotel shall have no surveillance obligations. The hotel only assumes liability for loss of or damage to motor vehicles parked or manoeuvred on the hotel's property and the contents thereof only pursuant to the preceding § 7 (1). In this case a claim for damages must be notified to the hotel at the latest at the time of checking out.
- (5) Wake-up calls are carried out by the hotel with the greatest possible diligence. Messages, mails, and merchandise deliveries for guests shall be handled with care. The hotel will deliver, hold, and, for a fee, forward such items (on request). The hotel only assumes liability according to the preceding § 7 (1).
- (6) Any and all claims against the hotel shall generally be time-barred one year after the commencement of the general statute of limitations period. Damage claims shall be time-barred after five years, dependent on knowledge thereof, insofar as they are not based on claims arising out of harm inflicted on life, limb, physical health or liberty. These damage claims shall be time-barred after ten years, independent of knowledge thereof. The reduction of the statute of limitation periods shall not apply to claims which are based on an intentional or grossly negligent breach of obligation by the hotel.

**§ 8 Final Provisions**

- (1) Amendments and supplements to the contract, the acceptance of offers or these terms and conditions should be made in written form. Unilateral amendments or supplements by the guest are invalid.
- (2) For commercial transactions the place of performance and payment as well as, in the event of litigation, including disputes for checks and bills of exchange, the exclusive court of jurisdiction is at the discretion of the hotel either at its registered office or Berlin. Insofar as a contracting party fulfills the requirements of section 38 (2) of the German Code of Civil Procedure (ZPO) and does not have a place of general jurisdiction within Germany, the courts at the registered office of the respective operating company shall have exclusive jurisdiction. However, the hotel reserves the right to institute lawsuits and other legal proceedings at the court of jurisdiction of the guest.
- (3) The contract is governed by and shall be construed in accordance with German law. The application of the UN Convention on the International Sale of Goods (CISG) and Conflict Law are precluded.
- (4) Should individual provisions of these terms and conditions be or become invalid or void, the validity of the remaining provisions shall remain unaffected thereby. Apart from that the statutory provisions shall also apply.

**N.B.: The German version of the General Terms and Conditions takes precedence over the English version. In case of doubt, the German version shall be taken as reference.**