

GENERAL TERMS AND CONDITIONS FOR HOTEL ACCOMMODATION CONTRACTS (VERSION: NOVEMBER 2014)

The German version of our Terms & Conditions takes precedence over the English version. In case of doubt, the German version shall be taken as reference.

1 SCOPE OF APPLICABILITY

- 1.1 These terms and conditions govern contracts for the rental use of hotel rooms for lodging purposes, as well as all other goods and services rendered by the hotel to the customer in this context (Hotel Accommodation Contract). The term "Hotel Accommodation Contract" comprises and replaces the following terms: accommodation, lodging, hotel, hotel room contract.
- 1.2 The hotel's prior consent in written form is required if rooms provided are to be sublet or rented to a third party, or used for other than lodging purposes, whereby section 540, para. 1, sentence 2 German Civil Code (BGB) is waived insofar as the customer is not a consumer.
- 1.3 The customer's general terms and conditions shall apply only if these are previously expressly agreed.

2 CONCLUSION OF CONTRACT, PARTIES, STATUTE OF LIMITATIONS

- 2.1 The hotel and the customer are the contracting parties. The contract shall come into force upon the hotel's acceptance of the customer's offer. At its discretion, the hotel may confirm the room reservation in written form.
- 2.2 Any claims against the hotel shall generally be time-barred one year after the commencement of the general statute of limitations period. This shall neither apply to damage claims nor to claims which are based on an intentional or grossly negligent breach of obligation by the hotel.

3 SERVICES, PRICES, PAYMENT, SET-OFF

- 3.1 The hotel is obligated to keep the rooms reserved by the customer available and to render the agreed services.
- 3.2 The customer is obligated to pay the agreed or applicable hotel prices for rooms provided and for other services accepted. This also applies to services ordered by the customer directly or via the hotel, which a third party provides and the hotel disburses.
- 3.3 The agreed 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, such as visitor's tax. If the statutory value added tax 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. This only applies to contracts concluded with consumers, if four months have passed between the conclusion and fulfilment of the contract.
- 3.4 The hotel can make its consent to the customer's later request for a reduction of the number of reserved rooms, services of the hotel or the customer's length of stay dependent on the increase of the price for the rooms and/or for the other services.
- 3.5 Hotel invoices not stating a due date are payable without deduction and due within ten days of receipt of the invoice. The hotel can demand immediate payment of due debt from the customer. The statutory rules concerning the consequences of default of payment apply. The hotel reserves the right to prove greater damage.
- 3.6 The hotel is entitled to require a reasonable advance payment or a security, such as a credit card guarantee, from the customer upon conclusion of the contract. The amount of the advance payment and payment dates may be agreed in written form in the contract. The statutory provisions shall remain unaffected with advance payments or a security for package tours. The statutory rules concerning the consequences of default of payment apply.
- 3.7 In justified cases, e.g. the customer'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 No. 3.6 or an increase of the advance payment or a security agreed in the contract up to the total agreed remuneration.
- 3.8 Furthermore, the hotel shall be entitled, at the commencement and during the customer's stay, to demand a reasonable advance payment or security deposit within the meaning of the above-mentioned No. 3.6 for existing and future accounts receivable from the contract, insofar as such has not already been paid pursuant to the above-mentioned No. 3.6 and/or No. 3.7.
- 3.9 The customer may only set-off, reduce or clear a claim by the hotel with a claim which is undisputed or decided with final, res judicata effect.

4 WITHDRAWAL OF THE CUSTOMER (CANCELLATION, ANNULMENT)/ FAILURE TO USE HOTEL SERVICES (NO SHOW)

- 4.1 The customer can only withdraw from the contract concluded with the hotel, if a right of withdrawal was explicitly agreed upon in the contract, another statutory right of withdrawal exists or if the hotel gives its explicit consent to the withdrawal. The contractual agreement of a right of withdrawal as well as the consent to withdrawal from the contract shall be in written form.
- 4.2 Insofar as the hotel and customer have agreed upon a date for a cost-free withdrawal from the contract, the customer may withdraw from the contract up to that date without incurring payment or damage compensation claims by the hotel. The customer's right of withdrawal shall expire, if he does not exercise his right of withdrawal vis-à-vis the hotel by the agreed date.
- 4.3 If a contractual right of withdrawal 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 the agreed hotel services shall be paid regardless of whether the customer avails himself of the contractual services. The hotel must credit the income from renting the rooms to other parties as well as for saved expenses. If the rooms are not rented otherwise, the hotel can demand the contractually agreed rate and assess a lump sum for the saved expenses of the hotel. In this case, the customer 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 customer is entitled to prove that the above-mentioned claim has not accrued at all or has not amounted to the demanded sum.

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5 WITHDRAWAL OF THE HOTEL

- 5.1 Insofar as it was agreed that the customer 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 customers regarding the contractually reserved rooms exist and the customer, upon inquiry thereof by the hotel with a reasonable deadline set, does not waive his right of withdrawal.
- 5.2 If an agreed advance payment or an advance payment or a security demanded pursuant to No. 3.6 and/or No. 3.7 is not made even after a reasonable grace period set by the hotel has expired, then the hotel is likewise entitled to withdraw from the contract.
- 5.3 Moreover, the hotel is entitled to effect extraordinary withdrawal from 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;
 - rooms or spaces are reserved with culpably misleading or false information or concealment regarding essential facts; the identity or solvency of the customer or the purpose of his stay can constitute essential facts;
 - 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;
 - the purpose or the cause of the stay is illegal;
 - there is a breach of the above-mentioned No. 1.2.
- 5.4 The justified withdrawal by the hotel constitutes no claims for damages for the customer.

6 ROOM AVAILABILITY, DELIVERY AND RETURN

- 6.1 The customer does not acquire the right to be provided specific rooms insofar as this is not expressly agreed.
- 6.2 Reserved rooms are available to the customer starting at 3:00 p.m. on the agreed arrival date. The customer does not have the right to earlier availability.
- 6.3 Rooms must be vacated and made available to the hotel no later than 12:00 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 (list price) 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

- 7.1 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 No. 7. Should disruptions or defects in the performance of the hotel occur, the hotel shall act to remedy such upon knowledge thereof or upon objection by the customer made without undue delay. The customer shall be obliged to undertake actions reasonable for him to eliminate the disruption and to keep any possible damage to a minimum.
- 7.2 The hotel is liable to the customer for property brought into the hotel in accordance with the statutory provisions. It recommends the use of the hotel or room safe. If the guest wishes to bring with him money, securities, stocks, bonds or valuables with a value of more than 800 EUR or other things with a value of more than 3500 EUR, a separate safekeeping agreement is necessary.
- 7.3 Insofar as a parking space is provided to the customer in the hotel garage or a hotel parking lot, this does not constitute a safekeeping agreement, even if a fee is exchanged. 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 No. 7.1, sentences 1 to 4.
- 7.4 Wake-up calls are carried out by the hotel with the greatest possible diligence. Messages, mail, 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 No. 7, sentences 1 to 4.

8 FINAL PROVISIONS

- 8.1 Amendments and supplements to the contract, the acceptance of offers or these general terms and conditions should be made in written form. Unilateral amendments or supplements by the customer are invalid.
- 8.2 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 Cologne (Köln). Insofar as a contracting party fulfills the requirements of section 38, para. 2 of the German Code of Civil Procedure (ZPO) and does not have a place of general jurisdiction within the country, the courts at Cologne (Köln) shall have exclusive jurisdiction.
- 8.3 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 and Conflict Law are precluded.
- 8.4 Should individual provisions of these general terms and conditions be or become invalid or void, the validity of the remaining provisions shall remain unaffected thereby. The statutory provisions shall also be applicable.

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Mandatory information according to the Regulation (EU) No 524/2013 of the European Parliament and of the Council:

Follow this link to the website of the European Commission's entity for online dispute resolution for consumer disputes:

<http://ec.europa.eu/consumers/odr/> - Further information is expected to be available there from the 15/02/2016. Should you have any initial questions concerning a potential dispute resolution, please email us at info@philerohotel-koeln.de (© Spirit Legal LLP 2016)

Information:

The contractor shall not be obliged to participate in dispute resolution proceedings before a consumer-enforcement agency.

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