

**General Terms and Conditions for Hotel Accommodation Contracts
(Current as at: July 2009)**

I. Area of Application

- 1) These Terms and Conditions shall apply to all contracts relating to the rental of hotel rooms for purposes of lodging, and to all services in conjunction therewith.
- 2) These Terms and Conditions alone shall apply. Any terms and conditions of the Customer that are in conflict with, or represent a departure from, these Terms and Conditions shall not apply, unless a prior written agreement to this effect has been concluded.

II. Conclusion of Contract, Contracting Parties

- 1) The Contract shall take effect only upon acceptance by the Hotel of the Customer's Offer to conclude such a Contract, and upon confirmation of this acceptance by the Hotel to the Customer in text form. In isolated cases in which confirmation in text form should prove impossible, telephone confirmation by the Hotel shall suffice.
- 2) The Parties to this Contract shall be the Hotel, along with the Customer availing him- or herself of the services of Hotel. If a third party has made reservations on the Customer's behalf, that party shall be liable, together with the customer, as a co-debtor vis-à-vis the Hotel with respect to all obligations arising out of the Hotel Accommodation Contract.

III. Services, Prices, Payment

- 1) The Hotel shall be under obligation to keep the rooms reserved by the Customer available, and to provide the services to which it has agreed. Where no other arrangements have been made, there shall be no claim to the provision of a particular room.
- 2) The Customer shall be under obligation to pay the prices agreed with, or in effect at, the Hotel, for room rental and for any additional services of which the Customer unveils him- or herself. This obligation shall also extend to services provided at the Customer's behest, and to any outlays made to third parties By the Hotel.
- 3) The prices as agreed shall include any applicable value-added tax (VAT) amounts as required by law. Should VAT be increased subsequent to conclusion of the Contract, the VAT rate that applies shall be the rate that was in effect at the time during which the room was occupied.
- 4) If the period of time lapsing between conclusion and fulfilment of the Contract should exceed four months, and if the Hotel has, in the meantime, increased the prices it generally charges for services of the type for which the Contract provided, then the Hotel shall be entitled to increase the price agreed under Contract, but not by an amount exceeding 5 percent. In the event, the Customer shall be entitled to withdraw from the Contract.
- 5) The Hotel shall be entitled to make binding room reservations contingent upon remittance of a down payment. The Hotel may require a reasonable down payment subsequent to conclusion of the Contract as well.
- 6) The invoice amount payable by the Customer shall fall due and be payable no later than upon the Customer's departure. Down payments required by the Hotel must be made within deadlines specified by the Hotel.

7) The Hotel may, at any time –even after the Customer has taken up occupancy of the room in question – demand pre-payment of the entire amount due, or payment of a security deposit, in the event that it has doubts as to the Customer's solvency. For hotel stays of more than one week, or claims by the Hotel exceeding €1,000.00 for services already provided, then the Hotel may also issue interim invoices due for immediate payment.

8) If the customer should fall in arrears with payment of even one invoice, the Hotel shall be entitled to discontinue all further and future services to that Customer, provided that the Hotel has, prior to this, issued a payment reminder to the Customer, specifying a deadline for payment and threatening that future services would be discontinued if payment was not forthcoming on time.

9) In each individual case, acceptance and selection of credit cards upon presentation thereof shall be at the sole discretion of the Hotel, even where the Hotel's intention to accept credit cards as a matter of principle has been posted in the Hotel. For the remainder, acceptance of cheques, credit cards and other forms of payment shall be for processing purposes only and subject to their being honoured for payment.

IV. Right of Set-Off and Retention

1) The Customer shall enjoy a right of set-off with regard to claims by the Hotel only if the Customer's counterclaims have been ascertained as a matter of law, are uncontested, or have been recognized by the Hotel.

2) A right of retention shall obtain only insofar as the claim asserted on the part of the Hotel, and the counterclaim asserted on the part of the Customer, are based on the same contractual relationship.

V. Withdrawal from Contract by the Hotel

1) In individual cases in which, when the Contract was concluded, a written agreement was made granting the Customer a right to withdraw from the Contract free of charge and subject to specified deadlines, during this period, the Hotel shall, for its part, be entitled to withdraw from the Contract if it has enquiries in hand from other customers for the rooms reserved by contract, and if the Customer, when contacted by the Hotel, does not waive his or her right to withdrawal.

2) If a down payment (cf. III, cl. 4) or a pre-payment (cf. III, cl. 7) is not made a, even after a reasonable extension issued by the Hotel has lapsed, then here, too, the Hotel shall be entitled to withdraw from the Contract.

3) Furthermore, the Hotel shall be entitled to withdraw from the Contract for objectively justifiable reasons, such as in the event that

- force majeure or other circumstances beyond the Hotel's control render fulfilment of the contract an impossibility;
- rooms have been reserved under misleading or false pretences, e.g. with regard to the identity of the Customer, or the purpose for which the room has been reserved;
- the Hotel has reason to believe that an availing of the Hotel's services will jeopardize the smooth operation of business, the security or the public reputation of the Hotel, without being attributable to the Hotel's sphere of control or organisation.
- the Customer lets the room for use by a third party without the consent of the Hotel.

4) A justified withdrawal from a Contract on the part of the Hotel shall not be deemed to give rise to a claim for damages by the Customer.

VI. Withdrawal from Contract by the Customer

1) The Customer shall be entitled to withdraw from the Contract only in accordance with the applicable provisions of law, or on the basis of a contractual arrangement. In individual cases in which, when the Contract was concluded between the Hotel and the Customer, a written agreement was made granting the Customer a right to withdraw from the Contract free of charge, subject to specified deadlines, the Customer shall be entitled to withdraw from the Contract only up until this deadline without incurring claims for payment or damages under part of the Hotel.

2) Otherwise, the Customer shall be under obligation to make payment of the room charges agreed upon even if he or she fails to unveil him- or herself of the services of the Hotel. The amount due shall be offset, however, by any proceeds stemming from rental of the room to other customers, and/or from expenses that the Customer's non-arrival has Spared the Hotel.

3) The Hotel may, at its discretion, offer a lump-sum deduction for expenses not incurred. In the event, the Customer shall be under obligation to pay 80 percent of the agreed price for room reservations with or without breakfast, 70 percent of the agreed price for room reservations with half-board, and 60 percent of the agreed price for room reservations with full board. The Customer shall remain at liberty to demonstrate that the actual savings in expense are in fact higher than represented in These lump-sum reductions.

VII. Room Transfer and Return / Room Rental to Third Parties

1) Rooms that have been reserved shall be available to the Customer beginning at 3:00 p.m. on the agreed arrival date. Where no separate arrangements have been made, the Customer shall have no claim to take up lodging in the room prior to this time.

2) Where no advance arrangements for a later arrival time have been made, and where the room has not already been paid in full in advance and/or the Customer has not provided the Hotel with a credit card number to which the full price of the room could be charged even if the Customer failed to appear, beginning at 6:00 p.m., the Hotel shall be authorized to rent the reserved room out to others. In this case, the Customer shall have no claims as against the Hotel.

3) On the departure day agreed, rooms shall be vacated and made available to the Hotel by no later than 11:00 a.m. For rooms vacated after this time, the Hotel shall be entitled to charge an additional €70.00 for use of the room beyond the period specified by Contract, effective until 6:00 p.m. For rooms still occupied after 6:00 p.m., the Hotel may charge 100 percent of the full price of lodging (list price). This shall not give rise to any contractual claims on the part of the Customer. The Customer shall remain at liberty to demonstrate that the Hotel incurred either no, or a considerably lower, detriment than this. This shall be without prejudice to further claims for damages on the part of the Hotel.

4) Sub-letting or re-letting of the room rented to the Customer, and any use of the room for purposes other than lodging, shall be subject to the prior, written consent of the Hotel. If the Hotel should decline to grant its consent to such sub-letting or re-letting, then this shall not be deemed to establish a right on the part of the Customer to withdraw from the Contract.

VIII. Right of Refusal / Right of Expulsion

The Hotel shall be entitled to refuse a Customer access to the Hotel, and lodgings therein, if, upon the Customer's arrival, there is justifiable concern that the Customer is under the influence of alcohol or drugs, or if the Customer behaves in a manner that is offensive to Hotel staff or other customers.

The Hotel shall be entitled to expel a Customer from the Hotel, and to terminate the Contract in effect with said Customer without notice, if the Customer repeatedly disturbs the peace, or annoys or offends other customers or the Hotel staff.

IX. Liability of the Hotel

1) Strict liability by the Hotel in accordance with § 536 a of the German Civil Code [*BGB*] is hereby precluded.

2) If the Customer has been provided with a parking space in the Hotel garage or on a Hotel car park, even if the parking space is not free of charge, the Hotel shall accept not custody for the vehicle parked there, or for items stored therein; there is consequently no custody agreement created. Accordingly, the Hotel shall not be liable for loss of, or damage to, vehicles parked or manoeuvring on Hotel property, or their contents, unless the Hotel has non-accidentally, or through gross negligence, brought about the loss or damage in question.

3) For damage to any other items brought in by the Customer, the Hotel shall be liable vis-à-vis the Customer in accordance with the provisions of law set forth in § 701 ff of the German Civil Code [*BGB*]. Money, securities and objects of value may be stored in the Hotel safe. The Hotel recommends that its guests avail themselves of this service.

4) As a matter of principle, the Hotel shall be liable for any financial losses incurred by the Customer only in cases of non-accidental conduct or gross negligence. By way of exception, the Hotel may be liable for simple negligence in cases in which this represents a non-accidental breach of a fundamental contractual obligation; in the event, however, liability for damages shall be limited to the damages that were typical and foreseeable under the circumstances involved.

5) The aforementioned liability limitations shall apply to all claims for damages, regardless of their legal basis.

6) As a matter of principle, all claims against the Hotel shall come under the statute of limitations within one year, beginning with the date on which the damage came to light, in accordance with the regular statute of limitations as set forth in § 199 para. 1 of the German Civil Code [*BGB*]. Damage claims shall come under the statute of limitations – regardless of whether the circumstances giving rise to the claim, and the identity of the party responsible for the circumstances, is known or not – within five years. Reduced periods of limitation shall not apply to claims based on intentional or grossly negligent breach of the obligations of the Hotel, or a non-accidental injury to the life, body or health of the Customer.

X. Concluding Provisions

1) Any modifications or supplements to the Contract, and to these General Terms and Conditions, must be made in writing.

2) The place of fulfilment and place of payment shall be the domicile of the Hotel.

3) In commercial matters, any disputes arising hereunder, including disputes relating to cheques and exchange matters, shall be resolved exclusively by a competent court of law having its

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HOTEL HAMBURG

jurisdiction in the domicile of the Hotel. This shall also apply if the Customer has no general legal domicile within the Federal Republic of Germany.

4) The laws of the Federal Republic of Germany shall apply in exclusivity. Application of the United Nations Convention on Contracts for the International Sale of Goods, and of international civil law, is hereby precluded.

5) In the event that individual provisions of these General Terms and Conditions should be or become invalid or impossible to apply, this fact shall not impinge upon the validity of the remaining provisions. Any such provision found to be invalid or impossible to apply shall be replaced by such provisions as are valid and capable of application, and the effects of which come closest to fulfilling the economic objectives pursued by the Parties to the Contract by means of the provision or provisions found to be invalid or impossible to apply. The aforementioned provisions shall also apply accordingly in the event that the Contract should be found to contain legal loopholes. For the remainder, the provisions of law shall apply.