



PREMIER

Airporthotel Fontane Berlin

GENERAL TERMS AND CONDITIONS FOR TOUR OPERATORS (TRAVEL GROUPS) (VERSION: OCTOBER 2009)

- I.
- II. **SCOPE OF APPLICABILITY AND DEFINITIONS**
1. These Terms and Conditions apply for all contracts which are concluded between the hotel and the tour operator related to hotel services for single travellers and/or travel groups (Hotel Accommodation Contract). These shall not apply for the booking of rooms or groups of rooms for events such as conferences, seminars, etc.
2. The term "Hotel Accommodation Contract" comprises or replaces the following terms: reservation contract, group room contract, accommodation, lodging, hotel and hotel room contract.
3. Hotel services are all services such as hotel room, meal arrangements and other offers agreed upon between the tour operator and the hotel and to be performed by the hotel.
4. The customers of the tour operator for whom hotel services are booked are designated in the following as "single traveller" or "travel group" (jointly also referred to as "guests"). A travel group is comprised of at least 15 persons who are organized uniformly for one joint trip purpose and who as a rule arrive and leave on the same day.
5. The general terms and conditions of the tour operator shall apply only if these are previously expressly agreed in text form.
- III. **CONCLUSION OF CONTRACT AND STATUTE OF LIMITATIONS**
1. The contract comes into force upon the hotel's acceptance of the tour operator's application. At its discretion, the hotel may confirm the reservation in text form.
2. Any claims against the hotel shall generally be time-barred one year after the commencement of the general statute of limitations period which starts on the date of the hotel having knowledge of the claim. Damage claims shall be time-barred after five years, independent of knowledge insofar as they are not based on claims arising out of death, injury to body, health or liberty. These damage claims shall be time-barred after ten years, independent of knowledge. The reduction of the statute of limitation periods shall not apply for claims which are based on an intentional or grossly negligent breach of obligation by the hotel.
- IV. **RIGHTS AND OBLIGATIONS OF THE TOUR OPERATOR**
1. The tour operator is obligated to notify the hotel of his number of reservations as early as possible or upon demand. The hotel is to be informed hereof in text form, however, at the latest 30 days before the arrival date. At the same time, all necessary information is to be given to the hotel regarding the hotel services pursuant to Clause I, No. 3 hereof.
2. The tour operator is obligated to pay the agreed prices or, if no prices are agreed, the listed prices or, respectively, the normal prices of the hotel for the hotel services according to Clause I, No. 3 and the additional services taken by it. This shall also apply for services and outlays of the hotel to third parties caused by the tour operator.
3. The guests only have a claim to the hotel services pursuant to Clause I, No. 3. The tour operator is obligated to inform his guests of this fact and to obligate them to provide reasonable security upon the request of the hotel, e.g. by deposit of credit card slips, for any use of services in addition hereto. This shall apply also for guests who have vouchers/coupons. Should no security be given by the guest in spite of respective request of the hotel and the guest fails to pay, then the services made use of shall be paid for by the tour operator.
4. The tour operator must inform his guests regarding all circumstances and conditions relevant for the stay, in particular, regarding the regulation related to liability of the hotel pursuant to Clause VIII hereof.
5. The tour operator shall name a contact person to the hotel, upon the hotel's request, who shall represent this travel group for all questions related to the care of the tour operator's travel group.
- V. **RIGHTS AND OBLIGATIONS OF THE HOTEL**
1. The hotel is entitled, upon the conclusion of the contract, to demand a reasonable advance payment or security in the form of a credit card guarantee, a deposit, etc. from the tour operator. The hotel shall confirm the receipt of an advance payment or security.
2. In justified cases, e.g. default of payment by the tour operator or expansion of the scope of the contract, the hotel shall be entitled, also after conclusion of the contract up to the commencement of the stay, to demand an advance payment or security within the meaning of No. 1 hereof or an increase of the advance payment or security agreed upon in the contract up to the total agreed remuneration.
3. The hotel is not entitled to undertake unilateral changes to the agreed hotel services. Changes shall only be legally valid with the consent of the tour operator.
4. The tour operator acquires no claim to the provision of certain rooms insofar as not expressly agreed in text form.
5. Reserved rooms shall be available to the tour operator as of 3:00 p.m. on the agreed arrival date. The tour operator does not have the right to earlier occupancy.
6. The rooms of the hotel shall be vacated on the agreed departure date at the latest at 12:00 p.m. Thereafter, due to the delayed vacating of the room for use exceeding the contractual time, the hotel can 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%. No contractual claims of the tour operator shall be established hereby. The tour operator is at liberty to show that the hotel incurred no claim or a much lesser claim to use damages.
- VI. **PRICES, PAYMENT, SET-OFF**
1. The contract parties are bound to the agreed prices which include the respective statutory VAT, insofar as prices were not expressly agreed upon without VAT.
2. Hotel invoices not showing a due date are payable and due within ten days of receipt of the invoice without deduction. The hotel shall be entitled at any time to demand payment of accounts receivable payable and due from the tour operator without undue delay. With default of payment, the hotel shall be entitled to demand the respectively applicable statutory default interest. The hotel reserves the right to prove greater damage.
3. The tour operator may only set-off or reduce or clear with a claim by the hotel with a claim which is undisputed or decided with final, res judicata effect.
4. Agreements regarding any payment of a commission are to be made in text form. This can occur either in the Hotel Accommodation Contract or in an agreement to be concluded simultaneously. In the case that more than one tour operator is responsible for the same reservation, the hotel shall only have to pay the commission once.
- VII. **REPUDIATION BY TOUR OPERATOR (CANCELLATION, ANNULMENT) / FAILURE TO USE HOTEL SERVICES (NO SHOW)**
1. For Single Travellers:
- 1.1 Cancellation by the tour operator of the contract concluded with the hotel requires the hotel's consent in text form. If such is not given, then the price agreed in the contract must be paid even if the guest arranged by the tour operator does not avail himself of the contractual services.
- 1.2 To the extent the hotel and the tour operator have agreed in text form upon a date for a cost-free cancellation of the contract, the tour operator may cancel the contract up to that date without incurring payment or damage compensation claims by the hotel. The tour operator's right of cancellation shall expire if he does not exercise his cancellation right in text form vis-à-vis the hotel by the agreed date.
- 1.3 If rooms are not used by the tour operator, the hotel shall credit the income from renting the rooms to other parties and also for saved expenses. If the rooms are not otherwise rented, the hotel can demand the contractually agreed rate and assess a flat rate for the saved expenses of the hotel. In this case, the tour operator is obligated to pay at least 90 % of the contractually agreed rate for lodging with or without breakfast, 70 % for room and half-board, and 60 % for room and full-board arrangements. The tour operator is at liberty to show that the above-mentioned claim was not created or not created in the amount demanded.
2. For Travel Groups:
- 2.1 Insofar as not otherwise regulated in text form in the contract, the tour operator shall be entitled to cancel the contract for travel groups pursuant to Clause I, No. 4, sentence 2 according to the following provisions:
- up to 90 days before arrival, 100% of the agreed total volume,
 - up to 60 days before arrival, 50% of the agreed total volume,
 - up to 30 days before arrival, 25% of the agreed total volume.
- The cancellation right can only be exercised once. With the calculation of the time period, the day of arrival shall not be taken into account.
- 2.2 The cancellation right of the tour operator shall expire if he does not exercise it up to the agreed date.
- 2.3 If the cancellation occurs at a later date or in a scope which is greater than permitted according to the contract, the hotel must credit the income from renting the rooms to other parties and also for saved expenses. If the rooms are not otherwise rented, the hotel can demand the contractually agreed rate and assess a flat rate for the saved expenses of the hotel. In this case, the tour operator is obligated to pay at least 90 % of the contractually agreed rate for lodging with or without breakfast, 70 % for room and half-board, and 60 % for room and full-board arrangements. The tour operator is at liberty to show that the above-mentioned claim was not created or not created in the amount demanded.
- VIII. **CANCELLATION BY HOTEL**
1. For Single Travellers:
- 1.1 Insofar as it was agreed in text form that the tour operator can cancel the contract, in whole or in part, at no cost within a certain time period, the hotel is entitled for its part to cancel the contract to the same extent during this time period if inquiries from third parties regarding the contractually reserved rooms exist and the tour operator, upon inquiry thereof by the hotel with a reasonable deadline set, does not waive his right of cancellation.
- 1.2 If an agreed advance payment or an advance payment demanded pursuant to Clause IV, No.2 supra is not made even after a reasonable grace period set by the hotel has expired, then the hotel is likewise entitled to cancel the contract.
- 1.3 Moreover, the hotel is entitled to effect extraordinary cancellation of the contract for a materially justifiable cause, e.g. if
- it is impossible to fulfil the contract due to circumstances for which the hotel is not responsible;
 - rooms or spaces are reserved with culpably misleading or false information regarding material contractual facts, such as the identity of the customer or the purpose of his stay;
 - 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.
- 1.4 The tour operator can derive no damage compensation rights from justified cancellation by the hotel in the above-mentioned cases.
2. For Travel Groups:
- 2.1 Insofar as it was agreed in text form in the contract that the tour operator can cancel the contract, in whole or in part, at no cost within a certain time period, the hotel is entitled for its part to cancel the contract to the same extent during this time period if inquiries from third parties regarding the contractually reserved rooms exist and the tour operator, upon inquiry thereof by the hotel with the setting of a reasonable deadline, does not waive his right of cancellation. Within the deadline named in Clause VI, No. 2.1, the hotel is also entitled to partially cancel the contract to the same extent as the tour operator at no cost if also in this case the tour operator waives his cancellation right.
- 2.2 If an agreed advance payment or an advance payment demanded pursuant to Clause IV, No. 2.1 supra is not made even after a reasonable grace period set by the hotel has expired, then the hotel is likewise entitled to cancel the contract.
- 2.3 Should the contractual obligation to provide information concerning the number of reservations pursuant to Clause III, No. 1, sentence 2 not be met or not be met in a timely manner, then the hotel is likewise entitled to cancel the contract. Furthermore, the hotel shall be entitled to a cancellation right in the case that the number of the guests reserved as a travel group is reduced to less than 15 (loss of group status pursuant to Clause I, No. 4).
- 2.4 Moreover, the hotel is entitled to effect extraordinary cancellation of the contract for a materially justifiable cause, e.g. if
- it is impossible to fulfil the contract due to circumstances for which the hotel is not responsible;
 - rooms or spaces are reserved with culpably misleading or false information regarding material contractual facts, such as the identity of the customer or the purpose of his stay;
 - 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.
- 2.5 The tour operator can derive no damage compensation rights from justified cancellation by the hotel in the above-mentioned cases.
- IX. **LIABILITY OF THE HOTEL**
1. The hotel is liable for the performance of its obligations arising from the contract. Claims of the tour operator for damages are precluded except for such which result from death, injury to body or health and the hotel is responsible for the breach of the obligation, other damage which is caused by an intentional or grossly negligent breach of obligation and damage which is caused from an intentional or negligent breach of obligations of the hotel which are typical for the contract. A breach of obligation of the hotel is deemed to be the equivalent to a breach by a statutory representative or vicarious agent. 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 tour operator made without undue delay. The tour operator or the guest shall be obliged to undertake actions reasonable for him to eliminate the disruption and to keep any possible damage to a minimum.
2. The hotel is liable to the guest for property brought into the hotel in accordance with the statutory provisions. Accordingly, the liability is limited to one hundred times the room rate but, however, a maximum amount up to € 3,500.00 and, in deviation, for cash, securities and valuables, a maximum amount up to € 800.00. Cash, securities and valuables up to a maximum value of € (insert insured amount of hotel) may be stored in the hotel safe or room safe. The hotel recommends that guests make use of this possibility.
3. Insofar as a parking space is provided to the tour operator in the hotel garage or a hotel parking lot, this does not constitute a safekeeping agreement, even if a fee is exchanged. The hotel assumes no liability for loss of or damage to motor vehicles parked or manoeuvred on the hotel's property and the contents thereof, except for cases of wrongful intent or gross negligence. For the preclusion of damage claims of the tour operator, the regulation of the above-mentioned No. 1, sentences 2 to 4 supra shall apply respectively.
4. Wake-up calls are carried out by the hotel with care. 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). For the preclusion of damage claims of the tour operator, the regulation of the above-mentioned No. 1, sentences 2 to 4 supra shall apply respectively.
- X. **FINAL PROVISIONS**
1. Amendments and supplements to the contract, the acceptance of applications or these General Terms and Conditions should be made in text form. Unilateral amendments and supplements by the tour operator are not valid.
2. Place of performance and payment is the location of the hotel.
3. In the event of dispute, including disputes for checks and bills of exchange, the courts at the location of the hotel's registered office according to corporate law shall have exclusive jurisdiction for commercial transactions. Insofar as a contracting party fulfils the requirements of section 38, para. 2 of the German Code of Civil Procedure (ZPO) and does not have a general venue within the country, the courts at the location of the hotel's registered office according to corporate law shall have jurisdiction.
4. The contract is governed by and shall be construed in accordance with the laws of the Federal Republic of Germany. The application of the UN Convention on the International Sale of Goods and the Conflict Law are precluded.
5. 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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