

# General Terms and Conditions of the Accommodation Agreement with Kongresshotel Potsdam am Templiner See

## Section 1 Scope of the agreement

1. These terms and conditions apply to agreements on the rental assignment of hotel rooms for accommodation, as well as all further services and deliveries to the hotel, effected on behalf of the client.
2. The subletting or re-letting of the assigned rooms and their use for purposes other than accommodation, require the prior written permission of the hotel, in which case section 540 subsection 1 sentence 2 BGB (German Civil Code) is waived (no special right of termination of the client in the event that approval is denied), insofar as the client is not a consumer.
3. Terms and conditions of the client apply only following prior written agreement.
4. Furthermore, the additional provisions agreed on concluding the accommodation agreement apply.

## Section 2 Conclusion of the agreement, partners to the agreement; Limitation

1. The agreement is concluded by the hotel accepting the client's application. The hotel is at liberty to confirm the room booking in writing.
2. The contracting parties are Kongresshotel Potsdam am Templiner See (OSGV Hotel und Kongress GmbH & Co. Betriebs KG, Am Luftschiffhafen 1, 14471 Potsdam), hereinafter referred to as the hotel, and the client. If a third party made the booking on behalf of the client, the third party and the client together are liable to the hotel, as joint debtor, in respect of all obligations arising from the hotel accommodation agreement.
3. All claims against the hotel that come under the regular knowledge-dependent period of limitation, on principle lapse within one year from commencement (section 199 subsection 1 BGB); claims for compensation lapse within five years – knowledge-independent. Reductions of the period of limitation do not apply to claims due to a premeditated or grossly negligent violation of duty on the part of the hotel.

## Section 3 Services, prices, payment, offsetting

1. The hotel is under the obligation to keep the rooms booked by the client ready until 6 pm and to provide the agreed services.
2. The client is under the obligation to pay the hotel's applicable prices or the prices agreed with the hotel for the assignment of the room(s) and the additional services utilised by the client. This applies also to services and expenses to third parties the hotel incurred on behalf of the client.
3. The agreed prices include the respective amount of VAT. If the amount of VAT included in the prices rises, due to legal provisions, the hotel is authorised to adjust the agreed prices correspondingly, without separate prior agreement by the client. If the period between concluding the agreement and fulfilment of the agreement exceeds six months and if the hotel's usual price for such services rises, this can raise the contractually agreed price appropriately, at most, however, by five percent.
4. The hotel can have its agreement in respect of a client's request for a retroactive reduction of the number of booked rooms, the service provided by the hotel or the client's length of stay depend on an increase of the price of the room(s) and/or other service(s) provided by the hotel.
5. Invoices issued by the hotel that do not bear a due date are payable without deductions within eight days from receipt of the invoice. The hotel is authorised to accelerate accrued claims at any time and to demand immediate payment. If payments are delayed, the hotel is entitled to demand the respective legal amount of default interest of currently 8%, or with regard to legal transactions involving a consumer, of 5% above the base rate of interest. The client reserves the right to prove a lower

level of damage, while the hotel reserves the right to prove a higher level of damage. The hotel can demand dunning costs of EUR 10.00 from the client for each dunning notice sent following the delay. The client shall bear all further costs arising in the course of collecting the receivables. In the event that invoices are overdue, the hotel reserves the right to book the amount due from the credit card given as guarantee.

6. The hotel is entitled to demand an adequate prepayment or surety in the form of a credit card guarantee, a down payment or similar from the client on conclusion of the agreement. The level of the prepayment and the payment dates can be agreed in writing in the contract. Prepayments or sureties for package tours will not affect legal provisions.
7. Where reasonable, e.g. if the client is in arrears with payment, the hotel is entitled to demand an increase of the prepayment or surety within the meaning of subsection 6, agreed in the contract – up to the full remuneration agreed – even after concluding the agreement and until the client's stay at the hotel commences.
8. The hotel is also entitled to demand an adequate prepayment or surety from the client on commencement and during the client's stay within the meaning of subsection 6 above, in respect of existing and future receivables arising from the agreement, insofar as such a payment has not already been made in accordance with subsection(s) 6 and/or 7 above.
9. The client can only offset, reduce or exercise a right of retention against a claim of the hotel with an indisputable or legally valid claim.

## Section 4 Cancellation by the client/Non-utilisation of hotel services (no show)

1. The cancellation by the client of the agreement concluded with the hotel requires the written acceptance of the hotel. If such acceptance is not provided, the price agreed in the contract must also be paid if the client does not utilise the contractually agreed services. This does not apply if the hotel violates its obligation to take consideration of the rights, legally protected interests and other interests of the client and if – as a result – the client cannot reasonably be expected to abide by the contract or if the client is entitled to another legal or contractual right of cancellation.
2. Insofar as the hotel and the client agreed a date for the free cancellation of the contract in writing, the client can withdraw from the agreement until the said date without prompting claims for payment or compensation by the hotel. The right of the client to cancel the agreement is terminated if the client does not exercise its right to cancel in writing to the hotel within the agreed period, insofar as it is not a cancellation by the client in accordance with section 4 subsection 1 sentence 3.
3. With regard to rooms not utilised by the client, the hotel shall offset the income from the alternative rental of the rooms as well as the expenditure saved.
4. If the rooms are not alternatively let, the hotel can demand payment of the contractually agreed remuneration and the deduction of a lump-sum for saved expenditure. The client is subsequently under the obligation to pay at least 90% of the contractually agreed price in respect of accommodation with or without breakfast, 70% in respect of half board and 60% in respect of full board. The client can prove that the above mentioned claim did not arise or not at the level demanded.

## Section 5 Cancellation by the hotel

1. Insofar as it has been agreed in writing that the client can cancel the agreement free of charge within a specified period, the hotel is also entitled to cancel the agreement during this period if inquiries by other clients exist in respect of the contractually agreed rooms and the client does not – at the request of

the hotel – waive its right of cancellation. This applies correspondingly, if an option is granted and other requests have been received but the client is not prepared to make a firm booking within a period determined by the hotel. In this case 'firm booking' means that an accommodation agreement is concluded on this day and that the originally agreed, free period of cancellation is suspended.

2. If a prepayment or surety, agreed or requested in accordance with section 3 subsection(s) 6 and/or 7 is not made/paid, even after expiry of an adequate period of grace under threat of refusal to accept performance, the hotel is also entitled to cancel the agreement.
3. Furthermore, the hotel is entitled to withdraw from the agreement with extraordinary notice for factually justified reasons, e.g. in the event that
  - force majeure or other circumstances beyond the hotel's control render fulfilment of the agreement impossible;
  - rooms are booked under misleading or false information on essential facts, e.g. as to the client or the purpose of the client's stay;
  - the hotel has justified reasons to assume that the utilisation of the hotel's services may put the smooth operation, security or reputation of the hotel at risk, without this being attributable to the hotel's area of control or organisation.
4. The hotel shall inform the client immediately of the exercise of its right of cancellation.
5. In the event of a justified cancellation by the hotel, the client is not entitled to claim compensation.
6. The hotel can prohibit or demand termination of unauthorised interviews, sales presentations and similar events.
7. If a cancellation in accordance with subsections 2, 3 and 6 results in a claim for compensation by the hotel, against the client, the hotel can demand payment of the claim as a lump-sum. In this case, section 4 subsections 3 and 4 apply accordingly. The client can in such cases prove that no damage or only minor damage was incurred.

#### **Section 6 Provision, handover and return of rooms**

1. The client does not acquire a claim for the provision of specific rooms. If these are, however, confirmed in the order confirmation and/or accommodation agreement, but unavailable, the hotel shall endeavour to find an equivalent substitute within the hotel itself or in other, comparable objects.
2. Booked rooms are made available to the client from 2 pm onwards on the agreed arrival date. The client is not entitled to an earlier provision of the room(s). Insofar as a later arrival time was not expressly agreed or the respective room was not paid in advance, the hotel is entitled to assign booked room(s) otherwise after 6 pm, without the client being able to assert a claim against the hotel.
3. On the agreed departure date, the room(s) shall be vacated and made available to the hotel by 11 am, at the latest. After this time, the hotel can charge 50% of the full accommodation price (list price) until 6 pm for the use of the room above and beyond the time agreed in the contract, due to the delayed vacation of the room; after 6 pm the hotel can charge 100 %. The client may not derive any contractual claims from this. The client is at liberty to prove that the hotel did not incur any or a much lower claim for utilisation.
4. The maximum number of persons per room is restricted to one person in a single room and to three persons in a suite. Children of up to 14 years of age who reside in their parents' room are accommodated free of charge. In this case, however, additional services, which are included in the room price, do not – apply to the children. The accommodation of pets requires the prior express agreement of the hotel and will attract a charge.

#### **Section 7 Liability of the hotel**

1. The hotel is liable in respect of its obligations from the contract with the due diligence of a prudent businessperson. Claims of the client for compensation are excluded. This does not cover damages from injury to life, body or health, if the hotel is responsible for the violation of duty, and other damages caused by the premeditated or grossly negligent violation of duty by the hotel. The violation of duty by the hotel is equal to that of a legal representative or agent. If failures or defects of the hotel's services occur, the hotel will attempt to remedy this, following notice of the failure or defect or following the immediate reprimand of the client. The client shall contribute, within reason, to remedying the failure and to keeping potential damage low.
2. The hotel is liable for any items brought into the hotel by the client, in accordance with legal provisions – up to hundred times the room price but, at most EUR 3,500, and up to EUR 800 in respect of money and valuables. Money and valuables up to a maximum level determined by the hotel's insurance total can be deposited in the hotel safe. The hotel recommends this option. Liability claims lapse if the client does not give notice to the hotel with immediate effect (section 703 BGB), on gaining knowledge of the loss, destruction or damage. Liability claims can only be asserted if the room(s) or containers, in which the items were kept were locked.
3. Insofar as a parking space is made available to the client in the hotel's garage or on a parking lot owned by the hotel – even against a fee – this does not constitute a safekeeping agreement. If motor vehicles that are parked on the premises of the hotel, or their contents are lost or damaged, the hotel cannot be held liable unless this was caused through premeditation or gross negligence. Subsection 1, sentences 2 to 4 above, apply correspondingly.
4. The hotel provides wake-up calls with great care. It does not, however, accept liability for the calls. Messages, mail and consignments of goods for guests are treated with care. The hotel will take over the delivery, storage and – on request and against a fee – the forwarding of same. Subsection 1, sentences 2 to 4 above, apply accordingly.
5. Items the client left behind will only be forwarded to the client at the client's express request, at the risk and cost of the client. The hotel will retain the items for a period of three months. The items are subsequently handed to the local lost property office, if they have a recognizable value. If the items do not have a recognizable value, the hotel reserves the right to destroy the items after the three month period.

#### **Section 8 Final provisions**

1. Amendments or supplements to this agreement, of the acceptance proposal or these terms and conditions of accommodation must be in writing and express reference made to the agreement or the terms and conditions; this also applies to amendments of the written form requirement. Unilateral amendments or supplements by the client shall remain ineffective.
2. The place of performance and payment is Potsdam.
3. The exclusive place of jurisdiction for commercial transactions is Potsdam – also for cheque and bill disputes. Insofar as a contracting party meets the requirements of section 38 subsection 2 ZPO (German Code of Civil Procedure) and does not have a general place of jurisdiction in Germany, Potsdam is deemed to be the place of jurisdiction.
4. The law of the Federal Republic of Germany applies. The application of CISG and the conflict of law provision is excluded.
5. If individual provisions of these General Terms and Conditions are or become ineffective or void, this shall not affect the effectiveness of the remaining provisions. In this case, the contracting parties undertake to replace the ineffective or void provision by an effective provision that corresponds with the commercial purpose of the ineffective or void provision. Incidentally, the legal regulations shall apply.
6. Separate terms and conditions apply to events.