

## **General Terms & Conditions of the Brera GmbH**

### **I. Scope of applicability**

1. The following general terms and conditions shall apply to any services provided by the Westend Invest GmbH & Co.KG (hereinafter referred to as "Serviced Apartment Operator") to its guests or the ordering party (hereinafter referred to as "Customer"). The services in particular include the surrender of use of serviced apartments against payment as well as any other services and deliveries provided for the Customer by the Serviced Apartment Operator. The Serviced Apartment Operator may have services provided by third parties.

2. General terms and conditions of the Customer are not applicable. This shall also apply if the Serviced Apartment Operator does not explicitly object to such general terms and conditions.

### **II. Conclusion of the contract**

1. The respective contract (e.g. regarding the surrender of use of the serviced apartment against payment, additional services booked in advance or on arrival at the serviced apartment etc.) shall be concluded after a request is placed by the Customer either orally, online by telephone or in writing, and by acceptance of the request by the Serviced Apartment Operator. The Serviced Apartment Operator is free to accept the request in writing, in text form (e-mail, fax) or conclusively by performing the service.

2. In case of multiple bookings made by one Customer (e.g. an enterprise booking a contingent for its staff members) a so-called contingent contract is concluded. In the scope of this contingent contract, the Customer shall be liable for any damage which is culpably caused by the end user in such a way as if the Customer personally used the services of the Serviced Apartment Operation. This shall also apply for one-time bookings of the Customer for another end user.

3. Contracting parties shall be exclusively the Customer and the Serviced Apartment Operator. In case a third party booked on behalf of the Customer, e.g. an agent or an enterprise for its staff members which does not want to become contracting party itself, the third party and the Customer shall be liable towards the Serviced Apartment Operator for any obligations under the contract as joint and several debtors.

### **III. Rescission of the contract by the Serviced Apartment Operator**

1. If the customer does not pay an agreed down payment until the date of arrival or an agreed instalment within a grace period of 7 days stipulated by the Serviced Apartment Operator, the Serviced Apartment Operator shall be entitled to withdraw from the contract and/or claim damages for non-performance. Any other rights of the Serviced Apartment Operator remain unaffected.

2. Further, the Serviced Apartment Operator shall be entitled to withdraw from the contract for good cause. In particular, good cause applies if:

- due to Force Majeur or due to other circumstances for which the Serviced Apartment Operator is not responsible, the contract has become frustrated; the serviced apartment was booked by submitting misleading or false statements (e.g. with regard to the person of the Customer or the end user);
- the Serviced Apartment Operator has justified reasons to assume that the use of a service may endanger the smooth business operation, security or reputation of the

Serviced Apartment Operator in public, without this being subject to the territory or organization of the Serviced Apartment Operator;

- the customer or the end user leaves the serviced apartment to third parties without authorization;
- the Customer or the end user uses or utilizes the serviced apartment contrary to the contract, e.g. for commercial purposes or for purposes which are not in immediate context with mere overnight accommodation;
- the Customer or the end user sustainably and continuously disturbs the peace of the serviced apartment.

3. If the withdrawal by the Serviced Apartment Operator was justified, the Customer shall not be entitled to claim damages. Claims for damages by the end user – if a contractual or pre-contractual special agreement was agreed and these general terms and conditions also apply to the end user – or an assertion of claims by the Customer, no matter for which legal reason, are excluded.

#### **IV. Rescission of the contract by the Customer (countermanding, cancellation) / failure to claim services**

1. In case there is neither a contractual nor a legal right of withdrawal in favor of the Customer, the claim of payment of the agreed remuneration despite failure to claim services shall be maintained by the Serviced Apartment Operator. However, the Serviced Apartment Operator must credit incomes from ulterior leave of the serviced apartment as well as the saved expenditures. Accordingly, the compensation to which the Service Apartment Operator is entitled, shall be estimated at a lump sum according to the following rates:

a) „Flex Short & Mid“: The booking may be cancelled without charge until 4 days before arrival. After this point in time the accommodation price must be paid without any booked additional services with 50% of the accommodation cost. After arrival the reservation can be cancelled until 14 days before check out at any time, a cancellation fee of 14 days must be paid without any booked additional services.

b) „Flex Long“: The booking may be cancelled without charge until 7 days before arrival. After this point in time the accommodation price must be paid without any booked additional services for the first 14 days. After arrival the reservation can be cancelled until 14 days before check out at any time, a cancellation fee of 14 days must be paid without any booked additional services. c) „Smart“: In case of cancellation or no-show for a stay booked according to the Smart rate, refund of the accommodation price is not possible. A cancellation within 24h after booking is free of charge.

2. The Customer shall be free to provide proof that the above-mentioned claim of the Serviced Apartment Operator has not accrued or has not accrued in the demanded amount. Likewise, the Serviced Apartment Operator shall be entitled to provide proof that a higher amount of damage has accrued. 3. Irrespective of the above, the Customer shall be entitled to withdraw from any booking within 24 hours after booking. The withdrawal must be made in text form (e-mail, fax). Substantial for timely receipt of the declaration of withdrawal is the point in time, at which the Serviced Apartment Operator receives the declaration of withdrawal.

#### **V. Arrival, hand-over of the serviced apartment**

1. The hand-over of the serviced apartment is exclusively restricted to accommodation purposes.

2. The Customer is entitled to be provided with a serviced apartment in the booked category. The Customer is not entitled to claim that a specific serviced apartment is provided.
3. The serviced apartment is available to the Customer on the agreed arrival date starting from 2:00 p.m. The Customer is not entitled to claim earlier availability. On the departure day the serviced apartment is to be made available to the Serviced Apartment Operator in vacated condition by 11:00 a.m. at the latest.
4. In case of late handover on the departure date, the Serviced Apartment Operator may claim besides the occurred damage up to an additional amount of 50% of the total accommodation price (list price) if the Serviced Apartment is used until 6:00 p.m., and if it is used after 6:00 p.m., the Serviced Apartment Operator is entitled to charge an additional amount of 100%. The guest shall be entitled to provide proof that the Serviced Apartment Operator has not suffered any damage or substantially lower damage. Likewise, the Serviced Apartment Operator shall be entitled to provide proof that a higher damage has been suffered.
5. When handing over the apartment a handover report is drafted. In case of impersonal handover (e.g. by means of key/card automats) the Customer shall be provided with a handover report in which the state of the serviced apartment as is as well as the inventory present in said apartment are documented, either by deposit of the handover report in the serviced apartment at a clearly visible place or by transmitting the handover report via e-mail. In such a case, the Customer shall bring forward any objections as to the of the handover report to the Serviced Apartment Operator without any delay, however, at the latest within 48 hours in writing or text form (e- mail, fax). Otherwise, the handover report is considered approved.

## **VI. Services, prices, invoicing, set-off**

1. The Customer is obliged to pay the agreed price for the handover of the serviced apartment as well as for the further services used. If a concrete price arrangement is not available, the prices as applicable in the serviced apartment house on the date of the rendering of the service shall be considered as agreed (assumption of level of remuneration). Services and expenses of the Serviced Apartment Operator to third parties induced by the Customer shall be charged to the Customer by the Serviced Apartment Operator.
2. The agreed prices are inclusive value added tax, if applicable. Any increases of the VAT after conclusion of the contract shall be at the expense of the Customer. If there are more than three months between the conclusion of the contract and the date of arrival and the prices applicable to the respective serviced apartment house have increased, the Serviced Apartment Operator may increase the contractually agreed prices to a reasonable extent, however, at most by 10%. Subsequent changes to the services may result in a corresponding adjustment of the price in accordance with the prices which are applicable for such services in the respective serviced apartment.
3. The accommodation price per night in principle comprises any side costs which might accrue. The Serviced Apartment Operator maintains the right of subsequent billing to the Customer in case of inadequately high consumption data. The prices, for example, do not comprise public charges such as visitor's tax, culture tax (so-called "bed tax") etc. The respective amounts are separately charged to the Customer.
4. Unless otherwise agreed, invoices of the Serviced Apartment Operator are due for payment immediately upon receipt without any deduction. An invoice sent by mail is considered as received on the third business day after the date of dispatch of the invoice, unless an earlier receipt can be proven. In case the Customer is in arrears with the fulfillment

of an obligation towards the Serviced Apartment Operator, the Serviced Apartment Operator shall be entitled to declare immediately due and charge all claims against the Customer, even deferred claims or credited claims.

5. For each reminder the Customer shall pay a lump sum amount of EUR 10.00 for the accrued reminder costs. The Customer shall be entitled to provide proof that no costs or substantially lower costs for the reminder arose for the Service Apartment Operator. The assertion of a damage going beyond such an amount remains unaffected.

6. The Customer shall be entitled to only set-off counterclaims against claims of the Serviced Apartment Operator or exercise a right of retention which are undisputed, legally held or ready for a decision.

7. The assignment of claims against the Serviced Apartment Operator to third parties is subject to the written consent granted by the Serviced Apartment Operator. The same applies to the exercise of any other rights against the Serviced Apartment Operator by third parties.

## **VII. Payments**

1. The accommodation price and the booked additional services shall be paid in advance (in case of the "Longflex" rate: 14 days before arrival, in case of the "Shortflex" rate: upon arrival, in case of the "Longsmart" and "Shortsmart" rate: at the time of booking) in Euro by using one of the methods of payment provided by the Serviced Apartment Operator. In case the booking takes longer than one months, the accommodation price per night as well as the booked additional services for the following accounting periods will be billed 14 days before expiry of the following 30 days' period. Payments made by transfer must be received by the Serviced Apartment Operator within 7 bank business days from invoicing.

2. Unless agreed otherwise, the accommodation price per night and any other agreed charges as well as damage and missing inventory (item XV no. 5) shall be charged to the credit card provided by the Customer upon booking. For this reason, the Customer authorizes the Serviced Apartment Operator as well as its debt collectors irrevocably to charge any amounts which become due to the credit card which has either been provided when conducting the booking, submitted when entering into the contract or subsequently provided by the Customer.

3. As to the internal relationship with the Serviced Apartment Operator, the Customer waives his right to object to charges by the Serviced Apartment Operator (so-called "chargeback"). Disagreements with regard to the amount charged by the Serviced Apartment Operator shall be directly clarified between the Serviced Apartment Operator and the Customer. In such a case, the Serviced Apartment Operator provides the possibility of chargebacks/reverse transfers of amounts which may have been wrongfully charged. Any fees, costs or other (service) charges charged by the credit card company or the cardissuing bank in connection with a wrongful objection shall be borne by the Customer.

4. Instead of charging the credit card, the Serviced Apartment Operator may in the course of a so-called vendor request may block an amount of the accommodation price for one month, in case of a longer stay the accommodation price of two months in its favor from the credit line granted to the Customer by his credit company and process the remaining payments via alternative methods of payment. An entitlement of the Customer to this does not exist.

## **VIII. Utilization / use of the serviced apartment**

1. The Serviced Apartment Operator leaves the serviced apartment exclusively for the purpose of accommodation and exclusively for temporary use. Unless prior written consent of the Serviced Apartment Operator is granted, sub-lease to third parties or granting any other permissions to third parties which are not designated in the contract to use the premises, is prohibited.
2. In principle, the keeping of animals is prohibited.
3. All serviced apartments are non-smoking rooms. Should, however, be smoked in a serviced apartment, liquidated damages in the amount of EUR 500.00 will become due for the special cleaning costs as well as possible turnover losses due to a (temporary) non-availability of the room. The Customer shall be entitled to provide proof that no damage or a substantially lower damage has been suffered. Claims for damages by the Serviced Apartment Operator going beyond that shall remain unaffected.
4. In spaces for joint use, washing machines and dryers are at the disposal of the Customer. These devices are used at Customer's own risk. The Customer shall thoroughly check the devices before use for any defects and residues and shall notify the Serviced Apartment Operator without delay in case of any damage or malfunction. The Serviced Apartment Operator shall not be liable for laundry which was left, stolen, discolored or soiled in any other way, shrunk or damaged in any other way. After use, the devices shall be left in a proper and clean condition, so that they can be used by other guests of the serviced apartment house.

## **IX. Treatment of the serviced apartment**

1. Upon arrival, each Customer receives a house / door key or card as well as further devices for entry and access to the serviced apartment, if required, which shall be returned on departure to the Serviced Apartment Operator.
2. The Customer shall take care of and handle considerately the serviced apartment as well as the rooms and institutions for joint use.
3. The inventory of the serviced apartment shall not be removed. Mounting or placing decoration articles on the walls is prohibited.
4. The Customer shall be liable for damage which is caused by violating his duty of care and his obligation to notify, in particular if the rooms are insufficiently ventilated, cleaned, heated or protected against freezing.

## **X. Liability**

1. The Serviced Apartment Operator shall be liable only in cases of intentional or grossly negligent violation of his obligations towards the Customer. Further, this exemption of liability does not comprise liability for injury of life, body or health as well as the intentional or negligent violation of substantial contractual obligations. Substantial contract obligations are obligations which are essential to achieve the purpose of the contract. Beyond that, the aforementioned restrictions shall accordingly apply to any exemptions and limitations of liability mentioned in these general terms and conditions, which have already been mentioned herein or will be mentioned in the following.
2. The Customer shall notify obvious defects or any other damage in or at the serviced apartment to the Serviced Apartment Operator without delay. The Customer shall be liable

for any damage caused by late notification. The assertion of further claims for damages remains unaffected.

3. With regard to objects brought in by the Customer, the statutory provisions shall apply, in particular the statutory liability limit pursuant to sections 701 et seq. German Civil Code. Any such claims shall be excluded if the guest does not notify the Serviced Apartment Operator as soon as the guest becomes aware of loss, destruction or damage (sec. 703 German Civil Code).

4. Objects left by the Customer shall only be forwarded upon request and the risk and reimbursement of the incurred costs shall be borne by the Customer. The Serviced Apartment Operator keeps the objects for a period of six months from the date of notification of the authorized recipient or the authority in charge about the finding. The Serviced Apartment Operator shall be entitled and shall be obliged upon order by the authority in charge to deliver the object to the respective authority in charge. Upon expiration of the storage period of six months, the Serviced Apartment Operator obtains ownership to such object, if the authorized recipient has neither become known nor has announced his right to the authority in charge. With regard to the Serviced Apartment Operator's claims for the reimbursement of expenses resulting from the keeping and preservation of the objects as well as with regard to the finder's reward to which the Serviced Apartment Operator may be entitled, it is referred to sections 970, 971 German Civil Code. Apart from that, the statutory provisions set out in sections 965 et seq. of the German Civil Code remain unaffected.

5. If the Customer is provided with parking spaces in an underground car park or a car park of the Serviced Apartment Operator (against payment of a fee or free of charge), no contract of deposit is concluded in this respect. The Serviced Apartment Operator does not have any monitoring obligations. The Serviced Apartment Operator shall not be liable for any loss or damage to vehicles which are parked or maneuvered on the premises of the Serviced Apartment house as well as for their contents.

## **XI. Entering the serviced apartment**

1. The Serviced Apartment Operator, its agents or authorized representatives shall be entitled to enter the serviced apartment at any time in the framework of providing additional services booked by the Customer (e.g. cleaning, change of bed linen and towels, shopping service etc.). The services are basically carried out during the service times as previously agreed with the Customer. In case service times cannot be adhered to in an individual case, the service shall be performed by observing the greatest possible consideration of the guest (e.g. announcement of entry by knocking, diligently ensuring that the guest is not disturbed, etc.). The Customer is not entitled to claim that the services to be rendered at a specific time.

2. In case of danger, the Serviced Apartment Operator, its agent or authorized representative is allowed to enter at any time at day and night.

3. Moreover, the Serviced Apartment Operator, its agent or authorized representative shall be entitled to enter the serviced apartment for the purpose of inspection and control after prior notification.

4. In case of absence of the Customer for a period of more than 2 weeks, the Customer shall close all water inlets and leave the key/card with the Serviced Apartment Operator.

## **XII. Term of the accommodation contract**

1. A booking can be made for a period of at least 3 days and for a maximum of 6 months (including a possible extension of the contract). An implicit extension of the contract by continuing use is not possible.

2. Price increases in case of extensions of the contract/new bookings remain reserved. XIII. Internet

The Customer shall use the internet on his own responsibility and risk. The Customer shall be responsible himself and shall bear any of the costs for any data transmitted via the internet, as well as for any services used over the internet and legal transactions made over the internet. When using the internet, the Customer is obliged to obey to applicable laws and, in particular, shall not access or spread unethical or illegal contents, as well as shall not unlawfully copy, spread or make accessible goods protected by copyright, shall adhere to the applicable youth protection regulations, shall not send or spread harassing or defamatory contents or contents which are illicit in any other way, shall not use the internet access for sending mass or chain messages ("spam") and/or shall not use any other ways of inadmissible advertisement and, apart from that shall abstain from anything which might expose him and/or the Serviced Apartment Operator to liability claims of third parties. The Customer shall hold the Serviced Apartment Operator harmless against any damage and claims of third parties which are based on an unlawful use of the internet and/or infringement of the provisions set out under this item XIV. This right for indemnification also comprises any costs and expenses which might arise for the Serviced Apartment Operator by judicial or extrajudicial actions and the defense against claims.

## **XIV. Return of the serviced apartment**

1. Upon the end of the booking the serviced apartment must be returned on the date of departure in a clean, completely vacated state and in the same condition as it was on arrival by 11:00 a.m. at the latest. In this respect, it is referred to above item V. no. 3.

2. Furthermore, on departure:

- all windows must be closed;
- all electrical devices except the refrigerator must be switched off;
- any garbage must be disposed of in the provided garbage cans;
- all keys/cards and otherwise provided devices for access and entry to the serviced apartment must be put on the dining table;
- any additional services which may have been booked must be provided in the boxes received on arrival.

3. The final cleaning will be conducted by the Serviced Apartment Operator and will be charged to the Customer in the first invoice at the agreed list price. In case of uncommon heavy soiling the Serviced Apartment Operator reserves the right to charge the additional cleaning costs arising in the course of a special cleaning to the Customer. This shall also apply to heavy soiling which occurs during the stay of the Customer. Claims for damages due to heavy soiling remain unaffected.

4. Upon return, a return report will be drafted, in which the existing damage as well as possible missing inventory shall be recorded. In case of impersonal return (e.g. by using a key/card automat) the Serviced Apartment Operator shall draft such a return report after inspection of the serviced apartment. Any discrepancies between the handover report and the return report must be reprimanded by the Serviced Apartment Operator without delay, at the latest within 48 hours. Otherwise, the condition as well as the existing inventory is considered approved.

5. Any damage in or at the Serviced Apartment, damage to inventory or the missing of inventory as well as damage to spaces for joint use and/or their inventory shall be charged to the credit card indicated by the Customer upon the booking. In case of the grant of alternative payment methods and the provision of an otherwise agreed security, corresponding damage and missing inventory shall be set-off against such security, unless this security has been used before. Any damage costs exceeding the available credit card limit of the Customer or the otherwise provided security shall be separately charged to the Customer and shall be invoiced in the final bill if detected at the date of departure in the course of the return of the serviced apartment.

## **XV. Limitation**

Any claims of the Customer against the Serviced Apartment Operator out of or in connection with the contract will become time-barred after one year. With regard to the commencement of the limitation period, sec.199 para. 1 German Civil Code shall apply. The shortening of the statute of Limitation shall not apply to claims which are due to intentional or grossly negligent violation of duties by the Serviced Apartment Operator or in case of violation of life, body or health.

### **XVI. Special obligation to register in lodging accommodations**

1. According to the statutory provisions pursuant to sec. 29 para. 1 of the German Federal Registration Act (Bundesmeldegesetz, BMG) any natural person who stays for longer than six months in a lodging accommodation, must register at the registration authority in charge within two weeks after moving in. For persons that do not have their permanent residence in Germany, the registration obligation applies if the stay lasts longer than three months.

2. As soon as the person moves out and does not move into a new accommodation in Germany, the person must deregister at the registration authority in charge within two weeks after moving out. Deregistration is possible at the earliest one week before moving out and is effective from the date of moving out.

3. The Serviced Apartment Operator expressly points the guest to the special obligation to register in lodging accommodations. The failure to register or an incorrect registration or the failure to not register in due time may be imposed with a fine in the amount of up to one thousand EUR. The same applies in case of failure of deregistration or the failure to deregister in due time.

4. The Serviced Apartment Operator is committed itself to participate in the official registration and deregistration and to confirm to the person to be registered his/her moving in or moving out within the above-mentioned terms in writing or in electronic form. For this reason, the Serviced Apartment Operator provides special forms and will confirm to the guest his/her moving in or moving out in accordance with the above-mentioned provisions. The guest commits himself/herself to provide a confirmation signed by the guest, in which he/she confirms to the Serviced Apartment Operator that his/her stay in the Brera Serviced Apartment is merely temporary and that he/she must submit a proper deregistration confirmation at the latest upon moving out (compliance with the special obligation to register in lodging accommodations; no establishment of permanent residence). The issuance of the lessor's confirmation and the compliance with the special participation obligations of the Serviced Apartment Operator with respect to registration and deregistration are not dependent thereon.

## **XVII. Miscellaneous**

1. German law is applicable exclusively. If legally admissible, venue shall be Munich.

2. Place of performance and payment shall be Munich.



3. In case one of the provisions of this contract should be or become ineffective, the effectiveness of the remaining provisions is unaffected. In such a case the Customer and the Serviced Apartment Operator strive to replace the ineffective provision by such effective regulation which is closest to the economic purpose in a legally admissible manner. The same applies if circumstances in need of regulation have not been regulated in an express manner. In case of any discrepancies between the German and the English version of these general terms and conditions, the German version, as below shall prevail.

As of July 2019