

# General Terms and Conditions for Hotel Accommodation Contracts in the ADAPT APARTMENTS BERLIN GmbH

## I. Scope

1. These Terms and Conditions apply to contracts for the letting of hotel rooms for accommodation and to all other customer-related activities and services provided by the respective ADAPT APARTMENTS BERLIN GmbH (hereinafter referred to as "the Hotel" or "Adapt"). The term "Hotel Accommodation Contract" shall include and replace the following terms: lodging contract, guest admission contract, hotel contract, hotel room contract.
2. Sub-contracting or subletting of rooms, together with their use for any purposes other than accommodation, require the prior written approval of the Hotel, whereby Article 540 paragraph 1 clause 2 of the German Civil Code (BGB) will be waived.
3. The customer's own Terms and Conditions shall only apply if they have previously been expressly agreed in writing.
4. For the purpose of these Terms and Conditions, a customer shall be understood as a consumer or an entrepreneur in terms of Articles 13 and 14 of the German Civil Code.

## II. Contract agreement, contracting parties and limitations

1. The contract becomes valid when the Hotel accepts the customer's application. If the Hotel makes the customer a firm offer, then the contract takes effect with the customer's acceptance of the Hotel's offer. Room bookings should be confirmed in writing.
2. The contracting parties are the Hotel and the customer. If a third party has placed a reservation on behalf of the customer, the customer and the third party shall be jointly liable to the Hotel for all obligations arising from the Hotel Accommodation Contract, insofar as the third party shall provide the Hotel with an appropriate statement to this effect.
3. As a matter of principle, all claims made by the customer and/or the third party against the Hotel shall lapse 1 year after their declaration which initiates the normal limitation period in accordance with Article 199 paragraph 1 of the German Civil Code.

Claims for compensation against the Hotel lapse at the latest after a term of 3 years from the dereliction of duty, dependent on the time of cognizance, and after a term of 10 years from the dereliction of duty, irrespective of the time of cognizance. These limitations do not apply...

- In the event of claims arising from intent or gross negligence on the part of the Hotel and/or its vicarious agents.

- In the event of damages caused by negligence and arising from damage to life, limb or health.

In the event of material and financial damages caused by negligence, these limitation restrictions shall not apply in cases where a fundamental contractual duty has been breached. Fundamental contractual duties are duties, the

fulfilment of which is substantial to the contract, and on which the customer may depend.

## III. Services, tariffs, payment, offsetting

1. The Hotel is obliged to make available the rooms that the customer has reserved and to provide the services that have been agreed.
2. The customer is obliged to pay the current or agreed Hotel prices to hire the room and any other services he has made use of. This also applies to services and expenses that he requests the Hotel to make over against third parties. The agreed prices shall be understood to include taxes and local duties at the rates applicable at the time the contract was agreed. This does not include local duties, such as visitors' tax, which, in accordance with the respective local legislation, the guest is liable to pay personally. In the event of an increase, subsequent to the contract agreement, in the statutory rate of turnover tax or the new introduction, alteration or repeal of local taxes or duties relating to the subject of the agreement, then the contractually agreed price may also be increased proportionately. In cases of contracts with consumers, this shall only apply should the period between the agreement of the contract and its fulfilment exceed 4 months.
3. The Hotel is entitled to take into account increased prices for rooms or other Hotel services when determining whether or to what extent to concur with subsequent customer wishes for a reduction in the number of rooms or Hotel services and/or the length of period booked by the customer.
4. Hotel invoices without a payment date are payable in full within 10 calendar days of receipt. The Hotel is entitled to demand payments outstanding at any time, and to require immediate payment. In the event of delay in payment, the Hotel is entitled to demand the appropriate legal late payment interest of 9% above the current basic interest rate, or 5% above the basic interest rate in the case of legal transactions involving the customer. Furthermore, the Hotel can charge a fee of EUR 5.00 for every reminder on payment arrears that it sends. The Hotel reserves the right to provide evidence of entitlement to a higher claim to damages.
5. When the contract is agreed, or subsequently in accordance with the legal regulations governing package holidays, the Hotel is entitled to request an appropriate advance or security deposit. The amount of advance payment and the payment deadlines may be agreed in writing in the contract.
6. In individual substantiated cases, e.g. customer payment arrears or extension of the scope of the contract, the Hotel is entitled, even after the contract has been agreed, to demand an advance payment or a security deposit in terms of paragraph 5 above, or to increase the contractually agreed advance payment and/or security deposit up to the full payment amount due.

7. The customer can only offset or reduce the Hotel's payment demands by means of an unchallenged legal claim.

#### **iv. Withdrawal of the customer (counter-order or cancellation) / failure to make use of the Hotel's services (no show)**

1. The customer's withdrawal from a contract agreed with the Hotel is only possible if such right of withdrawal is expressly agreed in the contract, if some other statutory right of withdrawal applies, or if the Hotel expressly agrees to the cancellation of the contract. The agreement of a right to withdrawal and any such agreement to the cancellation of the contract should each be submitted in writing.
2. Provided that a date (optional) for withdrawal from the contract without penalty has been agreed between the customer and the Hotel, the customer may withdraw from the contract without penalty up to this date, without the Hotel making any claim for payment or compensation. The customer's right to withdrawal is extinguished if he does not exercise his right to withdraw vis-à-vis the Hotel in writing by the agreed date.
3. If a right of withdrawal has not been agreed or has already expired, then no statutory right of withdrawal or cancellation shall be deemed to apply, and should the Hotel not agree to cancellation of the agreement, then the Hotel retains the right to claim the agreed payment even if the services have not been utilized. The Hotel is obliged to balance against its claim income from other rental made of the rooms and from expenses saved. If the rooms are not otherwise let, the Hotel is entitled to apply a flat rate reduction for expenditure saved. In such cases the customer is obligated to pay at least 90% of the contractually agreed price for overnight stays, with or without breakfast, and for package arrangements involving outside services, 70% for overnight stays with half board, and 60% for full board arrangements. The customer is entitled to provide evidence that such claims have not arisen or are unjustifiably high.
4. Insofar as the Hotel calculates its actual losses, the maximum amount of compensation shall equal the contractually agreed price of the services to be supplied by the Hotel less the value of the expenditure saved by the Hotel together with the amount that the Hotel acquires through the alternative use of the Hotel's services.
5. The compensation regulations referred to above shall apply accordingly if the customer does not claim the room or services he has reserved without informing the Hotel of this in good time (no show).

#### **v. Withdrawal by the Hotel**

1. Provided that the customer's right to withdraw without penalty within a particular time period has been agreed in writing, the Hotel is also for its part entitled to withdraw without penalty within this time period if applications from other customers for rooms reserved under contract are to hand, and the customer does not waive his right to withdraw within 2 weeks of having been

contacted to this end by the Hotel. In the event of the customer failing to respond within this deadline, the Hotel is entitled to withdraw.

2. The Hotel is also entitled to withdraw from the contract if an advance payment as agreed or as demanded in accordance with III. Paragraph 5 is not made, even after an appropriate period of grace set by the Hotel has elapsed.
3. Furthermore, the Hotel is entitled to withdraw from the contract in exceptional circumstance, if so justified for well-founded reasons, especially in the event that...
  - an act of God or other circumstances beyond the control of the Hotel make the fulfilment of the contract impossible;
  - rooms are booked giving a misleading or a false description of essential facts (e.g. in respect of the customer, financial solvency or the purpose of the accommodation);
  - the Hotel has good grounds for supposing that the use of the Hotel services might jeopardize the smooth running of the Hotel's operations, or the safety or the reputation of the Hotel in the public eye in a way that is beyond the control or scope of the Hotel's organization;
  - There is any breach of I. paragraph 2.
4. If the Hotel justifiably withdraws, the customer shall have no right to claim for compensation.

#### **vi. Provision, handing over and returning the room**

1. Unless otherwise expressly agreed, the customer has no right to demand the provision of specific rooms.
2. The reserved rooms shall be available to the customer by 3:00 p.m. at the earliest on the agreed date of arrival. Reserved country houses / apartments shall be available to the customer by 5:00 p.m. at the earliest on the agreed date of arrival. The customer has no right to demand that rooms should be provided earlier.
3. On the agreed date of departure, rooms must be vacated and at the Hotel's disposal by 12:00 noon at the latest. Country houses / apartments must be placed at the Hotel's disposal by 10:00 a.m. at the latest on the agreed departure date. If there is delay in vacating the room/ country house or apartment, the Hotel may invoice for its use beyond the contract period up to 6:00 p.m. at 50% of the current daily letting price, and at 100% from 6:00 p.m. onwards. Any contractual claims made by the customer cannot be justified on these grounds. The customer is at liberty to provide evidence that the Hotel had no claim or a significantly lower claim on payment for its use. Moreover, the Hotel reserves the right to establish proof of and charge for a higher rate of compensation.

#### **vii. The Hotel's liability**

1. The Hotel and its vicarious agents shall, in accordance with statutory provisions, be liable for damages arising from willful or grossly negligent behavior. The same shall apply to damages to life, limb or health resulting from negligence. In cases of property and financial damages caused by

negligence, Adapt and its vicarious agents shall only be liable if and when a fundamental contractual obligation been breached, however such liability shall be limited to foreseeable and contractually typical damages when the contract was entered into; fundamental contractual duties being such, the fulfilment of which is substantial to the contract, and on which the customer may depend. Should any faults or shortcomings arise in the services provided by the Hotel, the Hotel will make every effort to correct this if the customer has brought these to its attention or made his objections promptly known. The customer is obliged to make reasonable effort to rectify any fault or minimize any possible loss or damage, and to bring any faults or damage immediately to the Hotel's attention.

2. In accordance with the legal provisions of §§ 701 ff. of the German Civil Code, the Hotel is liable to the customer up to a maximum sum of EUR 3,500.00 for items brought into the Hotel. In the case of cash, securities and valuables, the sum of EUR 3,500.00 is replaced by the sum of EUR 800.00.

Insofar as a guest shall bring monies, securities and valuables with a value of more than EUR 800.00 or other objects with a value of more than EUR 3,500.00 into the Hotel, this shall require a special safe keeping agreement with the Hotel. Safe keeping in the Hotel or room safe is recommended at all times. For all further liability on the part of the Hotel, the terms of

VII. Paragraph 1 above shall apply.

3. Though the customer may be offered a parking space in the Hotel garage or car park, this shall not form a contract for its safekeeping, even if a parking fee is paid. The Hotel shall only assume liability in terms of VII. Paragraph 1 for loss or damage to any vehicle parked or maneuvered on the Hotel's property, or to its contents.
4. Instructions for wake-up calls shall be carried out with the utmost care by the Hotel. Messages, post and the sending of trade samples for the customers shall also be treated with the utmost care. The Hotel will undertake to deliver or keep such items (at the Hotel), or to send them on if desired, for a fee. Paragraph 1 above shall apply accordingly.

### **VIII. Final provisions**

1. Any amendments or additions to this contract, the acceptance proposal or these General Terms and Conditions for Hotel Accommodation Contracts must be made in writing. Any unilateral alterations or additions by the customer shall be void.
2. Place of fulfilment and place of payment shall be the same as the registered office of the respective Hotel.
3. The sole court of jurisdiction for commercial transactions, including cheque and currency disputes, shall be Cologne. Insofar as a contracting party fulfils the requirements of Article 38 paragraph 2 of the Code of Civil Procedure (ZPO) and has no general place of jurisdiction within Germany, the Hotel's registered office shall act

as the place of legal jurisdiction.

4. German law alone shall apply. The UN Sales Convention and conflict of law legislation are hereby precluded from applying.
5. In the event of individual provisions of these General Terms and Conditions for Hotel Accommodation Contracts being or becoming ineffective or void, the validity of the remaining provisions hereof shall in no way be affected. Otherwise, statutory provisions shall apply.

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