

# TERMS AND CONDITIONS.



## §1 SCOPE OF APPLICATION

1. These terms and conditions govern contracts for the rental of residential space for accommodation purposes ("**Apartments**") as well as all other services and supplies rendered to the guest by BD Apartment GmbH, Barcelona-Allee 1, 51103 Cologne ("**BD Apartment**") as operator of STAYEREY. Serviced Apartments.
2. These terms and conditions shall apply exclusively. The guest's terms and conditions shall not apply, irrespective of their respective content, unless explicitly acknowledged by BD Apartment beforehand in text form.

## §2 CONCLUSION OF CONTRACT, PARTNER, STATUE OF LIMITATIONS

1. The accommodation contract shall be concluded upon acceptance of the guest's booking by BD Apartment. BD Apartment accepts the booking by confirmation in text form, at the latest, however, by provision of the Apartments.
2. Contractual parties are BD Apartment and the guest. If a third party has booked for the guest, such third party shall be liable to BD Apartment together with the guest as joint debtor (Gesamtschuldner) for all obligations arising from the accommodation contract. In this case, such third party is the contractual party.
3. Subletting of the Apartments as well as their use for purposes other than accommodation require the prior consent of BD Apartment in text form. The same shall apply for use of the Apartment by persons / visitors exceeding the stipulated number of persons foreseen in the contract.
4. All claims against BD Apartment shall become time-barred one year after commencement of the statutory limitation period. This does not apply to claims for damages and other claims if the latter are based on an intentional or grossly negligent breach of duty by BD Apartment.

## §3 SERVICES, PRICES, PAYMENT, SER-OFF CLAIMS

1. BD Apartment is obliged to provide the Apartments booked by the guest or an equivalent replacement thereof, and to render the services agreed upon.
2. The guest is obliged to pay the prices agreed upon or applicable for the provision of accommodation and for other services accepted by him and offered by BD Apartment. This shall also apply to services commissioned by the guest directly or via BD Apartment, which are provided by third parties and disbursed by BD Apartment.
3. The agreed prices include the respectively applicable value added tax ("VAT"). Should the VAT rate applicable to the contractual services increase or decrease after conclusion of the contract, the prices will be adjusted accordingly.
4. If the period between conclusion of the contract and fulfilment of the contract exceeds four months and if the price generally charged by BD Apartment for its respective services increases, BD Apartment is entitled to increase the contractually agreed price appropriately, but by no more than 10 %.
5. BD Apartment may also adjust the applicable prices if the guest wishes to change the number of Apartments booked, the service provided by BD Apartment or the length of stay after booking, provided, however, that BD Apartment agrees to such changes. Changes must be made in text form.
6. If the guest has the possibility to indicate special non-contractual requests during the booking process, these shall be considered as non-binding for BD Apartment. The guest

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has no claim that the Apartment complies with these non-contractual special requests, unless explicitly confirmed by BD Apartment in text form.

7. Payment by means of the selected payment method must be made on the date of arrival at the latest. The date of arrival is 6:00 p.m. of the booked day of arrival. In case of long-term stay of more than one month (from 30 days), only the amount for the first month will be charged immediately. The amount for the following months will be charged no later than three days after the end of the previous month. BD Apartment is entitled to demand payment of accrued claims at any time and to demand immediate payment. In the event of default in payment, BD Apartment shall be entitled to demand the applicable statutory default interest as defined in section 288 German Civil Code (BGB). BD Apartment reserves the right to claim damages exceeding the amount of such statutory default interest.
8. 3.00 Euro will be charged for each reminder of payment upon the guest's default of payment. The guest may prove that such costs did not occur or did not occur in the requested amount.
9. BD Apartment is entitled to request an appropriate advance payment or security deposit upon conclusion of the accommodation contract or thereafter. The amount of the advance payment or security deposit and the payment dates may be agreed in writing in the contract. In this case, BD Apartment is entitled to obtain fulfilment of claims from the security deposit in the event that the guest does not comply with payment dates, e.g. by collecting the agreed remuneration by credit card.
10. The guest may only set-off a claim by BD Apartment with a claim which is undisputed or decided with final, res judicata effect.

## §4 SMOKING BAN, PETS, INCLUSION OF VISITORS

1. The Apartments of BD Apartment are non-smoking apartments. Therefore, smoking is not allowed in the Apartments. This restriction includes e-cigarettes. In case of violation, BD Apartment is entitled to terminate the contract without notice. In addition, BD Apartment may, at its reasonable discretion, conduct a special final cleaning in case of a nicotine smell in the Apartment. The costs for such cleaning amount to at least 250 EUR and shall be borne by the guest. BD Apartment reserves the right to charge any costs incurred in connection with the triggering of the fire alarm device through violation of the smoking ban to the guest.
2. The keeping of animals in the Apartments of the BD Apartment is not allowed. § 4 section 1 sentence 3 and 4 apply accordingly.
3. The Guest is obligated to use the apartment only within the scope of the contractually agreed framework, in particular, only by the persons foreseen therein. Any overnight stays of visitors shall require the prior consent of BD Apartment in text-form. In the event of violation, BD Apartment shall be entitled to invoice the Guest a lump sum surcharge of EUR 100.00 per night and visitor as well as to terminate the lodging contract with immediate effect.

## §5 PROVISION, HANDOVER AND RETURN

1. The guest is not entitled to the provision of specific Apartments.
2. Booked Apartments will be available to the guest from 3:00 p.m. of the agreed arrival day.

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3. On the agreed day of departure, the Apartment must be vacated and returned to BD Apartment by no later than 11:00 a.m. BD Apartment may claim compensation for use exceeding this time of return as follows: 80 % of the regular daily price (list price), if return takes place by 6:00 p.m.; 100 % of the regular daily price (list price), if return does not take place by 6:00 p.m. Nothing in the above shall be construed as to granting any contractual claims to the guest. The guest is at liberty to prove that BD Apartment has suffered no or less damage. BD Apartment is at liberty to claim higher damages.
4. The Apartments must be returned in the condition in which they were handed over to the guest. The guest must remove all his personal belongings from the Apartments and dispose of any garbage and any food he has brought with him. In the event of violation, BD Apartment shall be entitled to invoice the Guest a special cleaning fee of EUR 25.00.
5. The Apartments of BD Apartment may be booked for a maximum period of 182 consecutive days.

## **§6 CANCELLATION BY THE GUEST OR NON-USE OF SERVICES (NO SHOW)**

1. If the guest cancels the trip or does not appear on the day of arrival, BD Apartment is entitled to use the booked Apartment for other purposes.
2. The guest may only withdraw from the contract concluded with BD Apartment if (i) a right of withdrawal has been expressly agreed upon in the contract, (ii) a statutory right of withdrawal applies or (iii) BD Apartment expressly agrees to the cancellation of the contract. The agreement of a right of withdrawal as well as the possible consent to a contract cancellation require text form in each case.

The following cancellation conditions apply to the guest:

Overnight stays 1-6 nights:

- Cancellation until 6pm on day of arrival: cancellation free of charge.
- Cancellation until 6pm on day of arrival: cancellation fee 100% of the cost of the first 3 nights of the stay.

Short-term stays 7-28 nights:

- Cancellation until 6pm on day of arrival: cancellation free of charge.
- Cancellation until 6pm on day of arrival: cancellation fee 100% of the cost of the first 7 nights of the stay.

Long-term stays from 29 nights:

- Cancellation up to 1 day prior to arrival: cancellation free of charge.
- Cancellation from 1 day prior to arrival: cancellation fee 100% of the cost of the first 7 nights of the stay.

The date of arrival is 6:00 p.m. of the booked day of arrival.

3. In case of early departure of the guest after check-in, a refund of the agreed remuneration is excluded for all booked services.
4. If a right of withdrawal has expired, and there is no statutory right of withdrawal or termination, and if BD Apartment does not agree to a cancellation of the contract, BD Apartment reserves the right to the agreed remuneration despite the guest's non-use of the service. For unused Apartments, which BD Apartment has been able to rent out

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otherwise, the income from the other rental as well as the saved expenses shall be taken into account.

5. If the Apartments are not rented out otherwise, BD Apartment is free to deduct the saved expenses at a flat rate. In this case, the guest is obliged to pay 90 % of the contractually agreed remuneration for the rental of the Apartments. However, the guest may prove that BD Apartment has suffered no or less damage.
6. For group bookings of 10 persons and more separate cancellation policies apply. These can be inquired beforehand.

## §7 WITHDRAWAL OF BD APARTMENT GMBH

1. If it has been agreed that the guest can withdraw from the contract free of charge within a certain period of time, BD Apartment is entitled to withdraw from the contract during this period if there are inquiries from other customers about the booked Apartments, and the guest does not waive his right to withdraw from the contract upon request by BD Apartment within a reasonable period of time.
2. If an advance payment or security deposit agreed upon in accordance with § 3 section 9 is not made within a reasonable grace period set by BD Apartment, BD Apartment shall be entitled to withdraw from the contract.
3. BD Apartment is also entitled to withdraw from the contract for objective reasons, for example if
  - (a) force majeure or other circumstances beyond the control of BD Apartment make it impossible to fulfil the contract;
  - (b) the Apartment has been booked under misleading or false statements of facts that are essential for the conclusion of the contract, such as facts relating to the guest or the purpose of contract;
  - (c) BD Apartment has reasonable grounds to believe that the use of the booked Apartments may adversely affect domestic tranquility, security interests or the public reputation of BD Apartment, without this being attributable to the sphere of control or organization of BD Apartment.
4. BD Apartment shall inform the guest of the exercise of the right of withdrawal/cancellation without undue delay.
5. The guest is not entitled to claim damages if BD Apartment rightfully withdraws from the contract.

## §8 LOSS OR DAMAGE OF GUEST POSSESSIONS

For belongings brought in by the guest BD Apartment is liable according to the statutory provisions. BD Apartment recommends use of the safe centrally available at the building. If the guest wishes to bring in money, securities or valuables with a combined value of more than 800 Euro or other items with a combined value of more than 3,500 Euro, this requires a separate storage agreement to be concluded with BD Apartment.

## §9 TECHNICAL EQUIPMENT AND CONNECTIONS

1. Use of the guest's own electrical devices using the Apartment's electricity network is at the guest's own risk. Any malfunctions or damage to the Apartment's technical

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equipment caused by the use of these devices shall be at the guest's expense, insofar as BD Apartment is not responsible for such malfunction or damage.

2. The guest is prohibited from illegally sharing files via the Internet connection provided by BD Apartment. This includes any upload or download of copyrighted data in any form. The guest is liable for all damages caused to BD Apartment and/or the rights holder by the violation/infringement of rights.

## **§10 ACCESS OF THE BD APARTMENT GMBH**

BD Apartment is entitled to enter the rented Apartment for weekly cleaning and change of laundry and after consultation with the guest to carry out repairs, to read electricity and water meters and to view the rented Apartment as part of the follow-up rental of the Apartment. In case of imminent danger, BD Apartment is also entitled to enter the Apartment without the guest's consent.

## **§11 DUTY OF CARE OBLIGATIONS OF THE GUEST, LIABILITY OF THE GUEST**

1. The Guest is obligated to treat the Apartment and the inventory belonging thereto as well as the community facilities with due care and diligence and to prevent damage. In particular, the Guest shall avoid excessive soiling, properly dispose of waste regularly and guarantee a minimum degree of order so that the agreed weekly brief cleaning can be performed readily and the Apartment can be maintained in a clean and hygienic defect-free condition within the framework of these standard cleaning measures. BD Apartment shall be entitled to invoice the Guest in the full amount for the costs of any increased cleaning expenses to invoice the Guest in the full amount for the costs of any increased cleaning expensed due to substantially excessive soiling or disorder. Insofar as the Guest fails to meet the afore-mentioned obligations also after a formal warning in text-form, BD Apartment shall be entitled to terminate the lodging contract with immediate effect.
2. The guest is liable for all damage to the building or inventory caused by himself or by visitors, employees or other third parties from his sphere of influence. Furthermore, the guest is also liable for all other damages and expenses incurred by BD Apartment due to improper use of the rental object or items brought in. This also includes costs incurred by BD Apartment due to the negligent activation of fire alarm systems (smoke detectors) (in particular costs of a chargeable fire brigade deployment).
3. Each Apartment contains an inventory list, on which the inventory existing in the respective Apartment is specified. The guest is obliged to check this inventory list for completeness and to notify BD Apartment of any deviations from it without undue delay. Upon return of the Apartment, the guest is obliged to reimburse BD Apartment for the costs of missing items at their respective current value.
4. BD Apartment is entitled to settle costs for the repair of damage to the Apartment or its inventory caused by negligence of the guest or any co-guests or visitors from the security deposit provided by the guest in accordance with § 3 section 9. BD Apartment will determine the costs for remedying the damage beforehand by obtaining a cost estimate from a contractor adequately qualified for the repair in question.
5. The guest is obliged to make a reasonable contribution to rectifying the damage and keeping any possible damage to a minimum.

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## §12 LIABILITY OF BD APARTMENT GMBH

1. BD Apartment shall be liable for damages caused by it resulting from injury to life, physical integrity or health as well as for other damages which are based on an intentional or grossly negligent breach of duty by BD Apartment or on an intentional or negligent breach of contract-typical duties of BD Apartment. A breach of duty by BD Apartment is equivalent to that of a legal representative or vicarious agent (Erfüllungsgehilfe). Further claims for damages are excluded, unless otherwise stipulated in this § 12.
2. As far as the guest is provided with a parking space on an in-house parking garage, this does not constitute a contract regarding safekeeping, regardless of the applicability of fees. BD Apartment shall only be liable for loss of or damage to motor vehicles and bicycles or their inventory parked or maneuvered on the property in accordance with the provisions of the above section 1.
3. Messages, mail and consignments of goods for the guest shall be handled with due care. BD Apartment shall be responsible for delivery, storage and - on request - forwarding of the above for a fee; the above section 1 shall apply accordingly. This does not constitute a contract regarding safekeeping.

## §13 CONCLUDING PROVISIONS, HOUSE RULES

1. The contract is concluded in the English language.
2. These terms and conditions also include compliance with our house rules, which are available in their respective current version via our homepage.
3. Amendments or additions to the contract, the acceptance of the BD Apartments' contractual offer, or to these terms and conditions for the rental of Apartments shall be made in writing. Unilateral changes or additions by the guest are void.
4. Place of performance and payment is the registered office of BD Apartment. Exclusive place of jurisdiction - also for cheque and exchange disputes - is the registered office of BD Apartment, provided that the guest is a businessman (Kaufmann) in the sense of the German Commercial Code (HGB). If a contractual party meets the requirements of section 38 paragraph 2 of the German Code of Civil Procedure (ZPO) and has no general place of jurisdiction in Germany, the place of jurisdiction shall be the registered office of BD Apartment.
5. This contract shall be governed by the laws of the Federal Republic of Germany. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) and provisions regarding the conflict of laws shall be excluded.
6. Should any provision of these general terms and conditions and/or the contract regarding the rental of Apartments be or become invalid or void, the validity of the remaining provisions shall not be affected. In this case the statutory provisions shall apply.

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