

**General Terms and Conditions (GTC)  
of The Fontenay Hotelgesellschaft mbH for Hotel Accommodation Agreements**

**A. Applicability**

- I. These General Terms and Conditions (hereinafter 'GTC') apply to all contracts concerning the renting out of hotel rooms for accommodation purposes, as well as all other services and deliveries that The Fontenay Hotelgesellschaft mbH (hereinafter 'Hotel') provides to the customer (hereinafter 'Customer'), with the exception of events and use of the spa area. The term 'Hotel Accommodation Agreement' describes and replaces the following terms: accommodation agreement, guest accommodation agreement, hotel agreement, and hotel room agreement.
- II. Subletting and reletting of the provided rooms, as well as their use for purposes other than accommodation, require the written consent of the Hotel, whereby Section 540 para. 1 (2) BGB (German Civil Code) shall not apply.
- III. The general terms and conditions of the Customer shall only apply if this has been expressly agreed in advance in writing (including by email or fax). Otherwise, the general terms and conditions of the Customer shall not apply, even if the Hotel does not expressly object to them. The Hotel hereby rejects all counter-claims of the Customer that make reference to the Customer's own general terms and conditions.
- IV. Customers within the meaning of these GTC are both consumers and business entities as defined by Sections 13 and 14 BGB.

**B. Conclusion of contract**

- I. A contract generally comes into existence when the Customer submits a verbal or written offer and the Hotel accepts it. The Hotel may accept the offer in writing (including by email or fax), verbally or by rendering the services.
- II. The parties to this contract are the Hotel and the Customer. If a third party has placed an order on behalf of the Customer, then the Customer and the third party shall be jointly liable towards the Hotel for all obligations arising from the Hotel Accommodation Agreement, provided that the Hotel has a corresponding declaration from the third party.
- III. If the Customer makes a group booking, an allotment contract shall come into force. The allotment contract shall apply in addition to these GTC and take precedence over them. Under this allotment contract, the Customer is liable for all damage and loss for which the end user is at fault.
- IV. A group booking is deemed to exist if the Customer books more than nine rooms at the Hotel for the same period or purpose by means of one or more booking transactions, whereby the booking method is irrelevant to the definition. A group booking may be made in person, by telephone, in writing (including by email or fax), on the Hotel's website, through intermediaries (e.g. online portals) or in other ways.

**C. Services, prices, payments, offsetting**

- I. The Hotel is obliged to ensure that the rooms booked by the Customer are available and to provide the agreed services.

- II. The Customer is obliged to pay the Hotel's prices that apply or have been agreed for the room and the other services received by the Customer. This also applies for Hotel rooms and services arranged by the Customer for third parties. The agreed prices include the taxes that apply at the time of concluding the contract. They do not include local charges that are payable by the guest under the applicable municipal laws, such as cultural subsidies or 'bed tax'. If the statutory VAT rate changes, or if local charges on the agreed services are introduced, changed or abolished after conclusion of the contract, the prices will be adjusted accordingly. For contracts with consumers, this shall only apply if the period between concluding the contract and fulfilling the contract exceeds four months.
- III. If the Customer retroactively requests that the number of booked rooms, the scope of the Hotel's services or the duration of the stay are reduced, the Hotel is entitled to increase the price of the room or the other services.
- IV. The Hotel is entitled to payment in full as soon as each invoice is received. An invoice is deemed to have been received by the recipient three days after it was sent at the latest, provided that earlier receipt cannot be proved. The Hotel is entitled at any time to demand immediate payment of any accrued receivables. Unless agreed otherwise, invoices are payable immediately in cash, by debit card or by credit card. The Hotel reserves the right to reject cheques, credit cards or payment in foreign currencies. Vouchers from tour operators will only be accepted if a credit agreement exists with the company in question or appropriate payments in advance have been made. No refunds will be provided for services that were not used.
- V. In the event of a delay in payment, the Hotel is entitled to charge statutory late-payment interest at the current rate of 9 % above base rate (or 5 % above base rate for transactions in which a consumer is involved). In the event of late payment, the Hotel may also charge a fee of EUR 5.00 per reminder sent. The Hotel reserves the right to prove that it has suffered a greater loss and to demand compensation for it. The Customer reserves the right to provide evidence of a lesser loss.
- VI. Upon concluding the contract or thereafter, the Hotel is entitled at any time to demand an adequate down payment or deposit in accordance with the legal provisions that apply for package holidays. The amount of the down payment and the payment deadlines can be agreed in writing in the contract.
- VII. In justified cases (e.g. if the Customer is in arrears or if the scope of the contract is extended), the Hotel is entitled, including after conclusion of the contract, to demand a down payment or deposit within the meaning of item V above, or to increase the down payment or deposit agreed in the contract, until the agreed payment has been made in full.
- VIII. The Customer may only offset a claim against the Hotel's receivables if the Customer's claim is undisputed or has been legally determined. This applies equally to the Customer exercising a right of retention in relation to its own claims. Claims and other rights may only be assigned with the written consent of the Hotel.
- IX. If the Customer uses a credit card to pay for Hotel products that require payment in advance (e.g. general orders with down payments or guaranteed bookings) without physically presenting the card (e.g. for bookings over the phone, Internet, etc.), then the Customer is not entitled to instruct their credit card provider to cancel the payment to the Hotel.
- X. If a collective invoice is issued, this shall not release the Customer from its obligation to pay individual invoices on time. In the case of a delay in payment, even for an individual invoice, the Hotel is entitled to withhold all other current and future services and make the performance of such services contingent on the payment of a deposit covering up to 100 % of the outstanding amount.

#### D. Use of rooms, room hand-over, departure

- I. The rooms are provided solely for accommodation purposes.
- II. The Customer is liable towards the Hotel for any damage or loss caused by themselves or by third parties for whom the Customer has arranged the services.
- III. The Customer is not automatically entitled to use a specific room. Should rooms not be available at the Hotel, the Hotel will inform the Customer immediately and offer an equivalent replacement in a nearby hotel in the same category. If the Customer rejects the alternative, the Hotel will immediately reimburse the Customer for payments already made.
- IV. The booked rooms will be made available to the Customer from 4:00 pm on the day of arrival. Unless agreed otherwise, the Hotel reserves the right to reallocate booked rooms after 6:00 pm without the Customer being entitled to assert any rights or claims in relation thereto.
- V. The rooms must be vacated by 12:00 pm at the latest on the day of departure. If the Customer fails to do so, the Hotel, in addition to claiming for associated losses, may charge the daily price for additional use of the room up to 4:00 pm, and 100 % of the full accommodation price (list price) for use after 4:00 pm.
- VI. The Hotel is liable for damage to vehicles of the Customer that are parked in the Hotel car park or garage if the damage was caused by the Hotel, its employees or its contractors. The Customer is obliged to report any visible damage immediately but no later than when leaving the Hotel garage or car park. The Hotel cannot be held liable for damage caused solely by other customers or third parties. The Hotel assumes no liability towards the Customer for damage caused to the property of third parties by vehicles of the Customer. This does not apply to the Hotel's liability for death, physical injury or impairment of health, nor its liability for acting with intent or gross negligence.
- VII. The Hotel will complete any wake-up requests with the utmost care. Messages, post and deliveries for the Customer will be handled with care. The Hotel will deliver and store them (in the case of goods deliveries, only if agreed in advance) and will forward them for a fee on request.

#### E. Technical equipment and connections

- I. If the Hotel procures technical or other equipment or services from third parties at the Customer's request, it will act in the name of, on behalf of and at the expense of the Customer. The Customer is responsible for handling such equipment with care and for its proper return. The Customer shall indemnify the Hotel against all third-party claims resulting from the provision of such equipment.
- II. If technical structures and systems are installed, the Hotel can demand that they be certified by TÜV and that the Customer provides the Hotel with the technical test certificate immediately and without being asked.
- III. The Customer may not connect their own electrical equipment to the Hotel's mains supply without the written consent of the Hotel. The Hotel is entitled to charge the Customer a flat-rate utilisation fee for this. The Customer is liable for any disruption or damage to the Hotel's technical systems that may arise from using their own devices, provided that the Hotel is not responsible for causing them.

- IV. With the consent of the Hotel, the Customer is entitled to use their own phone, fax and data transfer equipment. The Hotel is entitled to charge a connection fee for this.
- V. If the Customer's use of its own equipment causes similar equipment of the Hotel to be left unused, the Hotel is entitled to charge a compensatory fee.

#### F. Withdrawal, cancellation, reduction

- I. The reservations made by the Customer are binding for both contracting parties. The Customer has no legal right of withdrawal or cancellation if a right of withdrawal has not been agreed or has expired. Should the Hotel not agree to dissolve the contract, it remains entitled to the agreed remuneration even if the service has not been utilised. The Hotel must offset the revenue from reallocating the rooms as well as the expenses that it saves. If the rooms are not reallocated, the Hotel can deduct a lump sum for saved expenses. In such case, the Customer is obliged to pay the following parts of the contractually agreed total price for overnight accommodation with or without breakfast:
  - a) 50 % of the contractually agreed total price if the Hotel receives the written notice of cancellation or reduction between 89 and 30 days before the start of the period of service,
  - b) 70 % of the contractually agreed total price if the Hotel receives the written notice of cancellation or reduction between 29 and 10 days before the start of the period of service,
  - c) 90 % of the contractually agreed total price if the Hotel receives the written notice of cancellation or reduction less than 10 days before the start of the period of service.
  - d) For package arrangements with third-party services, 70 % for half-board and 60 % for full-board arrangements.

The Hotel has no claim if it receives the written notice of cancellation or reduction more than 90 days (inclusive) before the start of the period of service.
- II. The Customer is free to prove that the Hotel is not entitled to the aforementioned claim or that its claim is not as high as asserted.
- III. If the Hotel is able to render the cancelled service for other third parties during the agreed period of service, the compensation of the Customer shall be reduced by the amount paid by the third parties for the cancelled service, up to the total amount of the compensation.

#### G. Withdrawal, cancellation by the Hotel

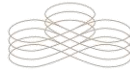
- I. Under the statutory regulations, the Hotel is entitled to withdraw from the contract (Section 323 BGB) or terminate the contract (Section 314 BGB) if
  - a) the Customer defaults on a due payment,
  - b) the fulfilment of the contract is rendered impossible due to force majeure, strikes or any other circumstance for which the Hotel is not responsible,

- c) the Customer provides erroneous or false details that are important,
  - d) the Customer uses the name of the Hotel in promotional measures without the prior written consent of the Hotel,
  - e) the rooms that form part of the contract are sublet, either fully or in part, without the written consent of the Hotel,
  - f) the Hotel has a legitimate reason to suspect that the utilisation of the Hotel service might jeopardise the smooth running of its business, the security of the Hotel or its public image.
- II. The Hotel must notify the Customer in writing (including by email or fax) of its withdrawal or termination immediately but no later than 14 days of becoming aware of the reason. Cancellation of the contract by the Hotel shall not entitle the Customer to compensation or any other settlement. If the contract is terminated on legitimate grounds, the Hotel remains entitled to compensation for any loss it suffers or for its expenses.

#### **H. Liability of the Hotel, items brought into the Hotel, statute of limitations**

- I. The Hotel may only be held liable for any legal and contractual claims if it has acted with intent or gross negligence.
- II. However, the Hotel can also be held liable for slight negligence in the case of damage or loss
  - a) caused by a breach of essential contractual obligations; in such cases, its liability is limited to the typical foreseeable damage for this type of contract;
  - b) arising due to an injury to life, limb or health.
- III. The Hotel cannot be held liable for consequential damage or loss or indirect damage or loss.
- IV. Disclaimers and limitations of liability also apply in the same manner to all companies, subcontractors and vicarious agents that the hotel uses to fulfil its contractual duties. They do not apply if the Hotel provides a guarantee regarding the quality of an item or work or if it fraudulently conceals a defect.
- V. The Customer is obliged to report any visible defects to the Hotel immediately but no later than the time of departure.
- VI. The provisions of Section 701 et seq. BGB apply to items brought into the Hotel by the Customer.
- VII. Any items that the Customer leaves behind will only be forwarded at the request, risk and expense of the Customer/guest. The Hotel will store the items for 12 months and charge a reasonable fee for doing so. After this time, the items will be handed in to the local lost property office, provided that they are evidently of value.
- VIII. All claims of the Customer against the Hotel that arise from or in relation to the contract shall expire after one year starting from the end of the year in which the claim arose and the Customer became aware of the circumstance giving rise to the claim or would have become aware of it but for gross negligence.

#### **I. Additional provisions for package holiday agreements**



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HAMBURG

- I. If, in addition to providing food and accommodation, the Hotel has an obligation to organise a leisure programme itself as a free service, then this shall give rise to a package holiday agreement.
- II. The Customer cannot assert any claims for minor changes, deviations or reductions to the scope of individual services that form part of a package holiday and become necessary after conclusion of the contract.
- III. For arranged services (not package holidays), the Hotel shall not be liable for the provision of services by third-party providers or transport companies; it shall only be liable for the proper arrangement of the travel service and the proper provision of information to the Customer by the service provider.
- IV. In the case of package holidays, the Hotel's liability for damage (except physical injury) is limited to three times the price of the package, provided that the damage incurred by the Customer was not caused intentionally or through gross negligence or if the Hotel is responsible for the damage solely because a service provider was at fault.

**J. Place of fulfilment and payment, place of jurisdiction, ancillary agreements, full and partial ineffectiveness**

- I. The place of fulfilment and payment for both parties is the registered office of the Hotel.
- II. The Hotel is not obliged to participate in dispute resolution proceedings with a consumer arbitration service.
- III. The law of the Federal Republic of Germany applies. The UN Convention on Contracts for the International Sale of Goods (CISG) and private international law do not apply.
- IV. The exclusive place of jurisdiction for commercial business – including for disputes concerning cheques and bills – is the registered office of the Hotel. If the Customer has no general place of jurisdiction in Germany, the place of jurisdiction shall also be the registered office of the Hotel.
- V. If any provision of these General Terms and Conditions should be invalid or null and void, this shall not affect the validity of the remaining provisions. The same applies to gaps or omissions in the contract. Otherwise, the statutory regulations apply.



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