

General terms and conditions for the hotel accommodation and restaurant contract Hotel Banana City, Winterthur (version: 1 January 2021)

1. Scope

- 1.1. These terms and conditions apply to contracts for the provision of hotel rooms against payment as well as all other services and performance by the hotel for the client.
- 1.2. The sub- or onward letting of the rooms provided as well as their use for other accommodation purposes requires the prior written consent of the hotel.
- 1.3. Terms and conditions of the client only apply if agreed in advance.
- 1.4. In addition, additional terms and conditions agreed in writing when entering into the contract apply.

2. Entering into the contract, contractual partners and liability, limitation

- 2.1. The contract enters into effect with the offer by the client being accepted by the hotel. The hotel shall confirm the room booking in writing within 24 hours. Telephone confirmation applies where time is short.
- 2.2. The contractual partners are the hotel and the client. Where a third party has ordered for the client, it is joint and severally liable towards the hotel together with the client for all obligations under the accommodation contract provided that a corresponding declaration by the third party is available to the hotel.
- 2.3. The hotel is liable for its obligations under the contract. Where not relating to typical performance, liability is limited to wilful intent and gross negligence by the hotel.
- 2.4. All claims by the client are time-barred after 6 months.

3. Services, prices, payment, offsetting

- 3.1. **Hotel:**
The hotel shall make the rooms booked by the client available and provide the agreed services.
- 3.2. The client shall pay the prices of the hotel agreed or applicable for making the room available and for the further services used by the client. This also applies to services arranged by the client and outlay by the hotel to third parties.
- 3.3. Prices may also be altered by the hotel if the client requests subsequent changes to the number of rooms booked, performance by the hotel, or the length of stay for guests and the hotel agrees.
- 3.4. The agreed prices include statutory VAT. The agreed prices shall be amended accordingly where VAT changes on the day of performance. The hotel is entitled to pass on VAT increases.
- 3.5. Hotel invoices without a payment date are to be paid within ten days as of receipt of the invoice without discount. The hotel is entitled to make accrued receivables due at any time and demand immediate payment. The hotel is entitled to charge interest of 4% in the event of payment arrears. The client reserves the right to provide evidence of a lower loss, and the hotel reserves the right to provide evidence of a higher one.
- 3.6. In consideration of the legal provisions for package tours, the hotel is entitled, on entering into the contract or subsequently, to demand an appropriate advance payment or deposit. The amount of the payment in advance and the payment terms can be agreed in writing in the contact.
- 3.7. **Restaurant:**
The reservation service with pre-authorisation is provided by the restaurant, NOT by TheFork. If permitted by law, TheFork does not assume any liability or responsibility for amounts invoiced by the restaurant or for any disputes arising in the context thereof. Any pre-authorisation or charging to your card is rendered directly between you and the restaurant, and processed by Adyen. TheFork does not participate in the transaction. You need to provide your card infor-

mation to guarantee your reservation. Your credit card is not charged at this time. You may cancel or alter your reservation free of charge up to 24 hours before the reservation (pending availability). If you cancel or alter your reservation after the notice period of 24 hours or do not show, the restaurant may charge your credit card with an amount of up to CHF 100.00 per person. The restaurant may cancel any reservation if it can be assumed under normal circumstances that it is fraudulent, improper or unlawful. Please contact the restaurant if you do not receive a reservation confirmation or if the data in the confirmation is not correct.

3.8. Seminars and events:

- 3.8.1. Cancellation fees accrue as follows:
up to 90 days before the event: free of charge
up to 60 days before the event: 20% of the total revenue
up to 30 days before the event: 50% of the total revenue
up to 14 days before the event: 80% of the total revenue
subsequently: 100% of the total revenue
If the event has to be cancelled, this in no way obliges the service provider to render the cancelled services. The costs cover the loss in revenue from the cancellation at short notice, as well as the costs for preparing the event.
- 3.8.2. Number of persons: we expect the approximate number of persons no later than 21 days before the event. Deviations of only +/- 10% can be subsequently taken into account up until 2 days before the event. The number of persons reported 2 days before the event is deemed to be the minimum number of persons for invoicing. Therefore, you will be charged in full for 'no shows' below this number.
- 3.8.3. Liability: the event organiser is liable for damage caused to the provided room and/or contents/furniture. Any damage and/or repair work is invoiced. Above-average cleaning work as well as rubbish disposal are invoiced according to the work involved.
- 3.8.4. Downpayment: for all events organised by private persons reaching an expected revenue total of more than CHF 5,000.00, a downpayment is due of 50% of the expected revenue total. The downpayment must be rendered no later than 30 days before the event. If the downpayment has not been received by this date, the Hotel Banana City reserves the right to cancel the event completely and re-release the reserved rooms.

4. Termination by the client

- 4.1. If the client wants to terminate the contract entered into with the hotel, this requires the written consent of the hotel. Where this is not forthcoming, the price agreed under the contract shall still be paid even if the client does not make use of contractual performance. This does not apply in the event of default in performance by the hotel or impossibility with performance for which it is responsible.
- 4.2. Where a deadline has been agreed between the hotel and the client for termination of the contract, the client is entitled to terminate the contract in writing up until this date without triggering claims for payment or compensation by the hotel. The right for the client to terminate expires if the client fails to exercise his/her right to terminate in writing with the hotel by the agreed deadline unless in the event of default in performance by the hotel or impossibility of performance for which the client is responsible.
- 4.3. In the event of rooms not being used by the client, the hotel is entitled to offset revenue from otherwise letting the rooms as well as saved expenses.
- 4.4. Cancellation charges are calculated as follows: Free-of-charge cancellation is possible up to 18:00 on the day before arrival. After this, 100% of the booked services are owed.

5. Termination by the hotel

- 5.1. The hotel is also entitled to terminate the contract if an agreed advance payment is not made.
- 5.2. In addition, the hotel is entitled to terminate the contract for an objectively justified reason, for example if: Force majeure or other circumstances beyond the control of the hotel make performance of the contract impossible; Rooms are booked with false or misleading details of significant facts, e.g. the identity of the client or the purpose, the hotel is to assume that use of the hotel service may jeopardise the smooth running, safety or reputation of the hotel for the public, and without being attributed to the sphere of control or organisation of the hotel. The aforementioned scope, Clause 2, is breached.
- 5.3. The hotel shall inform the client without delay of its right to termination being exercised.
- 5.4. The client is not entitled to claim compensation in the event of justified termination.

6. Allocation, provision and return of rooms

- 6.1. The client obtains no entitlement to being provided with specific rooms if these are not assured by a contract.
- 6.2. Rooms booked are available to the client as of 12:00 on the agreed day of arrival. The client has no entitlement to earlier occupancy.
- 6.3. On the day of departure, the rooms are to be vacated and made available by no later than 10:00. After this, the hotel is entitled to also invoice 50% of the full lodgings price (list price) for additional use of the room over losses incurred up to 18:00, and 100% as of 18:00. The client is at liberty to provide evidence that the hotel has incurred no loss, or significantly lower loss.

7. Hotel liability

- 7.1. The hotel is liable for the care of an ordinary merchant. With a non-typical range of performance, liability is limited to defective performance, losses, consequential losses or disruption due to wilful intent or gross negligence by the hotel. In the event of disruption or defects with performance by the hotel, it will endeavour to ensure their immediate remedy when made aware or complained to without delay by the client. Where reasonable, the client shall contribute to remedying the malfunction and keeping losses as low as possible.
- 7.2. The hotel is liable towards the client in accordance with statutory provisions for items brought in.
- 7.3. Statutory provisions apply for the unlimited liability of the hotel.
- 7.4. Claims for compensation due to wilful intent and gross negligence are excluded.
- 7.5. Messages, post and goods shipments are handled by the hotel with the greatest of care. The hotel deals with their delivery, storage and, if requested, paid forwarding of said items. Claims for compensation due to wilful intent or gross negligence are excluded in this respect.

8. Closing Provisions

- 8.1. Swiss Law applies.
- 8.2. Individual points of these terms and conditions being void or breaching applicable law does not affect the validity of these terms and conditions. Statutory provisions shall enter into force in lieu of the void provisions or those breaching applicable law.
- 8.3. Sole jurisdiction in commercial dealings, including with disputes revolving around cheques and bills of exchange, lies with the courts of Winterthur.