

General terms and conditions for the hotel accommodation contract Hotel Banana City, Winterthur (Release 1 July 2014)

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 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. 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 it. 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 VAT stated by law. The agreed prices shall be amended accordingly where VAT changes on the day of performance. The hotel is entitled to pass on VAT increases. Where the period between entering into the contract and performance exceeds 12 months and the price calculated by the hotel

generally for such services increases, the hotel is entitled to raise the contractually agreed price accordingly, but no more than by a maximum of 10%.

- 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 contract.

4. Termination by the client

- 4.1. The client terminating the contract entered into with the hotel 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 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 contact in writing up to this date without triggering claims for payment or compensation by the hotel. The right for the client to terminate expires if it fails to exercise its 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 it 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 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. With a right of termination by the client been agreed within a specific period in writing, the hotel for its part is entitled within this period to terminate the contract if enquires are made by other clients about a contractually booked room.
- 5.2. The hotel is also entitled to terminate the contract if an agreed advance payment is not made.
- 5.3. 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.
- 5.4. The hotel shall inform the client without delay of its right to termination being exercised.
- 5.5. 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.
- 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. This is up to 100 times the room price, with a maximum of CHF3000. Liability claims expire if the client fails to comply with its obligation to inform the hotel immediately in accordance with Article 267 Swiss Code of Obligations.

- 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.