

Hotel Flandrischer Hof
General Terms & Conditions for the Hotel Accommodation Contract
August 2014 version

I. Scope

1. These Terms & Conditions shall apply to contracts for the letting of hotel rooms for accommodation and to all other services and deliveries performed for the Customer by the Hotel Flandrischer Hof (hereinafter referred as "FH").
2. The use of our website is subject to the GT&C for website use, to be accessed under the following link: http://www.flandrischerhof.de/files/PDF/Terms_and_Conditions_Use_of_Website_EN.pdf
3. The subletting or Sub-contracting of the rooms let to the Customer and their use for other than accommodation purposes shall be subject to the prior written consent of FH, the Customer hereby waiving Article 540 (1) sentence 2 BGB (German Civil Code).
4. The Customer's General Terms & Conditions shall only be applicable if this has been expressly agreed in advance in writing.
5. Customers within the meaning of these Terms & Conditions shall be both consumers and entrepreneurs as defined in Articles 13 and 14 BGB.

II. Contract agreement, contracting parties

1. In response to a reservation enquiry by the Customer, the corresponding confirmation of reservation by FH shall bring a hotel accommodation contract (hereinafter "Contract" for short) into existence.
2. The contracting parties shall be FH and the Customer. If a third party places an order on behalf of the Customer, said third party, together with the Customer, shall be liable to FH for all the obligations under the hotel accommodation contract, provided that FH has received a statement from said third party to said effect. Irrespective of the foregoing, every ordering party shall be obliged to forward all information relevant to the reservation to the Customer, in particular these General Terms & Conditions.

III. Services, prices, payment, offsetting

1. FH shall be obliged to hold the reserved rooms for the Customer's disposal and to provide the agreed services.
2. The Customer shall be obliged to pay FH's effective and agreed prices for the letting of the room(s) and for the other services of which the Customer avails himself¹. This shall also apply to services and expenditure by FH for third parties at the instance of the Customer.

¹ Gender-specific words here include the other gender(s).

3. The agreed prices shall be understood to include the taxes and local duties applicable at the time of conclusion of the Contract. Said prices shall not include duties or charges for which the guest himself is liable under the relevant municipal law, such as the tourist tax (Kurtaxe). If, after conclusion of the Contract, there is an adjustment to statutory VAT or if new local levies on the subject of service are introduced or such levies are adjusted or abolished, the prices will be adjusted accordingly. If the period between contract conclusion and contract performance is longer than four months and if the price charged by FH in general for such services increases, FH may raise the contractually agreed price by an appropriate amount, but by no more than 5%.

4. FH may make its consent to a Customer's request of later date for a reduction in the number of rooms or the services of FH or the length of the Customer's stay conditional on an increase in the price for the rooms or for the other services of FH.

5. FH's invoices without specific due date shall be payable, without deduction, within 10 calendar days as from receipt of invoice. FH shall be entitled at any time to make accrued claims due for payment by issuing an interim invoice and demanding immediate payment. In case of default on payment FH shall be entitled to charge interest at the statutory default rate effective at the respective time. FH may in addition, in case of default, charge a fee of EUR 5.00 per reminder notice. FH reserves the right to furnish evidence of greater damage or loss. The Customer shall be deemed to be in default if he has not made payment within 30 days after due date and receipt of invoice.

6. FH shall be entitled, at the time the Contract is concluded or thereafter, taking the legal provisions governing all-inclusive tours into account, to demand a reasonable amount as payment in advance or security deposit. The amount of the advance payment and the dates for payment may be agreed in writing in the Contract.

7. The Customer may only offset or reduce a claim by FH against an undisputed claim or a claim established at law.

IV. Customer's withdrawal (i.e. cancellation of booking or counter-order) / Failure to make use of FH's services (no show)

1. It shall only be possible for the Customer to withdraw from the Contract concluded with FH if a right of withdrawal has been expressly agreed in the Contract or if FH has expressly agreed to a cancellation of the Contract. The agreement on a right of withdrawal and any possible consent to a cancellation of the Contract are in each case to be in text form.

2. If a date has been agreed between FH and the Customer by which withdrawal from the Contract will be free of charge (option), the Customer may withdraw from the Contract up to said date without thereby generating any claims by FH for payment or damages. The Customer's right of withdrawal shall lapse if he does not exercise his right of withdrawal as against FH in text form by the agreed date.

3. If a right of withdrawal has not been agreed or has already lapsed, or if there is no statutory right of withdrawal or cancellation and if FH does not agree to a cancellation of the Contract,

FH shall maintain its right to the agreed payment in spite of the failure to use the service. FH must deduct its earnings from the letting of the rooms to other parties and also the expenses it has saved on. If the rooms are not let to other parties, FH may apply a flat rate for the deduction of saved expenses. The Customer shall in this case be obliged to pay 90% of the contractually agreed price in case of accommodation with or without breakfast and in case of all-inclusive arrangements with third-party services, 70% in case of half-board and 60% in case of full board and lodging. The Customer shall be entitled to provide evidence that the claim has not arisen or not in the amount demanded.

4. Provided that FH has calculated the compensation amount correctly, the maximum said amount shall be the contractually agreed price for the service to be performed by FH, less the value of the expenses saved by FH and less the value of what FH has gained through use of the hotel services for other parties.

5. The foregoing provisions for compensation shall apply correspondingly if the guest does not make use of the reserved room or the booked services without having advised thereof in due time (no show).

V. Withdrawal by FH

1. Provided that the Customer's right of withdrawal without charge within a particular time period has been agreed in writing, FH shall for its part also be entitled during said period to withdraw from the Contract free of charge if it has received enquiries from other customers for the contractually reserved rooms and the Customer does not, on request from FH, waive his right of withdrawal within 2 weeks. If the Customer allows the 2-week period to pass without response, FH shall be entitled to withdraw from the Contract.

2. FH shall also be entitled to withdraw from the Contract if an advance payment or security deposit, agreed or demanded under Clause III no. 6, is not provided, even after a reasonable extension of time set by FH has lapsed.

3. FH is also entitled to withdraw from the Contract for objectively justified reason in exceptional circumstance, in particular if

- force majeure or other circumstances beyond FH's control render the performance of the Contract impossible;
- rooms are reserved culpably on the basis of misleading or false statements or if material facts are suppressed (e.g. relating to the person of the Customer, ability to pay or the purpose of the stay);
- FH has well-founded reason for the assumption that the use of the hotel's services can threaten the smooth operation of business, security or the reputation of the hotel among the public, without such threat being attributable to the FH's areas of control and/or responsibility;
- there has been a breach of Clause I no. 3 as stated above;
- FH becomes aware of circumstances which have caused a major deterioration of the Customer's financial situation since the conclusion of the Contract, in particular if the Customer fails to settle due claims of FH or does not offer an adequate security deposit and FH's claims for payment appear to be in jeopardy;

- the Customer files an application for the opening of insolvency proceedings on his assets, issues a statement in lieu of an oath or has discontinued payments;
- insolvency proceedings have been opened on the Customer's assets or said opening has been refused for lack of assets or for other reasons.

4. Justified withdrawal by FH shall not constitute grounds for a claim for damages by the Customer.

VI. Provision, handing over and returning the room

1. The Customer shall not have a right to the provision of specific rooms unless FH has promised a specific room in writing.

2. Reserved rooms shall be at the Customer's disposal as from 3 pm on the agreed date of arrival. The Customer shall have no right to provision at an earlier time.

3. Reserved rooms must be taken up by the Customer no later than 6 pm of the agreed date of arrival. Except when a later time of arrival has been expressly agreed, FH shall have the right to allocate reserved rooms to other guests after 6 pm without any claims to damages thereby accruing to the Customer. FH is thus entitled to a right of withdrawal under Clause V.

4. The rooms must be placed at FH's disposal no later than 12 noon on the agreed day of departure. Thereafter, for the time up to 6 pm, FH may charge 50% of the full room price (list price) for longer use than allowed by contract, on the grounds that the room was vacated late, and after 6 pm 100%. This shall not constitute contractual grounds for claims by the Customer, who shall be free to furnish evidence that no claim or a materially lower claim to payment for use has accrued to FH.

5. The Customer will be charged €15.00 per key for keys which are not returned on departure.

VII. Liability of FH

1. FH shall be liable, subject to the provisions of statute law, for damage caused through premeditation or gross negligence, including that of its agents and staff. The same shall apply to damage or loss caused by negligence and involving injury to person, health or life. In the case of damage to property and financial loss caused by negligence, FH and its agents/staff shall only be liable in the event of the breach of a material contractual obligation, but the liability amount shall be limited to damage or loss under standard contract conditions and predictable at the time of conclusion of the contract; material contractual obligations shall be those whose fulfilment is essential to the contract and in whose fulfilment the Customer is entitled to trust. Should disruptions or defects in FH's service occur, FH shall, on gaining knowledge thereof and receiving an immediate complaint from the Customer, endeavour to provide a remedy. The Customer shall be obliged to do whatever is reasonable to help rectify the disruption and limit possible damage or loss, and also to advise FH without delay of all disruptions and/or damage.

2. FH shall be liable to the Customer for objects brought into the hotel, subject to the statutory provisions set forth in Articles 701 ff. BGB, to a maximum amount of EUR 3,500.00. In the case of money, securities and valuables the maximum amount shall be EUR 800.00 and not EUR 3,500.00.

If the Customer wishes to bring money, securities and valuables into the hotel with a value of more than EUR 800.00 or other objects with a value of more than EUR 3,500.00, a separate safekeeping agreement will have to be concluded with FH. Safekeeping in the hotel safe or a room safe is in principle recommended. Any liability of further extent by FH shall be subject to the provisions of VII. no. 1, above.

3. If the Customer is provided with a parking space in the hotel garage or the hotel car park – including against separate charge – this shall not bring a safe custody agreement into existence. In the event of loss of or damage to motor vehicles parked or manoeuvred on hotel property and the contents of said vehicles, FH's liability shall be limited to that defined in VII no. 1.

4. Wake-up calls shall be carried out by FH with the greatest care. Messages, mail and parcel deliveries for the Customer shall also be handled with the greatest care. FH shall ensure delivery and safekeeping thereof (in both cases in the hotel) and – on request – the forwarding thereof for a fee. Subsection 1, above, shall apply *mutatis mutandis*.

5. All the claims of the Customer or a third party against FH shall in principle become statute-barred one year after commencement of the standard limitation period subject to the gaining of the knowledge defined in section 199 (1) BGB. Claims for damages against FH shall however become statute-barred, subject to the said knowledge proviso, in no less than 3 years as from the breach of obligation, and in no less than 10 years if said knowledge proviso does not apply. These reductions in the limitation period shall not apply

- in the case of claims on grounds of being due to premeditation or gross negligence on the part of the hotel

- including on the part of its agents/staff

- in the case of damage or loss caused by negligence and involving injury to person, health or life.

In the case of damage to property and financial loss caused by negligence the reduced limitation periods shall not apply to the breach of a material contractual obligation. Material contractual obligations shall be those whose fulfilment is essential to the contract and in whose fulfilment the Customer is entitled to trust.

VIII. Final provisions

1. Any alteration or additions to the Contract or the acceptance of the reservation request or these Terms & Conditions must be in writing. Alterations or additions by the Customer alone shall be ineffective.

2. The place of performance and payment shall be Cologne, as the domicile of FH.

3. The courts in Cologne shall have exclusive jurisdiction for commercial transactions. If a contracting party fulfils the conditions of section 38 (2) ZPO (German Code of Civil Procedure) and has no general court with jurisdiction in Germany, jurisdiction shall be exercised by the courts in Cologne.

4. German law shall be applicable, to the exclusion of the United Nations CISG Convention and provisions governing conflict between laws.

5. Should individual provisions of these General Terms & Conditions for hotel accommodation be or become invalid or void, this shall not affect the validity of the remaining provisions. In such cases the relevant statutory provisions shall apply.