

## General terms and Conditions

### I. Scope, contractual language

- 1.1. These General Terms & Conditions (Terms) apply to all contracts concluded between the Guest and Hotel Birke GmbH & Co. KG, Martenshofweg 2-8, 24109 Kiel, Deutschland – hereinafter referred to as “**Hotel**”– for the rental provision of hotel rooms for lodging purposes – hereinafter referred to as “**Hotel Accommodation Contract**” – which are entered into in person, via the Hotel’s website, by telephone, in writing, or via fax or email, as well as to further related services and deliveries provided by the Hotel.
- 1.2. Pre-formulated conditions on the part of the Guest which deviate from these Terms shall not form part of the contract, even if they are known to the Hotel, unless the Hotel expressly consents in writing to their validity.
- 1.3. A consumer means every natural person who enters into a legal transaction for purposes that are predominantly outside his or her trade, business or profession. An entrepreneur means a natural or legal person or a partnership with legal personality who or which, when entering into a legal transaction, acts in exercise of their or its trade, business or profession.
- 1.4. The contractual language is German.

### II. Conclusion of the contract, saving the contractual text

- 2.1. The contract partners are the Hotel and the Guest. In cases where both parties are present when the contract is concluded and when bookings are made by telephone, the contract takes effect when the Hotel accepts the Guest’s request. When bookings are made by telephone, the Hotel will submit a booking confirmation to the Guest by email.
- 2.2. Alternatively, the Guest may use the online booking form, which can be retrieved on the website. The selection of services presented on the Hotel’s website does not represent a binding contractual offer on the part of the Hotel, but an invitation for the Guest to submit an offer. Filling in and submitting the online booking form does not yet constitute the conclusion of a Hotel Accommodation Contract between the Guest and the Hotel. The Guest submits a binding offer to conclude a Hotel Accommodation Contract when, after completing the online booking form, they click on the button “Book reservation” during the final stage of booking. During the booking process, before submitting the form the Guest can use the “Back” function of their browser to correct or delete the information they have entered or abandon the booking.

The Hotel Accommodation Contract takes effect if a booking confirmation is sent to the Guest by email as

soon as they have submitted their booking – although this must occur within no more than two working days.

- 2.3. It is also possible to submit a non-binding request for the Hotel’s services via letter, email, fax or by using the electronic request form on the website. In such cases, the Hotel shall make a binding offer in text form (e.g., via email), which may be accepted within 5 days – unless the Hotel’s offer specifies a different deadline. The Hotel confirms the conclusion of the contract with the Guest by sending the latter a booking confirmation via email.
- 2.4. The current version of these Terms can be viewed on the Hotel’s website. The booking confirmation contains the contractual text including the Terms. The contractual text will be saved by the Hotel for a limited period, and for security reasons it will no longer be retrievable online after booking. Regulations under tax and commercial law are not affected by Sentence 3. In their own interest, the Hotel asks the Guest to ensure that they save and/or print out the contractual text.
- 2.5. The Hotel would like to draw the Guest’s attention to the fact that some of the information required to conclude the Hotel Accommodation Contract (such as the booking confirmation) is submitted automatically via email, and requests that the Guest ensures that they are technically able to receive emails, and in particular that said emails are not hindered by spam filters.

### III. Services

- 3.1. The Hotel is obliged to keep the rooms booked by the Guest available and render the agreed services. The reservation confirmation contains information about which services have been contractually agreed.
- 3.2. For the provision of the rooms and for any further services they have booked, the Guest is obliged to pay the agreed prices and/or the Hotel’s current prices. This also applies to services ordered by the Guest directly or via the Hotel which are rendered by third parties and paid for by the Hotel.
- 3.3. If during the booking process the Guest has the option of making special requests, then unless otherwise agreed with the Hotel these will all be of a non-binding nature.

### IV. Prices, payment conditions

- 4.1. The prices indicated are so-called total prices; they include the respective statutory VAT and other price components (for example, where applicable they include cultural promotion taxes and “bed taxes”). The prices do not include public levies such as tourist taxes. These must be paid by the Guest and their fellow travellers additionally upon their arrival at the Hotel, and depend on local tariffs.



- 4.2. If statutory VAT changes or local taxes on the services booked are introduced, changed or abolished after the contract has been concluded, the prices will be adjusted accordingly. In cases of contracts with consumers, this only applies if the period between conclusion of the contract and contract fulfilment exceeds four months.
- 4.3. Invoices issued by the Hotel without a due date must be paid in full within 10 days of receipt of the invoice. The Hotel may request at any time that the Guest settle due payments without delay. If a Guest is in arrears with the settlement of an outstanding payment, the Hotel is entitled to charge default interest amounting to five percentage points above the current base rate. Notwithstanding Sentence 3, in the case of legal transactions not involving a consumer, an interest rate which is nine percentage points above the current base rate applies. In such cases as described in Sentence 4, the Hotel may also demand the payment of a lump sum of 40 euros. This lump sum is to be offset against any damages owed, provided the damages are a result of legal action.
- 4.4. Upon conclusion of the contract, the Hotel is entitled to demand a reasonable advance payment from the Guest of up to 25% of the agreed fee or security deposit in the form of a credit card guarantee or a down payment of up to 25% of the agreed fee. The actual amount of the advance payment and the payment dates will be agreed in the contract between the Hotel and the Guest, at least in writing (e.g., email). Notwithstanding Sentence 1, when booking via the online booking form the security deposit provided must always
- 4.5. be a credit card guarantee. Statutory provisions for package tours are not affected by the provisions in Sentences 1 and 2.
- 4.6. Until the beginning of the stay, the Hotel is entitled, even after conclusion of the contract, to demand an advance payment or security deposit within the meaning of Section 4.2. or an increase of the contractually agreed advance payment or security deposit up to the total agreed fee, if a Guest is in arrears or the scope of the contract has been extended.
- 4.7. As a rule, package deals, promotions, reductions and other discounts may not be combined. Individual corporate rates are non-transferrable.
- V. Cancellation by the Guest or no-show**
- 5.1. If the Guest cancels the Hotel Accommodation Contract or does not turn up on their arrival date, then the Hotel is entitled to give the unused room to someone else.
- 5.2. If the Hotel and the Guest have agreed in writing on a deadline for free withdrawal from the contract, then the Guest may, until that point, withdraw from the contract without triggering any charges or claims for compensation by the Hotel. The Guest's right of withdrawal from the contract free of charge shall expire if they fail to exercise their right of withdrawal by informing the Hotel in writing by the agreed deadline. From this point on, the Guest shall only be entitled to a right of withdrawal in accordance with statutory provisions.
- 5.3. If a right of withdrawal has not been agreed or has already expired, there is also no statutory right of withdrawal or cancellation, and if the Hotel does not agree to termination of the contract, then the Hotel shall still be entitled to claim the agreed fee in spite of the Guest's failure to make use of the service. In the case of unused rooms which the Hotel is able to allocate to someone else, the Hotel will offset its income from this alternative rental as well as the expenses it saves against what the Guest owes.
- 5.4. If the room is not otherwise rented, the Hotel has the choice of charging the Guest a cancellation fee instead of a specifically calculated compensation amount. This cancellation fee is calculated based on the contractually agreed remuneration less flat-rate expenses. In such cases, the Guest is required to pay the following flat fees:
- overnight stays with or without breakfast as well as package deals with external services: 90% of the contractually agreed price,
  - half board: 70% of the contractually agreed price and
  - full board: 60% of the contractually agreed price.
- 5.5. The Guest shall be free to provide proof that any claims described in Sections 5.3. and 5.4. are unjustified or not justified to the extent claimed.
- 5.6. The Guest is encouraged to take out travel cancellation expenses insurance.
- VI. Contract termination by the Hotel**
- 6.1. The Hotel is entitled to withdraw from the contract if a due payment by the Guest agreed in accordance with Sections 4.3. to 4.5. is not settled after a reasonable grace period and after the Hotel has threatened to cancel the contract.
- 6.2. Furthermore, the Hotel shall be entitled to withdraw from the contract on specific grounds, in particular if a breach of Section 7.2. of these Terms has occurred or the purpose of or reason for the stay is illegal or rooms are booked by deliberately providing misleading or false information concerning material facts about the person of the Guest and this behaviour causes material damage to the Hotel.
- VII. Provision and use of rooms**
- 7.1. The rooms provided are intended for accommodation purposes only.
- 7.2. Subletting the rooms provided, in whole or in part, as well as using them for purposes other than



accommodation, is subject to the prior consent (agreement) of the Hotel, which must be provided in writing at least, whereby Section 540 Paragraph 1 Sentence 2 of the German Civil Code (BGB) is waived if the Guest is not a consumer.

- 7.3. Unless expressly otherwise agreed by the contracting parties, the Guest is not entitled to demand the use of certain rooms.
- 7.4. Unless otherwise agreed, booked rooms are available to the Guest from 3 p.m. The Guest is not entitled to the rooms being provided earlier.
- 7.5. On the agreed day of departure, unless otherwise agreed rooms must be vacated and made available to the Hotel by no later than 12 a.m. Thereafter, if the Guest vacates the room later than contractually agreed but no later than 6 p.m., the Hotel is entitled to charge 50% of the current overnight room rate; after 6 p.m. this rises to 90%. This does not establish contractual entitlements on the part of the Guest.
- 7.6. The Guest shall be free to provide proof that any claim described in section 7.5. is unjustified or not justified to the extent claimed.
- 7.7. The Hotel is a non-smoking hotel; smoking is not permitted other than in the rooms and areas specified by the Hotel.

## VIII. Liability

- 8.1. The Hotel's liability is subject to statutory provisions. Sections 701 ff. of the German Civil Code (BGB) apply to things brought in by the Guest. The Hotel recommends that, if present, the Guest uses the Hotel or room safe.
- 8.2. As part of their statutory duty to avert, minimise or mitigate damage, the Guest is obliged to do whatever can be reasonably expected of them in order to remove disruptions and keep potential damage to a minimum, and to notify the Hotel of any damage without delay.

## IX. Privacy

- 9.1. Privacy is subject to the regulations of the German Federal Data Protection Act (BDSG) and Telemedia Act (TMG). In order to fulfil the contract, it may be necessary to collect, store and process the Guest's personal data. Personal data will only be used to duly execute the contract. The Guest hereby consents to the use of their personal data for the aforementioned purposes.
- 9.2. The separate data protection provisions which can be accessed on the Hotel's website also apply.

## X. Final provisions and place of jurisdiction

- 10.1. All legal relationships between the Guest and the Hotel are exclusively subject to the law of the Federal Republic of Germany, with the exception of the UN Convention on Contracts for the International Sale of Goods (CISG). Sentence 1 only applies to consumers to the extent that the choice of law does not undermine the protection of binding legal provisions of the state in which the consumer is ordinarily resident.
- 10.2. For commercial transactions, the place of fulfilment and payment as well as the place of jurisdiction – including for disputes involving cheques and bills of exchange – is [www.hotel-birke.de](http://www.hotel-birke.de). If the Guest fulfils the requirement of Section 38 Paragraph 2 of the Civil Code of Procedure (ZPO) and has no domestic place of general jurisdiction, the place of jurisdiction is [www.hotel-birke.de](http://www.hotel-birke.de).
- 10.3. Should any provisions be legally invalid or unenforceable, either in whole or in part, or should they later become legally invalid or unenforceable, this shall not affect the validity of the remaining provisions. Statutory regulations shall replace the invalid or unenforceable provisions.