



General Terms and Conditions of the BerlinSurfHostel Accommodation Contract

I. Scope

1. These General Terms and Conditions apply for the Apartment Accommodation Contract as well as all other services and supplies rendered to the Guests by the BerlinSurfHostel.
2. Derogating terms and conditions, even if included in the General Terms and Conditions of the Guest or the Ordering Party, shall not apply unless expressly acknowledged in text form by the BerlinSurfHostel.

II. Conclusion of Contract, Contractual Partner

1. Upon the Guest's request for reservation, a BerlinSurfHostel accommodation contract comes into existence upon the BerlinSurfHostel's corresponding confirmation of the reservation (hereinafter referred to as "Contract").
2. Contractual Partners are the BerlinSurfHostel and the Guest. If a third party has made the reservation on behalf of the Guest, this party shall be liable to the BerlinSurfHostel jointly and severally together with the Guest for all obligations arising from the Contract if the BerlinSurfHostel has been submitted a corresponding declaration given by the Ordering Party. Independent of this, any Ordering Party is obliged to pass on all booking-related information to the Guest, in particular the present General Terms and Conditions.
3. Sub-letting and re-letting of apartments let as well as their use for purposes other than accommodation shall require the BerlinSurfHostel's prior consent in text form.

III. Services, prices, payment, set-off

1. The BerlinSurfHostel is obliged to have the booked apartments available according to the present General Terms and to render the services agreed
2. The Guest is obliged to pay the prices applying to or agreed on for provision of accommodation and additional services he / she has used. This also applies to third-party services and expenses which are incurred to the BerlinSurfHostel by the Guest or the Ordering Party. The agreed prices shall be understood inclusive of VAT. If the period elapsing between conclusion of the contract and arrival of the Guest exceeds four months and after conclusion of the contract VAT at the statutory rate or any applicable local taxes and levies increase or new local taxes and levies are introduced, the BerlinSurfHostel reserves the right to increase the agreed prices by the amount by which the applicable VAT



or local taxes and levies have increased or by the amount equal to the new local taxes and levies.

3. The BerlinSurfHostel may make its consent to a reduction in the number of booked apartments, the service of the BerlinSurfHostel or the duration of the Guests' stay conditional on an increase in the price for the apartments and/or for the other services of the BerlinSurfHostel.
4. Upon receipt, invoices issued by the BerlinSurfHostel shall become due for payment immediately, without deduction. The BerlinSurfHostel may at any time request the Guest to pay claims due for payment without undue delay. The Guest shall be in default at the latest upon failure to pay within 30 days after the due date and receipt of an invoice. This shall apply to a Guest who is consumer only if these consequences have been specified in the invoice. For each reminder sent after default occurs, the BerlinSurfHostel may charge a reminder fee in the amount of €5.00.
5. The BerlinSurfHostel is entitled to request from the Contractual Partner, on conclusion of the Contract or later, a reasonable advance payment or security in the form of a credit card guarantee, downpayment or similar. The amount of the advance payment and the payment dates may be agreed in the Contract in text form.
6. In justified cases, e.g. payment arrears of the Guest or expansion of the contractual scope, the BerlinSurfHostel is entitled to request, also after conclusion of the Contract up to the commencement of the stay, an advance payment or furnishing of security within the meaning of clause 5 above or the increase in the advance payment or security agreed in the Contract up to the full agreed remuneration.
7. The BerlinSurfHostel is further entitled, at the beginning of and during the Guest's stay, to request a reasonable advance payment or furnishing of security within the meaning of clause 5 above for existing and future claims under the Contract unless such advance payment or furnishing of security has already been effected in accordance with clause 5 and/or clause 6 above.
8. The Guest shall be entitled to set off a claim of the BerlinSurfHostel only with unappealable and final res judicata claims.

IV. Rescission by the Guest, cancellation

1. The BerlinSurfHostel grants to the Guest the right to rescind the Contract at any time subject to the following conditions:
 - a) If the Guest rescinds the booking, the BerlinSurfHostel shall be entitled to reasonable compensation.



- b) The BerlinSurfHostel may elect to claim from the Guest damage compensation in the form of a lump-sum compensation amount instead of a specifically calculated compensation. The lump-sum compensation shall amount to 90% of the contractually agreed price for overnight accommodation. The Guest shall be free to prove that the BerlinSurfHostel has not suffered any damage, or that the damage incurred to the BerlinSurfHostel amounts to less than the lump-sum compensation claimed.
 - c) If the BerlinSurfHostel calculates the damage specifically, the amount of such reasonable damage may total as a maximum the contractually agreed price for the services to be rendered by the BerlinSurfHostel, less the value of the expenses saved by the BerlinSurfHostel as well as the amount accruing to the BerlinSurfHostel from supplies and services rendered to any other contractual partners instead.
2. The above provisions on the compensation shall apply mutatis mutandis if the Guest does not make use of the booked apartment or the booked services and fails to notify this fact to the BerlinSurfHostel in due time.
 3. If the BerlinSurfHostel has granted to the Guest an option to rescind the Contract within a certain period without any further legal consequences, the BerlinSurfHostel shall not be entitled to any compensation. For the question of whether the declaration of rescission is made in due time, receipt thereof at the BerlinSurfHostel shall be decisive. The Guest has to declare the rescission in text form.

V. Rescission by the BerlinSurfHostel

1. If a rescission right free of charge has been granted to the Guest according to IV clause 3, the BerlinSurfHostel shall likewise be entitled to rescind the Contract within the agreed period in the event that other guests inquire for the booked apartments and the Guest does not waive his/her rescission right free of charge pursuant to IV clause 3 after being requested to do so by the BerlinSurfHostel.
2. If an agreed advance payment or security, or such advance payment or security as requested pursuant to III clause 5 and/or 6, is not performed, also after expiry of a grace period set by the BerlinSurfHostel, the BerlinSurfHostel shall also be entitled to rescind the Contract.
3. Moreover, the BerlinSurfHostel is entitled to rescind the Contract in particular if
 - force majeure or other circumstances not attributable to the BerlinSurfHostel make it impossible to perform the Contract;
 - misleading or incorrect statements of material facts have been used in booking apartments, for example with respect to the identity of the Guest or the purpose;



- the BerlinSurfHostel has good reason to assume that the Guest's use of the BerlinSurfHostel's services may jeopardise the BerlinSurfHostel's smooth business operations, safety, or reputation in the public, without such matters being attributable to the BerlinSurfHostel's scope of control or organisation;
 - unauthorised sub-letting or re-letting according to II clause 3 exists;
 - a case of VI clause 3 exists;
 - the BerlinSurfHostel has gained knowledge of the fact that the financial situation of the Guest has considerably worsened after conclusion of contract, in particular if the Guest does not settle due claims of the BerlinSurfHostel or does not provide sufficient security and as a result payment claims of the BerlinSurfHostel appear to be jeopardised;
 - the Guest has filed an application for the opening of insolvency proceedings on his/her assets, submitted an affidavit of means pursuant to section 807 of the German Code of Civil Procedure (Zivilprozessordnung – ZPO), initiated extra judicial proceedings for the settlement of debts or suspended his/her payments;
 - insolvency proceedings are opened on the assets of the Guest or the opening of insolvency proceedings is rejected for lack of assets.
4. The BerlinSurfHostel is obliged to inform the Guest in text form of the exercise of the right of rescission without undue delay.
5. In the above cases of rescission, the Guest shall not be entitled to compensation for damage.

VI. Arrival and departure

1. The Guest is entitled to the provision of specific apartment.
2. Booked apartments shall be available to the Guest from 3.00 p.m. on the agreed date of arrival. The Guest shall not be entitled to earlier provision.
3. Booked apartments shall be claimed by the Guest on the agreed date of arrival by 6.00 p.m. at the latest. Unless a later time of arrival has expressly been agreed, the BerlinSurfHostel shall have the right, after 6.00 p.m., to place the booked apartments with other guests, without the Guest being able to claim any compensation as a result. In this regard the BerlinSurfHostel is entitled to rescission.
4. On the agreed date of departure, the apartments shall be vacated and placed at the BerlinSurfHostel's free disposal by 12.00 p.m. at the latest. For apartments not vacated by then, the BerlinSurfHostel may charge, beyond the damage incurred to it thereby, until 6.00 p.m. the daily apartment rate for the additional use of the apartment and from 6.00p.m. 100 % of the full applicable price for board and lodging. The Guest is free to prove to the



BerlinSurfHostel that no damage or a considerably lower damage was incurred to the BerlinSurfHostel.

VII. Liability of the BerlinSurfHostel, limitation

1. In the event of any disruption to or defects in the services of the BerlinSurfHostel, the BerlinSurfHostel shall endeavour to remedy the same as notified by the Guest without undue delay. If the Guest culpably fails to notify the BerlinSurfHostel of a defect, this shall not establish the right to reduce the contractually agreed remuneration.
2. Subject to the statutory provisions, the BerlinSurfHostel shall be liable for all damage arising from injury to life, limb and health as well as in the case of a guarantee given by the BerlinSurfHostel and for malicious non-disclosure of defects.
3. For all other damage not covered by VII clause 2 and caused by slight negligence on the part of the BerlinSurfHostel, its legal representatives or its agents, the BerlinSurfHostel shall be liable only if such damage is attributable to a typical contractual obligation. In these cases liability shall be limited to the damage typically foreseeable for this contract type.
4. The foregoing limitations of liability shall apply to all damage claims, irrespective of their legal ground, including claims in tort. The foregoing limitations and exclusions of liability shall also apply to any claims for damages of a Guest against employees or agents of the BerlinSurfHostel. They shall not apply in the cases of liability for a defect if a guarantee for the quality of an object or work has been given or in cases of fraudulently concealed defects or injury to persons.
5. For items brought in, the BerlinSurfHostel is liable to the Guest subject to the statutory provisions, i.e. up to 100 times the apartment rate, however, up to a maximum of € 3,500.00. For valuables (cash, jewellery etc.), accure no liability.
6. The BerlinSurfHostel isnot responsible for care messages, mail and consignment of goods for the Guests. The BerlinSurfHostel doesnot ensure delivery, storage and, upon request and against payment, forwarding of the same as well as of found items upon inquiry. Claims for damages shall be excluded
7. The Guest's claims for damages shall fall under the statute of limitations no later than two years from the time the Guest obtains knowledge of the damage, or, irrespective of such knowledge, no later than three years from the damaging event. This shall not apply to liability for damages arising from injury to life or limb as well as for any other damage based on a breach of duty



through intent or gross negligence on the part of the BerlinSurfHostel, a legal representative or an agent of the BerlinSurfHostel.

VIII. Final provisions

1. Changes or amendments to the Contract, in the acceptance of the offer or to these General Terms and Conditions for the BerlinSurfHostel Accommodation Contract shall be made in text form. Any unilateral changes or modifications on the part of the Guest shall be invalid.
2. Place of performance and payment shall be the registered office of the BerlinSurfHostel.
3. The place of jurisdiction – if the Contractual Partner of the BerlinSurfHostel is a merchant or a public-law legal entity – shall be the registered office of the BerlinSurfHostel or, at the BerlinSurfHostel's election, Berlin. If the Contractual Partner of the BerlinSurfHostel does not have a general place of jurisdiction within the territory of the Federal Republic of Germany, the place of jurisdiction shall be the registered office of the BerlinSurfHostel. However, the BerlinSurfHostel is also entitled to institute complaints and other legal proceedings also at the Guest's general place of jurisdiction. The BerlinSurfHostel is not willing and not obligated to participate in dispute resolution procedures (Streitbeilegungsverfahren) before a consumer arbitration agency (Verbraucherschlichtungsstelle).
4. The laws of the Federal Republic of Germany shall apply to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
5. Should individual provisions of these General Terms and Conditions for the BerlinSurfHostel Accommodation Contract be or become invalid or void, the validity of the remaining provisions shall not be affected thereby. The statutory provisions shall apply additionally.

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