

# General Terms and Conditions

## Falkensteiner Hotels & Residences



### I. Scope of Application

1. These General Terms and Conditions apply to all contracts (e.g. accommodation contracts or contracts for the provision of other services) concluded by an operating company of the Falkensteiner Michaeler Tourism Group with regard to a hotel operated by it (Falkensteiner Hotels & Residences) or by another group company of the Falkensteiner Michaeler Tourism Group with regard to a hotel operated by it (hereinafter "**hotel operating company**").
2. If the contractual partner of the hotel operating company is not also a hotel guest, the contractual partner is obliged to transfer the obligations stipulated in these General Terms and Conditions to the hotel guest.
3. A contract with a hotel operating company is only concluded on the basis of these General Terms and Conditions. Any terms and conditions of the contractual partner shall not apply.

### II. Definition of Terms

<b>"Hotel guest":</b>	A natural person who makes use of an accommodation. The hotel guest is generally also understood to be the contractual partner. Persons who arrive with the contractual partner (e.g. family members, friends, etc.) are also considered hotel guests.
<b>"Contractual partner":</b>	A natural or legal person, domestic or foreign, who concludes an accommodation contract as a hotel guest or for a hotel guest.
<b>"Entrepreneur" or "Consumer":</b>	The terms are to be understood in accordance with the Austrian Consumer Protection Act.
<b>"Contract":</b>	The accommodation contract or contract for another service concluded between the operating company and the contractual partner, the content of which is specified in more detail below.

### III. Contract Conclusion | Deposit

1. The contract with the hotel operating company comes into effect upon acceptance of the contractual partner's order. The hotel operating company is at liberty to confirm a booking in writing or not.
2. If the hotel operating company requests the contractual partner to pay a deposit or to issue a credit card authorisation, the contract shall be concluded on condition that the contractual partner pays the deposit or issues the credit card authorisation (see below) within the set period.

3. Unless the hotel operating company has demonstrably set a different deadline in text form, the contractual partner is obliged to pay the deposit or credit card authorisation no later than 7 days after booking. The costs of the financial transaction (e.g. transfer charges) shall be borne by the contractual partner.
4. For credit and debit cards, the respective terms and conditions of the credit card companies apply. The contractual partner is obliged to provide the required details to the payment service provider commissioned by the hotel operating company.
5. The deposit is a partial payment on the agreed fee.

#### **IV. Commencement and End of Accommodation**

1. The contractual partner is entitled to move into the rented rooms from 4.00 pm on the agreed day ("**arrival day**") if the hotel operating company does not provide a different arrival time.
2. If a room is used for the first time before 6.00 am, the previous night counts as the first overnight stay.
3. The rented rooms must be vacated by the contractual partner by 10.00 am on the day of departure. If the rented rooms are not vacated by this time, the hotel operating company may charge the contractual partner up to 100% of the full accommodation price (list price) for the additional use of the rooms. In addition, the contractual partner must compensate for any additional damage arising from delayed return of the rooms, applying the statutory provisions.

#### **V. Withdrawal by the Contractual Partner | Cancellation Fee**

1. In the case of online bookings or accommodation contracts which are concluded via distance selling, the contractual partner's right of withdrawal within 14 days of conclusion of the contract is excluded. The agreed cancellation conditions attached to the room rate apply.
2. Unless otherwise agreed in writing, the contractual partner may only withdraw from the contract if the following cancellation fees are paid:

*Up to 28 days before arrival: 15% of the total amount of the booked stay*

*27 to 7 days before arrival: 45% of the total amount of the booked stay*

*6 to 1 days before arrival: 75% of the total amount of the booked stay*

*On the day of arrival: 90% of the total amount of the booked stay*

*In the event of a no-show, unused room or early departure, 100% of the total amount will be charged.*

#### **VI. Withdrawal by the Hotel Operating Company**

1. If the contract provides for a down payment and this has not been made by the contractual partner in due time, the hotel operating company may withdraw from the contract without granting a grace period.
2. If the guest does not arrive by 6.00 pm on the agreed day of arrival, there is no obligation to provide accommodation unless a later arrival time has been agreed.
3. If the contractual partner has paid a deposit, however, the premises shall remain reserved until 10.00 am at the latest on the day following the agreed day of arrival. In the event of advance payment for more than four days, the obligation to provide accommodation ends at 6.00 pm on the fourth day, whereby the day of arrival is counted as the first day, unless the hotel guest gives notice of a later day of arrival.
4. The hotel operating company is entitled to withdraw from the contract for an extraordinary and objectively justified reason at any time, for example if:

- Force majeure or other circumstances beyond the control of the hotel operating company render the fulfilment of the contract impossible. This also includes the hotel not being open during the relevant period due to serious economic reasons;
- Rooms are booked under misleading or false statements of material facts, e.g. in relation to the person of the hotel guest or the purpose of the stay;
- The hotel operating company has reasonable grounds to believe that the use of the hotel services may jeopardise the proper operation of the business without this being attributable to the hotel's sphere of control or organisation;
- There is a material breach of these General Terms and Conditions.

## **VII. Rights of the Contractual Partner**

1. By concluding an accommodation contract, the contractual partner acquires the right to the customary use of the rented rooms, the facilities of the hotel which are usually and without special conditions accessible to guests for use, and to customary service. The contractual partner shall exercise its rights in accordance with any hotel and/or guest guidelines (house rules).

## **VIII. Obligations of the Contractual Partner**

1. The contractual partner shall be obliged to pay the agreed fee, plus any additional amounts which have arisen due to separate use of services by them and/or the guests accompanying them, plus statutory value added tax by the time of departure at the latest.
2. The hotel operating company is not obliged to accept foreign currencies. If the hotel operating company accepts foreign currencies, these will be accepted in payment at the daily exchange rate where possible. Should the hotel operating company accept foreign currencies or cashless means of payment, the contractual partner shall bear all related costs, such as enquiries with credit card companies, etc.
3. The contractual partner shall be liable to the hotel operating company for any damage caused by them, the hotel guest or any other persons who accept services from the hotel operating company with the knowledge or will of the contractual partner. In particular, parents are liable for their children if they violate their duty of supervision.
4. The subletting or passing on of the hotel rooms provided as well as their use for purposes other than accommodation require the prior written consent of the hotel operating company.
5. The contractual partner undertakes to inform the hotel operating company without request or delay (at the latest, however, upon conclusion of the contract) that their intended use of the premises, and/or the event planned by them in the hotel, is likely to give rise to public interest or to impair the interests of the hotel - whether due to the political, religious or other nature of the intended stay or use.
6. Newspaper advertisements, other advertising measures and publications that reference the hotel generally require the prior written consent of the hotel operating company.
7. If the customer violates this duty of disclosure in accordance with Point 5., or if publication takes place without such consent in accordance with Point 6., the hotel operating company has the right to prohibit use in the manner sought, or to withdraw from the contract.
8. Invoices from the hotel operating company without a due date are payable immediately without deduction. Objections to invoices may only be raised within one month of receipt.
9. In the event of default in payment by the contractual partner, the hotel operating company shall be entitled to charge interest on arrears at the rate of 5 % p.a. in the case of consumers and the statutory interest on arrears in the case of entrepreneurs.

The hotel operating company expressly reserves the right to claim damages for default in excess of this interest.

#### **IX. Rights of the Hotel Operating Company**

1. If the contractual partner refuses to pay the agreed fee or is in arrears, the hotel operating company shall be entitled to the statutory right of retention pursuant to Section 970c of the Austrian Civil Code (ABGB) and the statutory right of lien pursuant to Section 1101 of the ABGB on the items brought in by the contractual partner or the hotel guest. In addition, the hotel operating company shall be entitled to this right of retention or lien to secure its claim arising from the contract, in particular for catering, other expenses incurred on behalf of the contractual partner and for any claims for compensation of any kind.
2. If service is required in the contractual partner's room or at unusual times of the day (after 8.00 pm and before 6.00 am), the hotel operating company is entitled to charge an additional fee. However, this additional fee must be marked on the room rate board. The hotel operating company may also refuse these services for operational reasons.
3. The hotel operating company is entitled to invoice or interim invoice for the service at any time.
4. The accommodation fee may be adjusted accordingly by the hotel operating company if the contractual partner subsequently wishes to make changes to the number of rooms booked, the service provided or the length of stay of the hotel guests, and the hotel operating company agrees to these changes. In addition, the accommodation fee may be increased by the hotel operating company for objectively justified reasons up to a maximum of 15% if the period between the conclusion of the contract and the day of arrival is longer than 4 months.

#### **X. Obligations of the Hotel Operating Company**

1. The hotel operating company is obliged to provide the agreed services to an extent corresponding to its standard.
2. The hotel operating company is obliged to keep the rooms booked by the contractual partner available and to provide the agreed services, provided that the contractual partner has fulfilled their payment obligations. The contractual partner does not have any claim to the provision of specific rooms.
3. Special services of the hotel operating company which are subject to award and which are not included in the accommodation fee are exemplary:
  - a) Special accommodation services which may be charged separately, such as the provision of lounges, sauna, indoor pool, swimming pool, solarium, garages, etc;
  - b) A separate price will be charged for the provision of additional beds or children's beds.

#### **XI. Contract Termination**

1. If the contract was concluded for a definite period of time, it ends with the agreed expiration date.
2. If the contractual partner departs prematurely, the hotel operating company is entitled to demand the agreed fee in full.
3. The death of a guest results in the termination of the contract with the hotel operating company with that guest.
4. The hotel operating company is entitled to terminate the accommodation contract with immediate effect for good cause, in particular if the contractual partner or the hotel guest:

- a) Makes considerably detrimental use of the premises or, by inconsiderate, offensive or otherwise grossly improper behaviour, makes accommodation unpleasant for other guests, the owner, their people or third parties residing at the accommodation establishment, or is guilty of a punishable offence against property, morality or physical safety towards these persons;
  - b) Is afflicted with a contagious disease or a disease which extends beyond the period of accommodation or otherwise becomes in need of care;
  - c) Fails to pay the presented invoices when due within a reasonably set period (3 days).
5. If fulfilment of the contract becomes impossible due to an event regarded as force majeure (e.g. natural disasters, strikes, lockouts, governmental decrees, etc.), the hotel operating company may terminate the contract at any time without observing a period of notice, unless the contract is already deemed to have been terminated in accordance with the law or the hotel operating company is released from its obligation to provide accommodation. Any claims for damages etc. of the contractual partner are excluded.

## **XII. Liability of the Hotel Operating Company for damage to property brought into the hotel**

1. Pursuant to Section 970 ff. of the ABGB, the hotel operating company shall be liable for the items brought in by the contractual partner. The hotel operating company shall only be liable if the items have been handed over to the hotel operating company or to the people authorised by the hotel operating company or have been taken to a place instructed or designated for this purpose by the hotel operating company. If the hotel operating company is unable to provide proof, the hotel operating company shall be liable for its own fault or the fault of its people, as well as of persons leaving and entering the hotel. Pursuant to Section 970, Paragraph 1 of the ABGB, the hotel operating company shall be liable at most up to the amount stipulated in the Austrian Federal Act from 16 November 1921 on the Liability of Innkeepers and Other Entrepreneurs, as amended from time to time. If the contractual partner or the hotel guest does not immediately comply with the hotel operating company's request to deposit their belongings in a safe place, the hotel operating company shall be released from any liability. The amount of any liability of the hotel operating company shall be limited to a maximum of the liability insurance sum of the respective hotel operating company. Any fault on the part of the contractual partner or hotel guest shall be taken into account.
2. The hotel operating company is not liable for slight negligence. If the contractual partner is an entrepreneur, liability is also excluded for gross negligence. In this case, the contractual partner bears the burden of proof for the existence of fault. Consequential or indirect damages as well as lost profits will not be compensated under any circumstances.
3. The hotel operating company is only liable for valuables, money and securities up to the current amount of € 550. The hotel operating company shall only be liable for any damage in excess of this in the event that it has taken over these items for safekeeping with knowledge of their condition or in the event that the damage was caused by them or a member of their staff. The limitation of liability according to the following Point XIII applies accordingly.
4. The hotel operating company may refuse the safekeeping of valuables, money and securities if the items in question are considerably more valuable than guests usually give to the hotel operating company concerned for safekeeping.
5. In any case of assumed safekeeping, liability shall be excluded if the contractual partner and/or hotel guest does not immediately notify the hotel operating company of the damage immediately after becoming aware of it. Moreover, these claims must

be asserted in court within three years of knowledge or possible knowledge by the contractual partner or hotel guest, otherwise the right is forfeited.

### **XIII. Limitations of Liability**

1. If the contractual partner is a consumer, the liability of the hotel operating company for slight negligence, with the exception of personal injury, is excluded.
2. If the contractual partner is an entrepreneur, the liability of the hotel operating company for slight and gross negligence is excluded. In this case, the contractual partner bears the burden of proof for the existence of fault. Consequential damages, immaterial damages or indirect damages as well as lost profits will not be compensated. The damage to be compensated shall, in any case, find its limit in the amount of the interest in trust.

### **XIV. Place of Fulfilment, Place of Jurisdiction and Applicable Law**

1. The place of fulfilment is the place where the hotel operating company is located.
2. This contract is subject to Austrian formal and substantive law to the exclusion of the rules of private international law - in particular the Austrian Act on International Private Law (IPRG) and the European Convention on the Law Applicable to Contractual Obligations 1980, as well as UN sales law.
3. The exclusive place of jurisdiction for bilateral business transactions is the registered office of the hotel operating company, whereby the hotel operating company is also entitled to assert its rights at any other local and competent court.
4. If the contract was concluded with a contractual partner who is a consumer and who has their domicile or habitual residence in Austria, actions against the consumer may only be brought at the consumer's domicile, habitual residence or place of employment.
5. If the contract was concluded with a contractual partner who is a consumer and who is domiciled in a member state of the European Union (with the exception of Austria), Iceland, Norway or Switzerland, the court with local and relevant jurisdiction for the consumer's domicile shall have exclusive jurisdiction for actions against the consumer.

### **XV. Data Protection**

The hotel operating company complies with the data protection regulations (GDPR, DSAG, TKG) in their valid versions. Personal data is only collected, used and passed on if this is permitted by law or the customer consents to the collection of data.

Detailed information on the processing of personal data, the processing procedures and the rights of data subjects can be found in the data protection regulations of the Falkensteiner Michaeler Tourism Group. These are available at [www.fmtg.com/de/datenschutz.htm](http://www.fmtg.com/de/datenschutz.htm)

### **XVI. Final Provisions**

1. Unless the above provisions provide otherwise, the running of a deadline shall commence with the delivery of the document setting the deadline to the contractual partners, who must then observe this deadline. When calculating a deadline determined by days, the day on which the point in time, or the event, falls according to which the beginning of the deadline is to be determined shall not be included.
2. Deadlines determined by weeks or months shall refer to that day of the week or month which by its designation or number corresponds to the day from which the deadline is to be counted. If that day is missing in the month, the last day in that month is authoritative.

3. Declarations must be received by the respective other contractual partner on the last day of the deadline.
4. The limitation period for all claims of the contractual partner (as well as the hotel guest) is one year if they are an entrepreneur. If the contractual partner (hotel guest) is a consumer, the limitation period for all claims is 3 years.
5. The hotel operating company is entitled to set off claims of the contractual partner against its own claims. The contractual partner is not entitled to set off its own claims against claims of the hotel operating company unless the hotel operating company is insolvent or the contractual partner's claim has been determined by a court or recognised by the hotel operating company.
6. In the event of regulatory gaps, the relevant statutory provisions shall apply.