



## General Terms and Conditions of Business

### I. Scope of application

1. These terms and conditions apply to the rental of cabins for accommodation on board hotel ships as well as all other services performed and deliveries made in this connection by Crossgates Travel (Germany) Ltd. (hereinafter referred to as 'Crossgates') to the customer (hotel accommodation contract).
2. The subletting or re-letting of the cabins provided as well as their use for purposes other than accommodation require the prior written consent of Crossgates, with section 540(1) Sentence 2 German Civil Code [*Bürgerliches Gesetzbuch*; "BGB"] being contracted away (no special right of termination on the part of the customer should the consent be refused), unless the customer is a consumer.
3. Deviating terms and conditions of Crossgates' customers shall not apply, even if Crossgates does not expressly object to them. Standard terms and conditions of the customer therefore only apply if this has been expressly agreed in writing in advance.

### II. Conclusion of contract, contracting party, statute of limitations

1. The hotel accommodation contract is concluded by Crossgates' written acceptance of the customer's request. If Crossgates makes a binding offer in text form to the customer, the contract shall be deemed concluded upon the customer's acceptance of Crossgates' offer in writing within two weeks of the offer date. After expiry of this period, Crossgates is no longer bound by the offer.
2. Crossgates and the customer are the parties to the contract. If a third party has made the booking for the customer, the customer shall be liable to Crossgates together with the third party as joint debtor for all obligations arising from the hotel accommodation contract, provided that Crossgates has received a statement to this effect from the third party.
3. All claims of the customer or the third party against Crossgates are, as a rule, barred under the statute of limitations after a period of one year from the beginning of the knowledge-dependent<sup>1</sup> regular limitation period within the meaning of section 199(1) BGB. Claims for damages against Crossgates are, however, subject to the knowledge-dependent limitation period of no more than 3 years after the breach of duty, or the knowledge-independent<sup>2</sup> limitation period of 10 years after the breach of duty. These shorter limitation periods shall not apply
  - for claims the cause of which is based on intent or gross negligence on the part of Crossgates including the persons employed by Crossgates in the performance of its obligations -;
  - in the event of loss or damage caused by negligence resulting from loss of life, bodily injury or damage to health.

In case of damage to property and financial loss caused by negligence, the shorter limitation periods shall not apply in the event of the violation of an essential contractual obligation. Essential contractual obligations are those the fulfillment of which characterizes the contract and on which the customer may rely.

### III. Services provided by Crossgates, berth

1. Crossgates charts hotel ships for the purpose of berthing on the Rhine, its tributaries, the Danube or other waterways specified in the offer or order confirmation in order to make them available to Crossgates' customers as hotel ships for accommodation during trade fairs, conferences, conventions or other events.
2. Crossgates is obligated to make the cabins booked by the customer available and to provide the agreed services.
3. Where a berth is indicated in the binding offer and/or the order confirmation of Crossgates, this information is subject to change because the berths will not have been released by the competent institutions at the time of entering into the contract. The berths are often not allocated until shortly before the commencement of the trade fair or the stay, respectively. Crossgates will make an application to the competent allocation officer to allocate the berth specified in the booking to the ship named in the booking. The allocated berth shall be the object of the contract. Crossgates shall inform the customer of the berth shortly before the commencement of the stay.

<sup>1</sup> refers to the customer obtaining (or ought to have obtained) knowledge of the circumstances giving rise to the claim

<sup>2</sup> notwithstanding knowledge (or a grossly negligent lack of knowledge)

**IV. Customer's obligation to pay, prices, other obligations of the customer (instructions ship's command, smoking ban, no animals)**

1. The customer is obligated to pay the agreed or applicable prices of Crossgates, respectively, for the cabin rental and all other services used by it. This also applies to services provided at the customer's request and expenses of Crossgates payable to third parties.
2. The agreed prices include the taxes and local charges valid at the time of entering into the contract. Not included are local charges which are owed by the guests themselves under applicable municipal law, such as visitor's tax. In the event of changes to the statutory VAT or the introduction, change or abolition of local charges on the object of performance after conclusion of the contract, the prices shall be adjusted accordingly. This applies to contracts with consumers only if the period between conclusion of the contract and contractual performance exceeds four months.
3. Crossgates may make its consent to a subsequent reduction in the number of cabins booked, the services provided by Crossgates or the duration of the customer's stay requested by the customer contingent on an increase of the price for the cabins and/or other services provided by Crossgates.
4. The customer must follow the instructions of the ship's command as these serve to ensure the safety of the hotel ship and the guests.
5. Smoking is not permitted in any premises of the hotel ship.
6. Animals may not be taken on board. This also applies to short visits.

**V. Terms of payment, set-off**

1. Invoices are payable without deduction at the agreed time or, in the case of invoices without a due date, within ten calendar days of receipt of the invoice. Crossgates may request at any time that the customer make immediate payment of claims fallen due. The credit entry on Crossgates' account shall serve as the relevant criterion. In the event of default of payment by the customer, the applicable law shall apply. Crossgates reserves the right to prove that it suffered a greater loss or damage.
2. Crossgates is entitled to request a reasonable advance payment or security deposit from the customer, for example in the form of a credit card guarantee, upon conclusion of the contract. The amount of the advance payment and the payment dates may be agreed in writing in the contract. In the event of advance payments or security deposits for package tours, the statutory provisions shall remain unaffected.
3. In justified cases, e.g. payment arrears of the customer or extension of the scope of the contract, Crossgates is entitled, even after conclusion of the contract and until the commencement of the stay, to request advance payment or security deposit within the meaning of Clause V.2 above, or an increase in the advance payment or security deposit agreed upon in the contract.
4. The customer may not set off or net against a claim by Crossgates unless the customer's own claim is uncontested or has been finally adjudicated.

**VI. Rescission by the customer (revocation/cancellation)/Non-utilization of Crossgates' services (no show)**

1. The customer may rescind the contract entered into with Crossgates only if a right of rescission has been agreed upon in writing in the contract, or if any other statutory right of rescission applies, or if Crossgates has agreed in writing to cancel the contract.
2. If a date for the rescission of the contract at no charge has been agreed upon in writing between Crossgates and the customer, the customer may rescind the contract by such date without triggering payment or compensation claims by Crossgates. The customer's right of rescission lapses if the customer fails to exercise its right of rescission by written notice to Crossgates by the agreed-upon date.
3. If no right of rescission has been agreed upon or if such right has already lapsed, or if there is no statutory right of rescission or termination, or if Crossgates does not agree to the rescission of the contract, Crossgates shall retain the right to the agreed remuneration despite the non-utilization of the service. Where the customer does not use cabins, Crossgates must set off income from the rental of the cabins to other parties and the saved expenses. If the cabins are not rented out to other parties, Crossgates shall be entitled to claim the contractually agreed remuneration and to consolidate the deduction for saved expenses into a lump sum. In this case, the customer is obligated to pay at least 90% of the contractually agreed price for overnight accommodation including breakfast, 70% for half board and 60% for full board arrangements. The customer is at liberty to prove that the above-mentioned claim did not arise or did not arise in the requested amount.

#### **VII. Rescission by Crossgates**

1. If it has been agreed that the customer may rescind the contract at no charge within a certain period, Crossgates shall also be entitled to rescind the contract during that period if enquiries for the contractually booked cabins are received by Crossgates from other customers, and the customer does not waive its right of rescission upon Crossgates' query to this effect within a reasonable period of time set for that purpose.
2. If an advance payment or security deposit agreed upon or requested according to Clause V.2 and/or Clause V.3 is not made or provided, respectively, even after expiration of a reasonable grace period set by Crossgates, Crossgates shall also be entitled to rescind the contract.
3. In addition to this, Crossgates shall be entitled to extraordinary rescission of the contract for cause, including but not limited to the following:
  - Force majeure (e.g. war, strike, storms, earthquakes, terrorist attacks, closure of waterways by the authorities, fuel supply shortage, high and low water, ice) or other circumstances, for which Crossgates is not responsible, that render the performance of the contract impossible;
  - Impossibility to perform the contract because the authorization to berth was refused and Crossgates is not responsible for such refusal;
  - Cabins or rooms were booked by culpably submitted misleading information on facts that are essential to the contract, such as regarding the person of the customer or the purpose of their stay;
  - Crossgates has good reason to assume that the use of its service may jeopardize the smooth operation of the business, the safety or the public image of Crossgates or the hotel ship, where this is not within Crossgates' power of control or organizational remit;
  - The purpose of, or the reason for, the customer's stay is illegal;
  - Clause I.2 has been violated.
4. The justified rescission of the contract by Crossgates shall not entitle the customer to claim damages.

#### **VIII. Availability, delivery and return of the cabin**

1. The customer is not entitled to claim that certain cabins be made available to it, unless this has been expressly agreed upon.
2. Booked cabins are available to the customer from 3:00 p.m. of the agreed-upon date of arrival. The customer is not entitled to earlier availability of the cabin.
3. On the agreed departure date, the cabins must be vacated and made available to Crossgates at 9:00 a.m. at the latest. After that, Crossgates may charge late check-out fees of 50% of the full accommodation price (list price) if the cabin is used beyond the contractually agreed time until 6:00 p.m., and 90% after 6:00 p.m. This shall not create any contractual rights of the customer. The customer is at liberty to prove that Crossgates has no or a substantially lower claim to a usage fee.

#### **IX. Liability of Crossgates**

1. In the event of any loss or damage caused, Crossgates shall be liable for intent and gross negligence, also on the part of the persons employed by it in the performance of its obligations, in accordance with the law. The same applies in the event of loss or damage caused by negligence resulting from loss of life, bodily injury or damage to health. In case of damage to property and financial loss caused by negligence, Crossgates and the persons employed by it in the performance of its obligations shall be liable only in the event of the violation of an essential contractual obligation, but limited in terms of the amount to the foreseeable damage at the time of entering into the contract; essential contractual obligations are those the fulfillment of which characterizes the contract and on which the customer may rely. Should any disruptions or defects occur with regard to Crossgates' services, Crossgates shall endeavor to remedy them upon gaining knowledge thereof or at the immediate request of the customer. The customer is obligated to contribute to a reasonable extent to the elimination of the disruption and to keep any damage to a minimum, as well as to inform Crossgates without undue delay of any disruption or damage.
2. Crossgates shall be liable to the customer in accordance with the law for items brought in by the customer (section 701 BGB). According to this, liability is limited to one hundred times the cabin price for one day, up to a maximum amount of EUR 3,500.00 and, in deviation therefrom, up to a maximum amount of EUR 800.00 for money, securities and valuables (section 702 BGB). The liability claims lapse if the customer fails to notify Crossgates of the loss, destruction or damage without undue delay after gaining knowledge thereof (section 703 BGB). Crossgates recommends the use of the room safe in the cabin, where available, for valuables.

#### **X. Miscellaneous**

1. Amendments and supplements to the contract, the acceptance of the request or these Standard Terms and Conditions shall be made in text form. Unilateral amendments or supplements by the customer are ineffective.

2. The place of performance and of payment as well as the exclusive place of jurisdiction in commercial transactions - including litigation involving claims arising from checks and bills of exchange - shall be Düsseldorf. Where any of the parties to the contract fulfills the prerequisites of section 38(2) German Code of Civil Procedure [*Zivilprozessordnung*; "ZPO"] and has no general place of jurisdiction in Germany, the place of jurisdiction at the registered seat of Crossgates in Germany (Düsseldorf) shall apply.
3. German law applies. The application of the UN Sales Convention and of the conflict of laws provisions is excluded.
4. With a view to the German Consumer Dispute Resolution Act, Crossgates points out that it is not participating in voluntary consumer dispute resolution. Should consumer dispute resolution become mandatory for Crossgates after the printing of these conditions, Crossgates will inform the customer accordingly in an appropriate manner. Crossgates refers to the European online dispute resolution platform at <http://ec.europa.eu/consumers/odr/> for all contracts entered into by electronic legal transaction. Crossgates is not currently participating in this voluntary procedure.
5. Should any of the provisions of these Standard Terms and Conditions be or become ineffective or void, the remainder hereof shall not be affected thereby. In all other respects applicable law shall apply.

Last updated: Nov. 19, 2018