

# General Terms and Conditions of Use for the Websites and Apps of HolidayCheck AG and Additional Special Terms and Conditions of Use for the Placement of User Content on the Platforms and for Registered Users

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In the following, you will find the Terms and Conditions of Use for the Websites and Apps of HolidayCheck AG (hereinafter "HolidayCheck Platforms"). These are divided into

- A. General Terms and Conditions of Use for the HolidayCheck Platforms
- B. Special Terms and Conditions of Use for the Placement of User Content on the Platforms
- C. Special Terms and Conditions of Use for Registered Users

For the booking of tourist services (package tours, flights, hotels, rental cars, cruises, holiday apartments, etc.), solely our General Terms and Conditions of Business for the Brokering of Travel Services which you can obtain [here](#) apply.

## A. General Terms and Conditions of Use

### 1. Service Provider and Contact

The service provider of the HolidayCheck platforms is

HolidayCheck AG  
Bahnweg 8  
CH-8598 Bottighofen

CEO:  
Christoph Ludmann

Commercial register / Company's register number:  
CHE-110.298.267  
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info@holidaycheck.ch  
+41 (0) 71 686 9000  
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## 2. **Validity**

For non-registered users, these Terms and Conditions of Use apply in the respectively current version valid when using the HolidayCheck platforms. For registered users, these Terms and Conditions of Use – subject to subsequent amendment pursuant to clause C. – apply in the current version valid at the time of registration.

## 3. **Provision**

- (1) HolidayCheck AG constantly strives to ensure a correct operation of the platforms but does not vouch for the uninterrupted usability or availability of the platforms and in this regard does not assume any guarantee either. Nor is it liable for delays, interruptions or malfunctions caused by technical defects.
- (2) HolidayCheck AG reserves the right to make changes, supplements or deletions of the information provided without prior announcement and to block, change, supplement or delete websites or apps in their entirety or in part or to suspend the publication temporarily or definitively.
- (3) Any attempt to disrupt the correct functioning of the HolidayCheck platforms is prohibited. In particular, it is prohibited to attempt to bypass security functions, to carry out changes to computer systems, servers, routers or other devices connected to the Internet, to procure unauthorised access to such systems or devices, or to disrupt the function of these systems/devices in any form or manner.

## 4. **Own Content**

HolidayCheck AG is responsible for its own content that can be retrieved on the platforms pursuant to general laws. The liability restrictions pursuant to clause A.6 below apply.

## 5. **Third-Party Content**

- (1) Substantial content that is available on the websites and in the apps of HolidayCheck AG comes from users of the HolidayCheck platforms. This applies in particular for
  - Hotel and ship ratings
  - Hotel and ship images
  - Travel tips, travel tip ratings and travel tip images
  - Travel videos
  - Forum contributions
  - Image comments
  - Content of tourist service providers (hoteliers, tourism offices, etc.)
  - User profiles.This content published by users is referred to collectively as "User Content".
- (2) It is pointed out that the publication of User Content on the HolidayCheck platforms does not represent any statement or finding, review or recommendation from HolidayCheck AG. It does not adopt the User Content as its own. It does not vouch for this content being lawful, correct, up-to-date and/or complete.

- (3) HolidayCheck AG is not obligated nor is it able to comprehensively check or monitor the lawfulness of the User Content and/or research circumstances that indicate an unlawful activity.
- (4) If breaches of the law or of rights are pointed out to HolidayCheck AG, it will carry out the checks for which it is responsible immediately and, if necessary, further measures. For this purpose, HolidayCheck AG reserves the right to block User Content and/or to remove it permanently.

## 6. Warranty/Liability

- (1) HolidayCheck AG does not assume any guarantee for the information provided on the HolidayCheck platforms being complete, up-to-date, correct, lawful or of another quality. This also applies for the travel checklist, the newsletters and the travel magazine. HolidayCheck AG offers this information only as a guidance for the user, even if it has been complied to the best of its knowledge and belief. The user must expect that this information can change at any time. Accordingly, the user should contact the organizations that can guarantee the information being correct, complete and up-to-date, e.g. embassies and tourist information offices. This applies in particular for information about health regulations such as vaccinations and for information about travel documents such as passports and visas.
- (2) In addition, HolidayCheck AG does not assume any guarantee for the content depicted on the HolidayCheck platforms being free of viruses or/and other codes/data arrangements that could have a destructive or impairing effect. Users are responsible themselves for protecting their data processing systems in this regard.
- (3) With contractual or extra-contractual claims, HolidayCheck is liable only for damage caused by wilful or grossly negligent actions and for damage that arises from slightly negligent breaches of such obligations that make the proper implementation of a contract existing with the respective user possible in the first place and for which the contractual partner can therefore trust that these obligations are met (cardinal obligations). In the latter case, liability is limited to the damage typical of such contracts and foreseeable when the contract is concluded. The aforementioned restrictions in liability do not apply in the event of injury to life, body and health, in the area of application of the product liability act and in the event of explicit guarantees being given.

## 7. Copyright

- The content/data published on the websites and in the apps of HolidayCheck AG (e.g. software, products, trademarks and logos, etc., information, reports, images, illustrations) are protected by law. The reproduction, public rendition or other use or utilisation of such protected content is usually not permitted without the consent from the respective rights holder. Unless there are exceptions permitted under the law, only personal, non-commercial use within the framework of the designated purpose of the content offered is permitted.
- (2) If you suspect that your protective rights are breached on or from the websites of HolidayCheck AG, please inform us of this immediately at [info@holidaycheck.ch](mailto:info@holidaycheck.ch) so that this can be quickly remedied.

## 8. Data Protection

- (1) Data protection is an important topic for HolidayCheck AG. All personal details that the user provides via the website of HolidayCheck AG is used in compliance with the applicable provisions of data protection law and our data protection declaration.
- (2) Our data protection declaration that can be obtained [here](#) applies in particular.
- (3) The reading, saving or forwarding of personal data of other users for purposes other than the intended use of the services offered is prohibited. The users will fundamentally treat information that becomes known to them about other users as well as communication content as confidential unless this has been published by the authorised party himself/herself.

## B. Special Terms and Conditions of Use for the Placement of User Content on the Platforms

### 1. Publication Option

- (1) HolidayCheck AG grants the user the option (which can be revoked at any time) to publish certain content on the HolidayCheck platforms (cf. clause A.5.(1)) so that other users can retrieve it. This option is fundamentally provided free of charge; exceptions require a separate agreement.
- (2) The requirements for the publication of such content, in particular the indication and confirmation of an e-mail address assigned to the user or the need for prior registration result from the respective functionality of the HolidayCheck platforms and can be configured and amended by HolidayCheck AG at any time at its own discretion.
- (3) The minimum age of User for the placement of content on the platforms is 14 years.

### 2. Obligations of the User

- (1) The user not allowed to place any content on the site that:
  - is untrue,
  - offends, threatens, coerces, vilifies, glorifies violence,
  - is pornographic, detrimental to young persons or racist, or incites violence, or is otherwise of a criminal/unlawful nature,
  - breaches the rights of third parties, e.g. copyrights, trademark rights, patent rights, brand protection rights, ancillary copyrights, personal rights, data protection rights or ownership rights.
- (2) When using the platforms, no user may send data or save data on a data carrier of HolidayCheck AG that based on its nature or quality, size or number is suited to impairing the functioning of the computer systems of HolidayCheck AG or of third parties, or breaches their rights (e.g. viruses, Trojans, spam e-mails, etc.).
- (3) Users are not permitted to submit advertising to other users or third parties via the HolidayCheck platforms. This also applies to the setting of corresponding links and in particular to advertising for chain letters, gift circles, surveys, pyramid and snowball systems as well as

for the purchase of securities. The positive depiction of tourist services or places is not to be seen as advertising in this sense if the special requirements of ratings (cf. (4) below) are complied with.

- (4) With regard to hotel/travel tip/ship ratings (including evaluating statements in user profiles, forum contributions, image comments, images or videos), the user undertakes in particular
- to ensure the exact and correct allocation of his/her rating to a hotel/travel tip/ship or other service,
  - only to submit a review if he/she himself/herself has used the service to be reviewed,
  - not to submit any rating or place any image/video on the platforms if he/she is an employee, owner or operator of the hotel/ship to be rated or is a family member of the said persons or is acting on their behalf. The same applies for employees of hotel owners, travel companies, shipping companies or other companies that are economically affiliated with the rated hotel/ship, as well as for their family members or agents; the aforementioned regulations apply accordingly for travel tips,
  - not to make any false statements regarding hotels/ships, persons present there, processes or other circumstances/events there,
  - not to submit any value judgements in which the focus is on personal defamation or that are intended primarily to serve a purpose other than providing other potential travellers/holidaymakers with an authentic impression with regard to a hotel/ship or another service and associated circumstances,
  - not to publish any content in return for payment or non-cash benefits (this does not include incentives of a low value that are in an appropriate ratio to the effort required to submit the rating and are granted independently of the rating content),
  - not to place any images or videos on the platforms on which persons are depicted in a manner that makes it possible to identify them,
  - not to breach the personal rights of any other persons by depicting them in a manner that makes it possible to identify them from the texts placed on the platforms.
- (5) If a user breaches these Terms and Conditions of Use, HolidayCheck AG is entitled to delete or block content without notifying the user and without giving grounds. The same applies in the event that there are sufficient grounds to suspect such breaches. All other rights and claims remain unaffected.
- (6) It is recommended to the users that they save back-up copies of all content that the user publishes or makes accessible on the HolidayCheck platforms on the user's own computer system as HolidayCheck AG is not liable for losses of data.

### **3. Granting of rights**

- (1) With regard to all content placed on the platform by him/her, the user grants HolidayCheck AG the right to save and reproduce this User Content free of charge on a non-exclusive basis and to publish it anywhere on the HolidayCheck platforms or in other tele media for which it is responsible, in particular to make it publicly accessible or to render by other means.

HolidayCheck AG is also entitled

- to use the content for the purpose of online advertising for its own services and for tourist services offered by third parties,

- to sub-license the use right to third parties if and to the extent that a use of the content on online platforms of third parties requires HolidayCheck AG in turn to grant third parties rights to the content; and
- to sub-license the content to companies of the HolidayCheck Group affiliated with HolidayCheck AG.

HolidayCheck AG may also edit the user content for this purpose, whilst complying with any moral rights of the copyright holder (in particular shorten, cut, reformat, translate or add comments/information to images/videos).

- (2) The user guarantees that he/she is the holder of the required rights, in particular of the copyrights to the User Content, in order to grant HolidayCheck AG the rights pursuant to paragraph (1). It is the sole responsibility of the user to acquire the necessary rights for the placement of the User Content on the platforms offered by HolidayCheck AG. The user normally only possesses the necessary rights if he or she has created the respective content himself/herself.
- (3) The granting of the rights pursuant to paragraph 1 applies for an indefinite period of time if the user does not provide any proof to HolidayCheck AG of circumstances that indicate that a further retrievability of the content cannot be reasonably expected in the future (for instance, due to serious disadvantages).

#### **4. Indemnification**

The user undertakes to indemnify HolidayCheck AG against all claims of third parties, including appropriate costs or those determined by law for legal defence that are based on a culpable breach of the user obligations pursuant to clause 2 or the warranty pursuant to clause 3(2). The user supports HolidayCheck AG in averting such claims, in particular by making all information required for the defence available.

## **C. Special Terms and Conditions of Use for Registered Users.**

### **1. Registration**

- (1) The creation of a user account (registration) is possible
  - for all users in the "myHolidayCheck" access
  - for hoteliers, POI managers or destination representatives with the function "Partner access".
- (2) Users of the HolidayCheck platforms who want to register must be at least 14 years old.
- (3) Each user undertakes to provide correct and complete information during registration and in particular not to breach the rights of third parties. A breach of the rights of third parties exists, inter alia, when personal information or other data of third parties is used without their consent, e.g. the name or the e-mail address. Multiple registration is not permitted. Registered users can have their registration information changed or updated at any time.

- (4) Registered users are responsible for treating the access information issued to them or selected by them as confidential (in particular password) and are responsible for its use towards HolidayCheck AG and towards third parties. Every registered user is obligated to inform HolidayCheck AG immediately in the event of a loss or unauthorised use of his/her access information. HolidayCheck AG is entitled to block access to the services on the websites and apps of HolidayCheck AG requiring registration if it is suspected that the password is being used by unauthorised third parties; the user will be informed about this.

## **2. Special Terms and Conditions for the Use of Contact Forms and the Possibility of Sending Messages via the Private Message System to Other myHolidayCheck Members or HolidayCheck Users**

In the event of contact with third parties via the contact forms and/or private message systems made available on the HolidayCheck platforms, the user undertakes not to write/send any content that breaches the provisions of clause B.2.(1) - (3).

## **3. Consequences in the Event of Breach of Obligations**

- (1) In the event of breaches against these Terms and Conditions of Use, Holiday Check AG can delete information that the user has placed on the platforms or other content and information that can be assigned to him/her. Furthermore, HolidayCheck AG can exclude the user temporarily or permanently from using the services offered.
- (2) In the event of a culpable breach of these Terms and Conditions of Use, the user is also liable towards HolidayCheck AG by law for compensation for all resulting direct and indirect damage, including financial damage. All other claims remain reserved.

## **4. Termination/End**

- (1) Registration can be ended at any time without giving a period of notice by deleting the account or by sending an e-mail to HolidayCheck AG.
- (2) HolidayCheck AG welcomes every active user but reserves the right to end registration without giving grounds but giving a period of notice of two weeks. The right to termination without notice for good cause remains unaffected. Good cause is deemed in particular to be a breach of the obligations of the user pursuant to these Terms and Conditions of Use.
- (3) In the event of termination or another end to the contract, HolidayCheck AG is entitled but not obligated to block or delete User Content placed on the platforms by the user.