

TERMS AND CONDITIONS

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§ 1 Area of application

- 1.1 These general terms and conditions of the hotel industry („AGBH 2006“) replace the previous ÖHVB edition from 23rd September 1981
- 1.2 The AGBH 2006 does not exclude special agreements. The AGBH 2006 are subsidiary to agreements individually made.

§ 2 Terminology

- 2.1 Terminology:
 - „Host “: is a natural or legal person, which hosts the guests for payment.
 - „Guest “: is a natural person who makes use of an accommodation. Generally the guest is also contract partner. A Guest is also those persons which travel with the contract partner (e.g.. Family members, friends etc.)
 - „Contract partner “: is a natural or legal person, domestic or foreign, which concludes an accommodation contract as a guest or for a guest.
 - „Consumer“ and „Entrepreneur “: These terms are to be understood as defined in the consumer protection law (Konsumentenschutzgesetz 1979 idgF)
 - „Accommodation contract “: Accommodation contract is the concluded contract between the host and the contract partner. The content of this contract is further regulated in the following.

§ 3 Conclusion of contract – Deposit

- 3.1 The accommodation contract is concluded by accepting the order of the contract partner by the host. Electronic statements are presumed to be received when the party, for which it was meant, can access it under normal circumstances., and the access happens during the disclosed opening times of the host.
- 3.2 The host is permitted to conclude the accommodation contract under the condition, that the contract partner pays a deposit. In this case the host is obligated to point out the due deposit to the contract partner, before the oral or written contract acceptance of the contract partner. If the contract partner accepts the deposit (orally or written), the contract is concluded with access to the letter of agreement of the payment of the deposit by the contract partner at the host.

- 3.3 The contract partner is obligated to pay the deposit until the latest indicated date (arrived) before the arrival. The costs of the transaction are to be paid by the contract partner. For credit- or debit cards the conditions of the card companies apply
- 3.4 The deposit is a part of the agreed total payment

§ 4 Beginning and end of the accommodation

- 4.1 The contract partner has the right to use the booked accommodation as from 15h00 on the arrival day, except the host offers a different time.
- 4.2 Should a room be used for the first time before 10h00, the previous night counts as the first overnight stay.
- 4.3 The booked rooms are to be vacated by the contract partner until 10h00 on the date of departure. The host has the right to charge an extra day, if the rooms are not vacated in time

§ 5 Rescission from the accommodation contract – cancellation fee

Rescission by the host

- 5.1 If the accommodation contract provides a deposit, and it has not been paid by the contract partner in due time, the host can withdraw from the accommodation contract without extension of time.
- 5.2 If the guest does not arrive until 18h00 on the day of arrival, there is no more obligation to accommodate the guest, except a later arrival time has been agreed on in writing.
- 5.3 However if the contract partner has paid a deposit (see 3.3), the rooms remain at his disposal until 12h00 the day following the agreed date of arrival. In case of a deposit at the amount of more than 4 days, the obligation to accommodate the guest ends at 18h00 on the fourth day, whereas the arrival day is considered the first day, except the guest discloses a later day of arrival.
- 5.4 Until at the latest 90 days before the agreed day of arrival of the guest, the host can dissolve the accommodation contract with factually justified reasons by unilateral declaration, except there was a different agreement.

Rescission by the contract partner – cancellation fee

- 5.5 Until at the latest 90 days before the agreed day of arrival of the guest, the contract partner can dissolve the accommodation contract by unilateral declaration without payment of a cancellation fee.
- 5.6 Outside of the in § 5.5 determined period, a withdrawal by unilateral declaration is only possible with payment of a cancellation fee.
 - from 90 days prior to the day of arrival 40% of the total booking amount
 - from 30 days prior to the day of arrival 70% of the total booking amount
 - from 7 days prior to the day of arrival 90% of the total booking amount
 - In case of No Show 100% of the total booking amount are charged

until 3 months before the arrival day	90 days to 30 days	30 days to 7 days	In the last week	No Show
No cancellation fee	40 %	70 %	90 %	100%

§ 6 Provision of an alternative accommodation

- 6.1 The host can provide the contract partner or guests with an adequate (same quality) alternative accommodation, if this is reasonable for the contract partner, especially if the difference is minor and factually justified.
- 6.2 A factual justification is given, if the room (rooms) have become unusable, already accommodated guests have prolonged their stay, the accommodation is overbooked or if there are other operational activities require this step.
- 6.3 Possible additional costs for the alternative accommodation are to be paid by the host.

§ 7 Rights of the contract partner

- 7.1 With the conclusion of an accommodation contract the contract partner acquires the right of common use of the rented rooms, the usual service and the facilities of the accommodation, which are accessible to in the usual way and without special restriction to the guests. The contract partner has to adapt his rights according to eventual additional hotel- and/or guest guidelines.

§ 8 Duties of the contract partner

- 8.1 The contract partner is obligated, until the moment of departure at the latest, to pay the agreed amount plus possible extra charges, which resulted from extra services taken by the contract partner or accompanying guests plus value added tax.
- 8.2 The host is not obligated, to accept foreign currencies. In case the host does accept foreign currencies, these shall be charged at the daily rate if possible. If the host accepts foreign currencies or cashless methods of payment, the contract partner takes all connected costs onto his account, such as enquiries at credit card companies, telegrams etc.
- 8.3 The contract partner is liable to the host for every damage caused by the contract partner him-/herself or accompanying guests or other persons that with knowledge or will of the contract partner accept services of the host.

§ 9 Rights of the host

- 9.1 In case the contract partner denies to pay the required amount or he/she is in arrears, the host is therefore entitled to the right of retention as per § 970c ABGB and the right of distraint as per § 1101 ABGB on brought in things by the contract partner or the guest. The host is furthermore entitled to this right of retention and distraint to protect his/her claim from the accommodation contract, especially for catering, extra expenditures made for the contract partner and for eventual claims for compensation.
- 9.2 Should the rooms be requested at extraordinary times (after 20h00 and before 06h00), the host has the right to charge this extra. This extra charge however, is to be displayed at the room price board. The host is allowed to deny those services due to operational reasons.
- 9.3 The host has the right to settle the bill or to an interim billing at any time.

§ 10 Duties of the host

- 10.1 The host is obligated to perform the agreed services in a way according to his usual standards.
- 10.2 Extra services of the host which are not included in the accommodation price and have to be displayed are for example:
- a) Extra charges of the accommodation which can be charged extra such as the provisioning of salons, sauna, swimming pools, solarium, garage etc.
 - b) For the provisioning of extra- or children's beds a reduced price is charged

§ 11 Liabilities of the host for damages on brought in things

- 11.1 The host is liable for things brought in by the contract partner as per §§ 970 ff ABGB. The liability of the host is only given, if the things are handed over to the host or persons authorized by the host or brought to a place which is meant for this purpose or to a place indicated by the host. If the host is not able to prove, he is liable for his own default or the default of his associates as well as entering and exiting persons. The host is liable as per § 970 Abs 1 ABGB at the maximum to the amount which is fixed in the federal law from 16th November 1921 of the liability of innkeepers and other entrepreneurs each with the according version. In case the contract partner or guest does not follow the host's demand to dispose his/her things in a particular place immediately, the host is freed from all liability. The amount of an eventual liability of the host is maximum to the amount of the liability insurance of the respective host. A default of the contract partner or guest is to be considered.
- 11.2 The liability of the host is excluded for slight negligence. If the contract partner is an entrepreneur, the liability is also excluded for culpable negligence. In that case, the contract partner carries the burden of proof of the existence of default. Secondary damage or indirect damage as well as loss of profit will not be compensated for in any case.

- 11.3 For valuables, money or stocks the host is only liable to the amount of currently €550,--. The host is liable to damages beyond that amount only if he/she took over these things in knowledge of their state or if the damage was caused by the host him-/herself or of one of his associates. The liability limitation applies as described in 12.1 and 12.2.
- 11.4 The host can deny the safekeeping of valuables, money of stocks if these things are substantially more valuable as guests of the respective accommodation usually bring into safekeeping.
- 11.5 The liability of assumed safekeeping is excluded in any case, if the contract partner and/or guest does not immediately indicate the damage after the point of knowledge. Moreover, these demands are to be claimed legally within three years after the point of knowledge or the potential point of knowledge by the contract partner or guest. Otherwise the right is expired.

§ 12 Liability limitations

- 12.1 If the contract partner is a consumer, the liability for slight negligence is excluded, except for damage on other persons.
- 12.2 If the contract partner is entrepreneur, the liability for slight as well as culpable negligence is excluded. In that case the the contact partner carries the burden of proof for the existence of default. Secondary damage, moral prejudice or indirect damage as well as loss of profit are not replaced. The replaceable damage is all cases limited to the amount of the damage incurred.

§ 13 Keeping animals

- 13.1 Animals can only be brought to the accommodation with prior agreement and with a compensation.
- 13.2 The contract partner, who brings an animal, is obligated to keep the animals safe and to supervise it during his stay either by him/herself or by suitable third parties whilst the contract partner carries the costs for that.
- 13.3 The contract partner or guest, who brings an animal, must dispose of an animal- or private liability insurance, which covers damages caused by the animal. Evidence of the respective insurance is to be provided on demand of the host.
- 13.4 The contract partner or his insurer are severally liable to the host for the damage caused by brought animals. Also, the liability includes alternative services which the host must provide to third parties.
- 13.5 Animals are not allowed in in public- restaurant or wellness areas

§ 14 Prolonging of stay

- 14.1 The contract partner has no claim that his/her stay is being prolonged. If the contract partner indicates his/her desire to prolong his/her stay in time, the host can agree to prolong his/her stay. The host is not required to agree to this desire.
- 14.2 If the contract partner cannot leave the accommodation on the day of departure, because of extraordinary circumstances (i.g. extreme snowfall, high water etc.) all ways of departure are unusable or closed, the accommodation contract is automatically prolonged until the impossibility of departure is no longer given. A reduction of the payment due during that time is only possible if the contract partner cannot fully use the offered services due to the extraordinary circumstances. The host is allowed to charge at least an amount of compensation which accords to the rates usually charged in the low season.

§ 15 Termination of accommodation contract – premature annulment

- 15.1 If the accommodation contract is concluded definitely, it ends with expiration of that period.
- 15.2 If the contract partner departs early, the host is allowed to charge the whole amount of the agreed payment. The host will reduce the payment by the amount which he saved because of non-utilization of services or which he gained by ulterior rent of the booked rooms. There is only a saving if the accommodation is fully used to capacity at the time of non-utilization of the rooms ordered by the

guest and the room can be rented otherwise because of the cancellation of the guest. The burden of proof of the saving is carried by the contract partner.

- 15.3 The accommodation contract ends as well with death of the guest.
- 15.4 If the accommodation contract is concluded indefinitely, the contract parties can end the contract until 10h00 on the third day before the intended end of contract.
- 15.5 The host is allowed to end the accommodation contract because of important reason, especially if the contract partner or guest
- a) makes considerably detrimental use of the rooms or with his/her reckless, obnoxious or else strongly indecent behavior puts other guests, the owner, his/her associates or third persons living in the accommodation off the cohabitation or if he/she is guilty of committing a punishable crime against above mentioned person's property, morality or physical safety.
 - b) is infected with an infectious disease or a disease which exceeds the duration of accommodation or he/she becomes in need of care.
 - c) does not pay the presented bills due within a reasonably set period (3 days).
- 15.6 If the fulfillment of contract becomes impossible because of what can be considered an act of nature beyond control (e.g. elementary events, strike, shut-out, official decree etc.), the host can end the accommodation contract at any time without observance of a notice period as long as the contract is not yet ended by law, or the host is freed from his duty of accommodation. Eventual claims for compensation etc. of the contract partner are impossible.

§ 16 illness or death of the guest in the accommodation contract

- 16.1 If a guest falls ill during the period of stay in the accommodation, the host will arrange for medical care upon request of the guest. In case of imminent danger, the host will arrange for medical care even without the request of the guest, especially if this is absolutely necessary and the guest cannot do so him-/herself.
- 16.2 As long as the guest is not able to make decisions on his own or if relatives can not be contacted, the host will arrange for medical while the guest carries the costs. The extend of this care ends however at the moment in which the guest can make decisions on his/her own or the relatives are being informed about the case of illness
- 16.3 The host has a claim for compensation from the contract partner and guest or in case of death from their legal successor for the following costs:
- a) unpaid medical costs, costs for moving of a sick person, medicaments or therapeutic aids.
 - b) disinfection that became necessary
 - c) Clothes, bedclothes and equipment that became unusable or else the disinfection or deep cleaning of these things.
 - d) restoration of walls, furniture, carpets etc. if these have been damaged or impurified in connection with the illness or death
 - e) Room rental if the room has been used by the guest plus eventual additional days of non-usability of the room because of disinfection, evacuation etc.
 - f) possible other damages which arise

§ 17 place of execution, place of jurisdiction and choice of law

- 17.1 Place of execution is the place in which the accommodation is situated
- 17.2 The contract is subject to austrian adjective law and substantive law under exclusion from the rules of private international law (especially IPRG and EVÜ) as well as United Nations Convention on Contracts for the international Sale of Goods
- 17.3 With a bilateral entrepreneur business exclusive place of jurisdiction is the domicile of the host, whereas the host is permitted to assert his rights at every other locally or factually responsible court as well.

- 17.4 If the accommodation contract was concluded with a contract partner who is consumer and has its domicile/main residence in Austria, lawsuits can exclusively be filed at the domicile, the main residence or the place of employment of the consumer.
- 17.5 If the accommodation contract was concluded with a contract partner, who is consumer and has its domicile in a member state of the European Union (except Austria), Iceland, Norway or Switzerland, the court responsible for the place of residence of the consumer is exclusively responsible for lawsuits against the consumer.

§ 18 Miscellaneous

- 18.1 As long as above mentioned regulations do not state otherwise, the run of a deadline begins with the delivery of the document stating the deadline to the contract partner, who must adhere to the deadline. When calculating the beginning of a period until a deadline with days, the day in which the moment or the event falls on is not included. Deadlines calculated with weeks or months relate to the day of the week or month which corresponds to the day from which the period until the deadline was counted. If that day not mentioned by denomination or number the last day of the month is relevant.
- 18.2 Statements must be accessible to each other's contract partner on the last day of the deadline (24h00)
- 18.3 The host is allowed, for debt claims of the contract partner to count up with own debt claims. The contract partner is not allowed to count up debt claims with own debt claims, except the host is unable to pay or the debt claim or the debt claim of the contract partner is ascertained by law or approved by the host.
- 18.4 In case of loopholes the respective legal regulations apply

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