

## General Terms and Conditions for the Hotel Accommodation Contract –Austria

### I. Scope

1. These General Terms and Conditions apply for the Hotel Accommodation Contract as well as all other services and supplies of the operating company of the hotel ("hereinafter referred to as "Hotel").

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 writing by the Hotel.

### II. Conclusion of Contract, Contractual Partner

1. Upon the Guest's request for booking, a hotel accommodation contract shall come into existence upon the Hotel's corresponding confirmation of the reservation (hereinafter referred to in short as "Contract").

1. Contractual Partners are the respective operating company of the Hotel and the Guest.

2. If a third party makes the booking on behalf of the Guest, such third party shall be liable to the Hotel as Ordering Party together with the Guest as joint and several debtors for all obligations under the Contract, provided that a corresponding notice of the third party has been submitted to the Hotel. Irrespective thereof, any Ordering Party shall pass on all booking-related information to the Guest, in particular the present General Terms and Conditions.

3. Sub-letting and re-letting of rooms let as well as their use for purposes other than accommodation shall require the Hotel's prior written consent.

### III. Services, prices, payment, set-off

1. The Hotel shall keep the booked rooms available in accordance with the present General Terms and Conditions and render the services agreed.

2. For provision of accommodation and the further services used by him/her, the Guest shall pay the applicable or agreed prices of the Hotel. This shall also apply to third-party services and expenses which are incurred to the Hotel by the Guest or the Ordering Party.

3. The prices agreed shall include VAT at the applicable statutory rate. If the period elapsing between conclusion of the Contract and arrival of the Guest exceeds four months and if VAT at the applicable statutory rate or any applicable local taxes and levies increase or decrease after conclusion of the Contract or if new local taxes or levies are introduced, the Hotel reserves the right to increase or reduce the agreed prices by the amount by which the applicable VAT or local taxes and levies have increased or decreased or by the amount of the newly introduced local taxes and levies.

4. The Hotel may make its consent to a change in the number of booked rooms, the service of the Hotel or the duration of the Guests' stay as requested by the Guest after conclusion of the Contract conditional on an increase in the price for the rooms and/or for the other services of the Hotel.

5. Upon receipt, invoices issued by the Hotel shall become due for payment immediately, without deduction. The Hotel 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 a consumer only if these consequences have been specified in the invoice. The Hotel is reserved the right to prove a higher damage. For each reminder sent after default occurs, the Hotel may charge a reminder fee in the amount of € 5.00.

6. The Hotel is entitled to request from the Guest, 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 writing.

7. In justified cases, e.g. payment arrears of the Guest or expansion of the contractual scope, the Hotel 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 6 above or the increase in the advance payment or security agreed in the Contract up to the full agreed remuneration.

8. Moreover, the Hotel is entitled to call and declare as due claims accruing during the Guest's stay by issuing an interim invoice and requesting immediate payment.

9. The Guest shall be entitled to a set-off or a reduction against a claim of the Hotel with only undisputed or res judicata claims.

### IV. Rescission by Guest, cancellation

1. The services offered by the Hotel are accommodation and leisure services within the meaning of section 18 (1) Z 10 of the Act on Off-Premises and Distance Contracts (Fern- und Auswärtsgeschäfte-Gesetz, FAGG) which are rendered for a particular date or within a particular period.

2. The Guest is therefore not entitled to a statutory right of rescission pursuant to section 11 FAGG. However, the Hotel grants to the Guest a right of rescission at any time subject to the following conditions:

a) If a Guest rescinds the booking, the Hotel shall be entitled to reasonable compensation.

b) It shall be at the Hotel's discretion to claim from the Guest a lump-sum rescission compensation instead of a specifically calculated compensation. The lump sum to be paid in cases of rescissions shall be 100% of the contractually agreed price for overnight accommodation with or without breakfast, 80% of the contractually agreed price for overnight accommodation with half-board and 70% of the contractually agreed price for overnight accommodation with full-board arrangements.

3. The above provisions shall apply mutatis mutandis if the Guest does not make use of the booked room or the booked services and fails to notify this fact to the Hotel in due time.

4. If the Hotel has granted to the Guest an option in the Contract to rescind the Contract within a certain period without any further legal consequences, the Hotel shall not be entitled to any compensation. For the question of whether the notice of rescission is made in due time, receipt thereof at the Hotel shall be decisive. The Guest must give notice of rescission in writing.

### V. Rescission by Hotel

1. If a free-of-charge rescission right has been granted to the Guest according to clause IV para. 4, the Hotel shall likewise be entitled to rescind the Contract within the agreed period in the event that other guests inquire for the booked rooms and the Guest does not waive his/her free-of-charge rescission right pursuant to IV clause 4 after being requested to do so by the Hotel.

2. If an agreed advance payment or security, or such advance payment or security as requested pursuant to clause III paras. 6 and/or 7, is not performed, also after expiry of a grace period set by the Hotel, the Hotel shall also be entitled to rescind the Contract.

3. Moreover, the Hotel is entitled to rescind the Contract for good cause, in particular if

- force majeure or other circumstances not attributable to the Hotel make it impossible to perform the Contract;

- misleading or incorrect statements of material facts have been used in booking rooms, for example, with respect to the person of the Guest or the purpose;

- the Hotel has good reason to assume that the use of the Hotel service may jeopardise the Hotel's smooth business operations, safety, or reputation in the public, without such matters being attributable to the Hotel's scope of control or organisation;

- a case of unauthorised sub-letting or re-letting according to clause II para. 3 exists;

- a case of clause VI para. 3 exists;

- the Hotel 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 Hotel or does not provide sufficient security, and as a result payment claims of the Hotel appear to be jeopardised;

- the Guest has filed an application for the opening of insolvency proceedings, submitted a statement of assets according to section 47 of the Austrian Code of Execution (Exekutionsordnung, EO), 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 the same is rejected for lack of assets or any other reasons.

4. Prior to exercising its revocation right, the Hotel shall inform the Guest thereof in writing without undue delay.
5. In the above cases of rescission, the Guest shall not be entitled to compensation for damages.

#### **VI. Arrival and departure**

1. The Guest shall not be entitled to the provision of specific rooms unless the Hotel has confirmed the provision of specific rooms in writing.
2. Booked rooms 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 rooms 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 Hotel shall have the right, after 6.00 p.m., to place the booked rooms with other customers without the Guest being entitled to claim any compensation as a result. In this regard the Hotel shall be entitled to rescission.
4. On the agreed date of departure, the rooms shall be vacated and placed at the Hotel's free disposal by 12.00 p.m. at the latest. Thereafter, the Hotel may charge, beyond the damage incurred to it thereby, the daily room rate for the additional use of the room until 6.00 p.m., and from 6.00 p.m. 100% of the full applicable price for board and lodging. The Guest shall be free to prove to the Hotel that no damage or a considerably lower damage was incurred to the Hotel.

#### **VII. Liability of Hotel, limitation**

1. The Hotel is liable for all damage arising from injury to life and limb in accordance with the statutory provisions.
2. In the event of other damage, the Hotel shall be liable only if the damage is attributable to intentional or grossly negligent breach of duty on the part of the Hotel, its legal representatives or executive employees.
3. The aforementioned limitations of liability shall apply to any claims for damages, irrespective of their legal basis, including claims arising from tort. The aforementioned limitations of liability shall also apply in the event of any claims for damages of a Guest against employees or agents of the Hotel. They do not apply in the cases of liability for a defect after a guarantee for the quality of an item or a work has been given, or in cases of fraudulently concealed defects or injury to persons.
4. If the Guest is an entrepreneur, the following shall apply: The liability of the Hotel for property and pecuniary damage (but not personal injury) shall be limited to blatant gross negligence and wilful intent. No compensation shall be paid for consequential loss, intangible damages or indirect losses as well as loss of profits. At any event, the damage to be compensated shall be limited to an amount of EUR 500,000.00. Claims for damages must be made within two years from the end of the accommodation.
5. For items brought into the Hotel, the Hotel shall be liable to the Guest in accordance with the statutory provisions, i.e. up to a maximum amount of € 1,100.00, unless it can prove that the damage was caused neither by the Hotel, nor by third parties entering or leaving the Hotel. In these circumstances, the Hotel shall be liable for valuables, cash and valuable documents up to a maximum amount of € 550.00 unless it took custody of these things in the knowledge of their value, or the damage was caused by the Hotel or its staff. The liability claims shall lapse if the Guest does not notify the Hotel without undue delay of the loss, destruction or damage upon acquiring knowledge thereof. However, this shall not apply if the things have specially been entrusted to the Hotel for safekeeping in the central safe. For valuables, jewellery, large amounts of cash and securities, the Hotel shall be liable only if such items are deposited in the central safe against remission of a receipt.
6. If the Guest – even against payment – is provided with a parking space in the garage or the car-park of the Hotel, the Hotel shall be liable to the Guest in accordance with the statutory provisions and up to the maximum amount stipulated by statute. In this case, the damage must be claimed against the Hotel on departure from the Hotel at the latest.
7. Wake-up services shall be performed by the Hotel with the utmost care. Claims for damages shall be excluded except in cases of gross negligence or wilful intent.

8. The Hotel shall treat with care messages, mail and consignment of goods for Guests. The Hotel shall 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 except in cases of gross negligence or wilful intent.

The Hotel is entitled to hand over the aforementioned items to the local lost property office after a storage period of one month at the latest and charging a reasonable fee.

9. Guests' claims for damages shall fall under the statute of limitations three years from the injured party having gained knowledge of the damage and of the identity of the party responsible for the damage. This shall not apply to damage resulting from injury to life, limb or health nor to other damage attributable to a breach of an obligation committed by wilful intent or gross negligence by the Hotel, one of the Hotel's legal representatives or one of its agents.

#### **VIII. Final provisions**

1. Changes or amendments to the Contract or the acceptance of the offer shall require the consent of the contractual partner and shall be made in writing.

2. Place of performance and payment shall be the registered office of the Hotel.

3. The exclusive place of jurisdiction – if the Contractual Partner of the Hotels is an entrepreneur – shall be the registered office of the Hotel, with the Hotel moreover being entitled to assert its rights before any other court having local or material jurisdiction. If the Contractual Partner is a consumer and has his/her place of domicile or habitual place of residence in Austria, legal actions against the consumer may be filed exclusively at the consumer's domicile, habitual place of residence or place of employment. If the Contractual Partner who is a consumer has his/her domicile in a Member State of the European Union (with the exception of Austria), Iceland, Norway or Switzerland, the court having local or material jurisdiction for the domicile of the consumer shall exclusively have jurisdiction for legal actions brought by the consumer. The Hotel is not willing and not under an obligation to participate in dispute resolution proceedings before a consumer conciliation body. The European Commission makes available on the Internet a platform for dispute resolution at the following link: <http://ec.europa.eu/consumers/odr/>. This platform serves as a point of contact for extra judicial dispute resolution for disputes arising under online purchase or services contracts to which a consumer is party.

4. The laws of the Republic of Austria shall apply to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) as well as to the exclusion of the referral rules of private international law (in particular the Austrian Private International Law Act (Internationales Privatrecht-Gesetz, IPRG) and the Convention on the Law Applicable to Contractual Obligations (Rome Convention)).

5. Should individual provisions of these General Terms and Conditions for Hotel Accommodation be or become invalid or void, the validity of the remaining provisions shall not be affected thereby. Moreover, the statutory provisions shall apply.

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