

GENERAL TERMS OF BUSINESS
FOR THE HOSPITALITY INDUSTRY
(AGBH 2006)

Release date 15.11.2006

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§ 1 Applicability

- 1.1 These general terms of business shall apply to the hospitality industry (hereinafter “AGBH 2006”) and replace the prior ÖHVB in the version dated 23 September 1981.
- 1.2 The AGBH 2006 do not preclude the establishment of any separate provisions. The AGBH 2006 are subordinate to any individually established provisions.

§ 2 Definition of terms

2.1 Definition of terms:

“Proprietor”:

A natural or legal person or entity who provides accommodation to guests for a fee.

“Guest”:

A natural or legal person who uses the accommodation. Generally the guest is simultaneously also the contract partner. Guests are also those persons who travel with the contract partner (e.g. family members, friends, etc.).

“Contract partner”:

A natural or legal person, either domestic or international, who establishes an accommodation contract as guest or for a guest.

“Consumer” and
“Corporation”:

These terms are understood within the meaning of the Consumer Protection Law of 1979 in its most recent version.

“Accommodation contract”:

The contract established between the Proprietor and the contract partner; its content is governed in detail below.

§ 3 Contract Implementation - Payment

- 3.1 The accommodation contract is established by the Proprietor's acceptance of the contract partner's accommodation request. Electronic statements are deemed as delivered when the party for whom they are intended, can call them up under usual circumstances, and access occurs at the usual and stated business hours of the Proprietor.
- 3.2 The Proprietor is entitled to establish the accommodation contract under the condition that the contract partner makes a pre-payment. In this case the Proprietor shall be required, before acceptance of the written or oral reservation request of the contract partner, to notify the contract partner about the required pre-payment. If the contract partner agrees to the pre-payment (in writing or orally), then the accommodation contract is established upon arrival to the Proprietor of the statement of consent regarding the provision of the pre-payment by the contract partner.
- 3.3 The contract partner shall be required to complete the pre-payment no later than 7 days before the accommodation (arrival). Costs for the financial transaction (e.g. transfer fees) shall be borne by the contract partner. The particular terms of the credit card company shall apply to credit card and debit card transactions.
- 3.4 A pre-payment represents a partial payment on the agreed remuneration.

§ 4 Beginning and end of accommodation

- 4.1 The contract partner is entitled - provided the Proprietor does not offer any other available date - to occupy the rented premises beginning from 16.00 o'clock of the agreed day ("arrival day").
- 4.2 If a room is initially occupied before 06.00 o'clock, then the preceding night shall be paid as the first night of lodging.
- 4.3 The rented premises shall be vacated by the contract partner by 12.00 o'clock on the day of departure. The Proprietor is entitled to charge for one additional day if the rented premises are not vacated on schedule.

§ 5 Withdrawal from accommodation contract cancellation fee

Cancellation by the Proprietor

- 5.1 If the accommodation contract provides for a pre-payment and if the pre-payment has not been provided on schedule by the contract partner, then the Proprietor may withdraw from the accommodation contract without notice.
- 5.2 If the guest does not appear by 18.00 o'clock on the agreed day of arrival, then the obligation to provide lodging shall expire, unless a later arrival time was agreed.
- 5.3 If the contract partner has made a pre-payment (see 3.3), then the accommodations shall remain reserved until no later than 12.00 o'clock of the day following the agreed arrival day. With a pre-payment of more than four days, the obligation to provide accommodation shall end at 18.00 o'clock on the fourth day, and the arrival day is counted as the first day, unless the guest gives notice of a later arrival day.
- 5.4 By 3 months before the agreed arrival day of the contract partner, at the latest, the accommodation contract can be cancelled unilaterally by the Proprietor, for materially substantiated reasons, unless some other agreement has been put into effect.

Withdrawal by the contract partner - Cancellation fee

- 5.5 By no later than 3 months before the guest's agreed arrival date, the accommodation contract can be cancelled unilaterally by the contract partner without any cancellation fee.
- 5.6 Outside of the schedule specified in § 5.5, any unilateral withdrawal by the contract partner is allowed only after payment of the following cancellation fee:
 - from 28 days before arrival, 20% of the total accommodation price (excl. local tax);
 - from 14 days before arrival, 50% of the total accommodation price (excl. local tax);
 - from 7 days before arrival, 75% of the total accommodation price (excl. local tax);
 - from 3 days before arrival, 100% of the total accommodation price (excl. local tax).

up to 28 days before arrival	from 28 days before arrival	from 14 days before arrival	from 7 days before arrival	from 3 days before arrival
no cancellation fee	20 %	50 %	75 %	100 %

Hindrances to arrival

- 5.7 If the contract partner is not able to appear at the reserved lodgings on the date of arrival because unforeseeable and exceptional circumstances (e.g. extreme snowfall, flood etc.) prevent any travel, then the contract partner is not required to pay the agreed remuneration for the date of arrival.
- 5.8 The payment requirement for the reserved accommodations comes into effect again if the arrival is again possible within three days.

§ 6 Provision of replacement lodging

- 6.1 The Proprietor may offer the contract partner or the guests an adequate replacement lodging (of equivalent quality) if this is deemed reasonable to the contract partner, in particular if any difference is minor and materially justified.
- 6.2 Material justification means, for example, if the room (rooms) have become unusable, if already housed guests extend their stay, if there is an over-booking or other significant operating grounds justify this step.
- 6.3 Any additional expenses relating to the replacement accommodations shall be the responsibility of the Proprietor.

§ 7 Rights of the contract partner

- 7.1 By the establishment of an accommodation contract the contract partner acquires the right to the normal use of the rented premises, to the facilities of the lodging company which are normally made available to guests under no particular conditions, and to the standard services. The contract partner shall exercise these rights in accordance with the pertinent hotel and/or guest guidelines (house rules).

§ 8 Duties of the contract partner

- 8.1 The contract partner shall be obligated to remit the agreed fee, plus any add-on fees owing for any services separated ordered by the guest(s), plus legally required sales tax, by no later than the time of departure.
- 8.2 The Proprietor is not required to accept foreign currencies. If the Proprietor accepts foreign currencies, then these shall be accepted as payment at the daily exchange rate. If the Proprietor accepts foreign currencies or cashless payments, then the contract partner shall assume all associated costs, such as validations from credit card companies, telegrams, etc.
- 8.3 The contract partner shall be liable to the Proprietor for any damages caused by the guest or by other persons accepting the services of the Proprietor with the knowledge and consent of the contract partner.

§ 9 Rights of the Proprietor

- 9.1 If the contract partner refuses to pay the incurred fee, or if the contract partner is in arrears, then the Proprietor is entitled to the legal right of retention pursuant to § 970c ABGB and to the legal lien pursuant to § 1101 ABGB to the material items accompanying the contract partner or the guest. This lien or right of retention is awarded to the Proprietor to secure the receivables from the accommodation contract, in particular for meals, other outlays made on behalf of the contract partner and for any and all claims for damages or any kind whatsoever.
- 9.2 If room service is ordered by the contract partner or is ordered at an exceptional time of day (after 20.00 o'clock and before 06.00 o'clock), then the Proprietor is entitled to charge a separate fee for such service. However, this separate fee shall be indicated on the room price sheet. The Proprietor may also decline to provide these services due to operational reasons.
- 9.3 The Proprietor is entitled to invoice at any time for services provided or to prepare interim invoices.

§ 10 Duties of the Proprietor

- 10.1 The Proprietor is obligated to provide the agreed services in a manner corresponding to the Proprietor's standard level of service.
- 10.2 The Proprietor's special services not included in the accommodation fee and to be paid separately are, for example:
- a) Special accommodation services that can be invoiced separately, such as salon services, sauna, swimming pool, indoor pool, solarium, garage etc.;
 - b) a reduced price may be charged for provision of an additional bed or child's bed.

§ 11 Proprietor's liability for damages to lodger's property

- 11.1 According to §§ 970 ff ABGB the Proprietor shall be liable for the contract partner's property. Proprietor shall only be liable if the property has been placed in the Proprietor's custody or in the custody of personnel authorized by the Proprietor or has been placed at a particular site indicated or established for such storage. The Proprietor shall be liable for their own negligence or for the negligence of their employees or for other persons entering or leaving the premises. Pursuant to § 970 para. 1 ABGB, the Proprietor's liability shall be limited to the maximum amount established in the Federal Law dated 16 November 1921 regarding the liability of hosts and other enterprises, in its most recent version. If the contract partner or guest does not immediately comply with the Proprietor's instruction to place the property at a particular storage location, then the Proprietor shall be released from any and all liability. The level of Proprietor's general liability is limited to a maximum of the liability insurance policy of the particular Proprietor. Any culpability of the contract party or guest shall be taken into account.
- 11.2 The Proprietor's liability for minor negligence is excluded. If the contract partner is an enterprise, then any liability for gross negligence is likewise excluded. In such a case, the contract partner bears the burden of proof to demonstrate any culpability. Any follow-on damages or indirect damages, or any loss of profit are likewise excluded in their entirety.
- 11.3 Proprietor's liability for valuables, money and negotiable instruments shall be limited to a current amount of 550 euros. The Proprietor shall only be liable for any damages going beyond this amount if the Proprietor has accepted custody of this property for safekeeping in awareness of its value, or in the case that the damages were caused by the Proprietor or by Proprietor's personnel. The limitations on liability according to 12.1 and 12.2 shall apply accordingly.

- 11.4 The Proprietor can decline the custody of valuables, money and negotiable instruments when such items relate to significantly more valuable items than guests in the particular accommodations typically leave in safekeeping.
- 11.5 In every case of assumed custody, any liability is excluded if the contract partner and/or guest does not immediately inform the Proprietor about any noticed damages. In addition, these claims shall be legally enforced within three years after they are noticed or should have been noticed by the contract partner and/or guest; otherwise this right shall expire.

§ 12 Limitations of liability

- 12.1 If the contract partner is a consumer, then the Proprietor's liability for minor negligence shall be excluded - with exception for personal injury.
- 12.2 If the contract partner is an enterprise, then liability for minor and gross negligence is likewise excluded. In such a case, the contract partner bears the burden of proof to demonstrate any culpability. Any follow-on damages, immaterial damages or indirect damages, or any loss of profit likewise shall not be replaced. Any damages to be compensated shall in any case be limited to the amount of the damages incurred.

§ 13 Animals in room

- 13.1 Animals may only be accommodated on the premises after prior agreement of the Proprietor, and if necessary, against a separate fee.
- 13.2 A contract partner who brings along an animal shall be obligated to keep and/or to supervise this animal in an orderly manner during the stay or to provide custody or supervision of the animal by a suitable third-party at the guest's expense.
- 13.3 The contract partner or guest who brings along an animal shall obtain appropriate animal liability insurance or a private policy of animal liability insurance which covers potential damages caused by animals. Evidence of relevant insurance shall be provided upon request of the Proprietor.

- 13.4 The contract partner and/or the insurer shall bear joint and severable liability to the Proprietor for any damages caused by the accommodated animal(s). The damages shall also apply in particular to those replacement expenses of the Proprietor owing by the Proprietor to third parties.
- 13.5 Animals may not remain in the salons, business or restaurant areas and wellness areas.

§ 14 Extension of accommodations

- 14.1 The contract partner has no right to extend the length of reservation. If the contract partner notifies the Proprietor of a request for extension of reservation in a timely manner, then the Proprietor can agree to an extension of the accommodation contract. The Proprietor does not assume any obligation in this respect.
- 14.2 If the contract partner is not able to depart the accommodations on the date of departure because all possible modes of transportation are blocked or are not usable due to unforeseeable and exceptional circumstances (e.g. extreme snowfall, flood etc.), then the accommodation contract shall be automatically extended for the duration of these circumstances. However, a reduction in the accommodation fee for this period of time is only possible if the contract partner cannot make full and complete use of the services offered by the accommodation enterprise due to the exceptional weather conditions. The Proprietor is entitled at least to the fee charged for the accommodations and services during the off-season.

§ 15 Termination of accommodation contract - premature dissolution

- 15.1 If the accommodation contract was established for a particular period of time, then it shall expire upon that date.
- 15.2 If the guest departs prematurely, then the Proprietor is entitled to charge the entire agreed fee. However, the Proprietor shall subtract any sums not expended due to non-usage of the services or sums received due to other rental of the reserved facilities. Any savings can only be counted when the accommodation enterprise is fully booked and the facilities can be rented to other guests during the same time period involved with the cancellation by the contract party. The burden of proof for any savings is the responsibility of the contract partner.
- 15.3 The death of a guest shall cancel the contract with the Proprietor.

- 15.4 If the accommodation contract is established for an indefinite time, then the contract parties can dissolve the contract up to 10.00 o'clock on the third day before the pending end of contract.
- 15.5 The Proprietor is entitled to dissolve the accommodation contract with immediate effect with cause, in particular if the contract partner and/or the guest
- a) makes a significant adverse impact on the facilities, or the guest's reckless, improper or otherwise grossly disorderly conduct disturbs the other guests, the owners, their employees or third parties residing in the facility, or if the guest makes threats against these persons or their property or disrupts decency, morality or the physical security of other persons;
 - b) if injected by a contagious disease or a disease that continues beyond the duration of the accommodation or one that otherwise requires care;
 - c) the presented invoices are not paid within a reasonable legal schedule (3 days).
- 15.6 If performance on the contract is not possible due to an event judged as force majeure (e.g. natural catastrophe, strike, lock-out, official acts etc.), then the Proprietor can dissolve the accommodation contract at any time, without providing any cancellation notice, provided the contract is not already deemed as dissolved under law or the Proprietor has been released from their obligation to provide accommodation. Any claims for compensation of damages etc. by the contract partner are excluded.

§ 16 Illness of death of the guest

- 16.1 If a guest becomes ill during their stay in the accommodations, then upon request of the guest, the Proprietor shall provide for medical attention. If circumstances warrant, then the Proprietor shall initiate the medical attention even without a specific request of the guest, and in particular if this is necessary and if the guest specifically is not in a position to do so.
- 16.2 As long as the guest is not in a position to make their own decisions or the family members of the guest cannot be contacted, then the Proprietor shall contact medical providers at the guest's expense. The scope of these attentive measures shall cease at that time when the guest is able to make relevant decisions or the guest's family members have been notified of the illness.

16.3 The Proprietor has a claim for compensation from the contract partner and the guest, or upon death of the guest, from their legal successors, in particular for the following costs:

- a) uncompensated physician costs, costs for medical transport, medicines and medical assistance
- b) any required room disinfection,
- c) any laundry, bedding and other items rendered non-usable, also for disinfection or thorough cleaning of all such articles,
- d) Cleaning of walls, furniture, carpets etc., provided these have been damaged or soiled in connection with the illness or death,
- e) room rental, provided the facilities were engaged by the guest, plus any days when the facilities could not be used due to disinfection, cleaning or such,
- f) any other damages incurred by the Proprietor.

§ 17 Court of record and place of fulfillment and choice of law

17.1 The place of fulfillment is that location where the accommodation facilities are located.

17.2 This contract is subject to Austrian formal and material law, excluding the regulations of International Private Law (esp. IPRG and EVÜ) and the UN-Purchase Law.

17.3 The exclusive court of jurisdiction in a two-party corporate business is the headquarters of the Proprietor, and in addition the Proprietor is entitled to enforce their rights before any other local and materially cognizant court.

17.4 If the accommodation contract was established with a contract partner who is a consumer and has their residence or usual place of residence in Austria, then complaints against the consumer shall be filed exclusively with the court having jurisdiction at the residence or place of work of the consumer.

17.5 If the accommodation contract was established with a contract partner who is a consumer and has their residence in a member country of the European Union (with the exception of Austria), Iceland, Norway or Switzerland, then the court having jurisdiction for the residence of the consumer shall have jurisdiction for complaints against the consumer.

§ 18 Other

- 18.1 Unless otherwise provided in the preceding regulations, a particular schedule begins when the contract partner receives the written notice relating to the schedule that the contract partner is to follow. When calculating a schedule which is defined in days, the first day at the beginning of the schedule is not counted. Schedules defined by weeks or months pertain to those days of the week or month counting from the day when the schedule is to begin. If a day is missing from a month, then the last day of the month is definitive.
- 18.2 Explanations must be received by the other contract partner on the last day of the schedule (24 hours).
- 18.3 The Proprietor is entitled to offset receivables of the contract partner with their own receivables. The contract partner is not entitled to offset their own receivables against the Proprietor's receivables, unless the Proprietor is unable to make payment or the receivable of the contract partner is established by a court or is recognized by the Proprietor.
- 18.4 In the event of gaps in these regulations, the corresponding legal provisions shall apply.