

# **GENERAL TERMS AND CONDITIONS**

**of An der Via Claudia Augusta & Lili's Apartments in Fiss**  
(version dated 07.12.2022)

based on the General Terms and Conditions for the Hotel Industry 2006 (AGBH 2006)

## **Table of contents**

§ 1 Scope of application

§ 2 Definition of terms

§ 3 Conclusion of contract - down payment

§ 4 Start and end of accommodation

§ 5 Withdrawal from the accommodation contract - cancellation fee

§ 6 Provision of substitute accommodation

§ 7 Rights of the contracting party

§ 8 Obligations of the contracting party

§ 9 Rights of the accommodation provider

§ 10 Obligations of the accommodation provider

§ 11 Liability of the accommodation provider for damage to property brought in

§ 12 Limitations of liability

§ 13 Keeping of animals

§ 14 Extension of the accommodation

§ 15 Termination of the accommodation contract - early termination

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

§ 17 Place of performance, place of jurisdiction and choice of law

§ 18 Miscellaneous

## **§ 1 Scope of application**

**1.1** These General Terms and Conditions for the Hotel Industry (hereinafter referred to as "AGBH 2006") replace the previous ÖHVB in the version dated September 23, 1981.

**1.2** The AGBH 2006 do not exclude special agreements. The AGBH 2006 are subsidiary to individual agreements.

## **§ 2 Definitions of terms**

**2.1** Definitions of terms:

**"Proprietor"**: Is a natural or legal person who accommodates guests for a fee.

**"Guest"**: Is a natural person who makes use of accommodation. As a rule, the guest is also the contractual partner. Guests also include those persons traveling with the contracting party (e.g. family members, friends, etc.).

**"Party"**: is a natural or legal person in Austria or abroad who concludes an accommodation contract as a guest or for a guest.

**"Consumer" and "Entrepreneur"**: The terms are to be understood in the sense of the 1979 Consumer Protection Act as amended.

**"Accommodation contract"**: Is the contract concluded between the accommodation provider and the contracting party, the content of which is regulated in more detail below.

## **§ 3 Conclusion of contract - down payment**

**3.1** The Accommodation Agreement shall come into effect upon acceptance of the Party's order by the Proprietor. Electronic declarations shall be deemed to have been received if the party for whom they are intended can retrieve them under normal circumstances and if they are received during the published business hours of the Proprietor.

**3.2** The Proprietor shall be entitled to conclude the Accommodation Agreement under the condition that the Party makes a down payment. In this case, the Proprietor shall be obliged to inform the Party of the required down payment before accepting the written or oral order of the Party. If the Party agrees to the down payment (in writing or orally), the Accommodation Agreement shall come into effect upon receipt by the Proprietor of the Party's declaration of consent to the payment of the down payment.

**3.3** The Party shall be obliged to make a down payment of 30% no later than 14 days (receipt) after receipt of the reservation confirmation and to pay the remaining 70% no later than 14 days before the date of arrival. The costs for the money transaction (e.g. transfer charges) shall be borne by the contractual partner. For credit and debit cards, the respective conditions of the card companies apply.

**3.4** The deposit is a partial payment of the agreed fee.

## **§ 4 Start and end of accommodation**

**4.1** Unless the Proprietor offers a different time of occupancy, the Party shall be entitled to occupy the rented rooms from 4 p.m. on the agreed day ("day of arrival").

**4.2** If a room is occupied for the first time before 6.00 a.m., the previous night shall count as the first overnight stay.

**4.3** The rented rooms shall be vacated by the Party by 10.00 a.m. on the day of departure. The Proprietor shall be entitled to charge an additional day if the rented rooms are not vacated in due time.

## **§ 5 Withdrawal from the Accommodation Agreement - Cancellation fee**

**5.1** The landlord has the right to cancel the booking up to 48 hours after receipt without giving reasons. There is no entitlement to compensation.

**5.2** If the Accommodation Agreement provides for a down payment and the down payment has not been made by the Party in due time (see 3.3), the Proprietor may rescind the Accommodation Agreement without granting a grace period.

**5.3** If the Guest does not show up by 6 p.m. on the agreed date of arrival, there shall be no obligation to provide accommodation unless a later time of arrival has been agreed.

**5.4** If the contracting party has paid a deposit (see 3.3), the rooms shall remain reserved until 12.00 noon on the day following the agreed arrival date at the latest. In the case of advance payments of more than four days, the obligation to provide accommodation shall end at 6 p.m. on the fourth day, with the day of arrival being counted as the first day, unless the guest announces a later day of arrival.

**5.5** Unless otherwise agreed, the Proprietor may terminate the Accommodation Agreement for objectively justified reasons by means of a unilateral declaration no later than 3 months before the agreed date of arrival of the Party.

### Withdrawal by the Party - Cancellation fee

**5.6** If you cancel up to 12 weeks before arrival, your deposit will be refunded (minus a processing fee of € 25.00 per booked apartment).

**5.7** Outside the period specified in § 5.5, a withdrawal by unilateral declaration of the contractual partner is only possible subject to payment of the following cancellation fees:

- 12 weeks to 4 weeks before arrival: 40% of the total package price
- 4 weeks to 1 week before arrival: 70% of the total package price
- Up to 1 week and less before arrival: 90% of the total package price
- In the event of cancellation on the day of arrival or no-show, we will charge 100% of the package price

### Impediments to arrival

**5.8** If the Party is unable to arrive at the accommodating establishment on the day of arrival due to unforeseeable extraordinary circumstances (e.g. extreme snowfall, flooding, etc.), the Party shall not be obliged to pay the agreed remuneration for the days of arrival.

**5.9** The obligation to pay the fee for the booked stay shall be revived from the date of arrival if arrival is possible again within three days.

## **§ 6 Provision of alternative accommodation**

**6.1** The Proprietor may provide the Party or the guests with adequate substitute accommodation (of the same quality) if this is reasonable for the Party, in particular if the deviation is minor and objectively justified.

**6.2** An objective justification is given, for example, if the room(s) has (have) become unusable, guests already accommodated extend their stay, there is an overbooking or other important operational measures necessitate this step.

**6.3** Any additional expenses for the replacement accommodation shall be borne by the Proprietor.

## **§ 7 Rights of the contractual partner**

**7.1** By concluding an accommodation contract, the contracting party acquires the right to the customary use of the rented rooms, the facilities of the accommodation establishment which are usually accessible to the guests for use without special conditions, and to the customary service. The Party shall exercise its rights in accordance with any hotel and/or guest guidelines (house rules).

## **§ 8 Obligations of the contractual partner**

**8.1** The contractual partner is obliged to pay the agreed remuneration plus any additional amounts incurred due to the separate use of services by him and/or the guests accompanying him plus statutory VAT by the time of departure at the latest.

**8.2** The accommodation provider is not obliged to accept foreign currencies. If the Proprietor accepts foreign currencies, these shall be accepted in payment at the current exchange rate if possible. If the Proprietor accepts foreign currencies or cashless means of payment, the Party shall bear all associated costs, such as inquiries with credit card companies, telegrams, etc.

**8.3** The Party shall be liable to the Proprietor for any damage caused by the Party or the Guest or other persons who accept services from the Proprietor with the knowledge or will of the Party.

## **§ 9 Rights of the accommodation provider**

**9.1** If the Party refuses to pay the agreed remuneration or is in arrears, the Proprietor shall be entitled to the statutory right of retention pursuant to Section 970c ABGB and the statutory right of lien pursuant to Section 1101 ABGB on the items brought in by the Party or the Guest. The Proprietor shall also be entitled to this right of retention or lien to secure its claim arising from the Accommodation Agreement, in particular for meals, other expenses incurred on behalf of the Party and for any claims for compensation of any kind.

**9.2** If service is requested in the room of the contracting party or at unusual times of the day (after 8 p.m. and before 6 a.m.), the accommodation provider shall be entitled to charge a special fee for this. However, this special charge shall be indicated on the room price list. The accommodation provider may also refuse these services for operational reasons.

**9.3** The Proprietor shall have the right to invoice or interim invoice its services at any time.

## **§ 10 Obligations of the accommodation provider**

**10.1** The accommodation provider is obliged to provide the agreed services to a standard corresponding to its own.

**10.2** Examples of special services provided by the accommodation provider that are not included in the accommodation fee are listed below:

- a) Special accommodation services that may be charged separately, such as the provision of lounges, sauna, indoor pool, swimming pool, solarium, garage, etc;
- b) a reduced price will be charged for the provision of additional beds or children's beds.

## **§ 11 Liability of the accommodation provider for damage to property brought in**

**11.1** The Proprietor shall be liable pursuant to §§ 970 et seq. of the Austrian Civil Code (ABGB) for the items brought in by the Party. The Proprietor shall only be liable if the items have been handed over to the Proprietor or the persons authorized by the Proprietor or have been brought to a place instructed or designated by the Proprietor. If the Proprietor is unable to prove this, the Proprietor shall be liable for its own fault or the fault of its employees as well as the outgoing and incoming persons. Pursuant to § 970 para. 1 ABGB, the Proprietor shall be liable up to the maximum amount stipulated in the Federal Law of November 16, 1921 on the Liability of Innkeepers and Other Entrepreneurs, as amended. If the contracting party or the guest does not immediately comply with the accommodation provider's request to deposit their belongings in a special depository, the accommodation provider shall be released from any liability. The amount of any liability of the Proprietor shall be limited to a maximum of the liability insurance sum of the respective Proprietor. Any fault on the part of the contractual partner or guest shall be taken into account.

**11.2** The Proprietor shall not be liable for slight negligence. If the contractual partner is an entrepreneur, liability for gross negligence is also excluded. In this case, the contractual partner shall bear the burden of proof for the existence of fault. Consequential damage or indirect damage as well as lost profits shall not be compensated under any circumstances.

**11.3** The Proprietor shall only be liable for valuables, money and securities up to the current amount of € 550. The Proprietor shall only be liable for any damage in excess of this amount in the event that he has accepted these items for safekeeping in full knowledge of their nature or in the event that the damage was caused by himself or one of his employees. The limitation of liability pursuant to 12.1 and 12.2 shall apply mutatis mutandis.

**11.4** The accommodation provider may refuse to store valuables, money and securities if the items in question are significantly more valuable than those usually stored by guests of the accommodation establishment in question.

**11.5** In any case of assumed storage, liability shall be excluded if the contractual partner and/or guest does not immediately notify the accommodation provider of the damage that has occurred as soon as they become aware of it. Moreover, such claims shall be asserted in court within three years from the date of knowledge or possible knowledge by the Party and/or Guest; otherwise the right shall lapse.

## **§ 12 Limitations of liability**

**12.1** If the Party is a Consumer, the Proprietor's liability for slight negligence, with the exception of personal injury, shall be excluded.

**12.2** If the Party is an Entrepreneur, the Proprietor's liability for slight and gross negligence shall be excluded. In this case, the contractual partner shall bear the burden of proof for the existence of fault. Consequential damage, immaterial damage or indirect damage as well as lost profits shall not be compensated. The damage to be compensated shall in any case be limited to the amount of the legitimate interest.

## **§ 13 Animal husbandry**

**13.1** Animals may only be brought into the accommodation establishment with the prior consent of the accommodation provider and, if necessary, for a special fee.

**13.2** The contractual partner who takes an animal with him is obliged to keep or supervise this animal properly during his stay or to have it kept or supervised by a suitable third party at his own expense.

**13.3** The Party or Guest bringing an animal shall have appropriate animal liability insurance or personal liability insurance that also covers possible damage caused by animals. Proof of such insurance must be provided at the request of the accommodation provider.

**13.4** The Party and/or its insurer shall be jointly and severally liable to the Proprietor for any damage caused by animals brought along. The damage shall in particular also include any compensation payments by the Proprietor that the Proprietor has to make to third parties.

**13.5** Animals are not permitted in the lounges, lounges, restaurant rooms and wellness areas.

## **§ 14 Extension of the accommodation**

**14.1** The Party shall not be entitled to an extension of their stay. If the Party notifies the Proprietor of its wish to extend the stay in good time, the Proprietor may agree to the extension of the Accommodation Agreement. The Proprietor shall be under no obligation to do so.

**14.2** If the Party is unable to leave the accommodating establishment on the day of departure due to unforeseeable extraordinary circumstances (e.g. extreme snowfall, flooding, etc.) and all departure options are closed or unusable, the Accommodation Agreement shall be automatically extended for the duration of the impossibility of departure. A reduction of the remuneration for this period shall only be possible if the Party is unable to use the services offered by the accommodating establishment in their entirety due to the extraordinary weather conditions. The accommodation provider shall be entitled to demand at least the fee that corresponds to the price usually charged in the low season.

## **§ 15 Termination of the accommodation contract - early termination**

**15.1** If the accommodation contract was concluded for a fixed term, it shall end upon expiry of the term.

**15.2** If the Party departs early, the Proprietor shall be entitled to demand the full agreed remuneration. The accommodation provider shall deduct what it has saved as a result of the non-utilization of its services or what it has received by renting the booked rooms to other parties. Savings shall only be deemed to have been made if the accommodation establishment is fully booked at the time the rooms ordered by the guest are not used and the room can be rented to other guests due to the contracting party's cancellation. The burden of proof of the savings shall be borne by the contracting party.

**15.3** The death of a guest terminates the contract with the accommodation provider.

**15.4** If the accommodation contract was concluded for an indefinite period, the contracting parties may terminate the contract by 10.00 a.m. on the third day before the intended end of the contract.

**15.5** The Proprietor shall be entitled to terminate the Accommodation Agreement with immediate effect for good cause, in particular if the Party or the Guest

a) makes significantly detrimental use of the premises or, through his inconsiderate, offensive or otherwise grossly improper behavior, makes living together unpleasant for the other guests, the owner, the owner's staff or third parties staying in the accommodating establishment or is guilty of an act against property, morality or physical safety towards these persons that is punishable by law;

b) is afflicted with a contagious disease or an illness that extends beyond the period of accommodation or otherwise becomes in need of care;

c) fails to pay the invoices presented when due within a reasonable period of time (3 days).

**15.6** If the fulfillment of the contract becomes impossible due to an event to be regarded as force majeure (e.g.: natural disasters, strike, lockout, official orders, etc.), the Proprietor may terminate the Accommodation Agreement at any time without observing a notice period, unless the Agreement is already deemed terminated by law or the Proprietor is released from its obligation to provide accommodation. Any claims for damages etc. of the Party shall be excluded.

## **§ 16 Illness or death of the guest**

**16.1** If a guest falls ill during their stay at the accommodation establishment, the accommodation provider shall provide medical care at the guest's request. If there is imminent danger, the accommodation provider shall arrange for medical care even without a special request from the guest, in particular if this is necessary and the guest is unable to do so themselves.

**16.2** As long as the guest is unable to make decisions or the guest's relatives cannot be contacted, the accommodation provider shall provide medical treatment at the guest's expense. However, the scope of these care measures shall end at the time when the guest is able to make decisions or the relatives have been notified of the case of illness.

**16.3** The Proprietor shall be entitled to claim compensation from the Party and the Guest or, in the event of death, from their legal successors for the following costs in particular:

- a) outstanding medical expenses, costs for ambulance transportation, medication and medical aids
- b) room disinfection that has become necessary,
- c) laundry, bed linen and bed furnishings that have become unusable, otherwise for the disinfection or thorough cleaning of all these items,
- d) restoration of walls, furnishings, carpets, etc., insofar as these have been contaminated or damaged in connection with the illness or death,
- e) room rental, insofar as the room was used by the guest, plus any days on which the rooms were unusable due to disinfection, evacuation, etc,
- f) any other damage incurred by the accommodation provider.

## **§ 17 Place of performance, place of jurisdiction and choice of law**

**17.1** The place of performance is the place where the accommodation establishment is located.

**17.2** This Agreement shall be governed by Austrian formal and substantive law to the exclusion of the rules of private international law (in particular IPRG and Rome Convention) and the UN Convention on Contracts for the International Sale of Goods. **17.3** The exclusive place of jurisdiction for bilateral business transactions shall be the domicile of the Proprietor, whereby the Proprietor shall also be entitled to assert its rights before any other court with local and subject-matter jurisdiction.

**17.4** If the accommodation contract was concluded with a contracting party who is a consumer and has his domicile or habitual residence in Austria, the consumer can only be sued at his domicile, habitual residence or place of employment.

**17.5** If the accommodation contract was concluded with a contractual partner who is a consumer and who is domiciled in a member state of the European Union (with the exception of Austria), Iceland, Norway or Switzerland, the court with local and material jurisdiction for the consumer's domicile shall have exclusive jurisdiction for actions against the consumer.

## **§ 18 Miscellaneous**

**18.1** Unless the above provisions provide otherwise, a time limit shall commence upon delivery of the document setting the time limit to the contracting parties, who must observe the time limit. When calculating a time limit which is determined by days, the day in which the time or event on which the start of the time limit is to be based falls shall not be included. Time limits determined by weeks or months refer to the day of the week or month whose name or number corresponds to the day from which the time limit is to be counted. If this day is missing in the month, the last day of this month is decisive.

**18.2** Declarations must be received by the other contracting party on the last day of the deadline (midnight).

**18.3** The Proprietor shall be entitled to set off its own claims against claims of the Party. The Party shall not be entitled to set off its own claims against claims of the Proprietor unless the Proprietor is insolvent or the Party's claim has been established by a court or recognized by the Proprietor.

**18.4** In the event of loopholes, the relevant statutory provisions shall apply.