

## **GENERAL TERMS AND CONDITIONS**

### **1. Scope**

- 1.1 These General Terms and Conditions govern the rights and obligations of both Accommodation Provider and Guest.
- 1.2 The right to conclude the Agreement by a special arrangement will not be affected by these General Terms and Conditions. In as far as a special arrangement with the Guest contravenes these General Terms and Conditions, however, these General Terms and Conditions will take priority. Those conditions contained within these General Terms and Conditions not affected by the special arrangement will thereby remain in force in their full scope.

### **2. Definition of Terms**

- 2.1 Definition of Terms:
  - “Accommodation Provider”: is a natural or legal person, who provides accommodation for guests in return for payment.
  - “Guest”: is a natural person, who takes up accommodation. The guest is as a rule also a party to an agreement. Persons travelling with the party to the agreement (e.g. family members, friends etc) are also regarded as guests.
  - “Party to the Agreement”: is a natural or legal person, native to the country or from overseas, who enters into an agreement as a guest or on behalf of a guest.
  - “Consumer and Entrepreneur”: these terms are to be understood as defined by the Consumer Protection Act (KSchG).
  - “Accommodation Agreement”: is the agreement entered into by the accommodation provider and the party to the agreement, the contents of which are specified below.

### **3. Signing of the Agreement – Down Payment, Prices**

- 3.1 The Accommodation Agreement comes into force once the appointment of the Party to the Agreement has been accepted by the Accommodation Provider. Electronic declarations are deemed to be valid if the parties for whom they are intended can retrieve these under normal circumstances, and access to the stated working hours is available.

- 3.2 The Accommodation Provider is entitled to enter into the Agreement as well as the agreement relating to the provision of meeting and seminar rooms on condition that the Party to the Agreement makes a down payment. In such case the Accommodation Provider must advise the Party of the down payment required prior to accepting the appointment of the Party in writing or verbally. Once the Party confirms his consent to the down payment (in writing or verbally), the Accommodation Agreement will come into force, with the confirmation of consent to pay the down payment by the Party to the Agreement being made available to the Accommodation Provider.
- 3.3 A down payment of 20% of the anticipated invoice amount will become due 14 days after commencement of the Agreement. The remaining 80% of the anticipated invoice amount will become due 14 days prior to commencement of the event. Should the Agreement be signed later than 30 days before the event, a down payment of 100% will be due on commencement of the Agreement.
- 3.4 The down payment is a partial payment of the agreed amount.
- 3.5 Details of which services have been formally agreed can be found in the booking confirmation or invitations to tender from the hotel. Listed prices are inclusive of service charges and VAT.
- 3.6 There is no provision for refunds or discounts for agreed services that have not been used.
- 3.7 Any change to the statutory VAT amount occurring after the Agreement is signed will result in a corresponding change to the agreed price.

#### **4. Beginning and Ending of the Accommodation**

- 4.1 The Party to the Agreement has the right to move into the hired rooms from 16.00 hours on the agreed day ("day of arrival") so no other time will be offered by the Accommodation Provider.
- 4.2 If a room becomes occupied before 6.00 a.m., the preceding night will count as the first night of accommodation.
- 4.3 The hired rooms should be vacated by the Party to the Agreement by 12.00 noon on the day of departure. The Accommodation Provider is entitled to charge for an additional day if the hired rooms are not vacated on time.

#### **5. Withdrawal from the Agreement – Cancellation Fee**

##### **Withdrawal by the Accommodation Provider**

- 5.1 If the Accommodation Agreement requires a down payment to be made which the Party to the Agreement fails to make when due, the Accommodation Provider may rescind the Agreement without prior notice.

- 5.2 In the case of a guest failing to turn up by 18.00 hours on the agreed day of arrival, there will be no obligation to accommodate, unless a later time of arrival is agreed.
- 5.3 If the Party to the Agreement has made a down payment (see 3.2), rooms will be reserved at the latest until 11.00 a.m. on the day following the agreed day of arrival. In the case of advance payments of more than four days, the obligation to accommodate will end at 18.00 hours on the fourth day, whereby the day of arrival will count as the first day, unless the guest advises of a later day of arrival.
- 5.4 The Accommodation Agreement can be cancelled by the Accommodation Provider by a unilateral declaration for objectively justifiable reasons by up to 3 months before the agreed day of arrival at the latest, unless an alternative Agreement has been reached.

#### **Withdrawal by the Party to the Agreement – Cancellation Fee**

- 5.5 The Accommodation Agreement can be cancelled by the Party to the Agreement by a unilateral declaration by up to 30 days before the agreed day of the guest's arrival at the latest without incurring a cancellation fee.
- 5.6 Outside the deadline indicated in Par. 5.5 a withdrawal from the Accommodation Agreement with a group size of at least 10 persons by a unilateral declaration from the Party to the Agreement is only possible if the following cancellation fees are paid:
- 90 to 30 days before the day of arrival: 50%;
  - 29 to 14 days before the day of arrival: 70%;
  - 13 days to 1 day before the day of arrival: 90%;
  - on the day of arrival: 100%

of the total agreed price inclusive of external services.

#### **Impediments to Arrival**

- 5.7 If the Party to the Agreement is unable to turn up at the place of accommodation on the day of arrival because all arrival routes have been blocked as a result of unforeseeable emergencies (e.g. extreme snow fall, flooding etc), the Party is not obliged to pay the agreed sum for the days of arrival. The Party must, however, inform the Accommodation Provider as speedily as possible of such an occurrence.
- 5.8 The obligation to pay for the booked stay is reinstated when the emergency is lifted, if arrival is possible within three days.

- 5.9 Meeting and seminar rooms booked by the Party to the Agreement can be cancelled by the latter by a unilateral declaration if the terms of cancellation in Pars. 5.5 and 5.6 are applied in like manner.

Services of third parties booked on behalf of the Party to the Agreement (e.g. special electronic equipment for presentations, catering etc) must be paid for by the Party following cancellation to the amount paid by the Accommodation Provider to the third party. The Accommodation Provider shall, however, make every effort to cancel these third party services within 5 calendar days of cancellation by the Party to the Agreement.

## **6. Provision of Alternative Accommodation**

- 6.1 The Accommodation Provider may make adequate alternative accommodation available to the Party to the Agreement or Guests if the Party finds this reasonable, particularly if the difference is slight and objectively justifiable.
- 6.2 An example of an objective justification is when the room (rooms) has (have) become unusable, guests already accommodated extend their stay, there has been an overbooking or when other important operational requirements render it necessary to take this step.
- 6.3 Any additional costs for the alternative accommodation will be met by the Accommodation Provider.

## **7. Rights of the Party to the Agreement**

- 7.1 The signing of an Accommodation Agreement entitles the Party to the Agreement to normal use of hired rooms, the facilities of the accommodation institution, which are normally and without any special conditions available for guests' use, and to usual service.
- 7.2 The Party to the Agreement may exercise his rights in accordance with any hotel and/or guest regulations (rules of the house).

## **8. Obligations of the Party to the Agreement**

- 8.1 The Party to the Agreement must pay the agreed sum plus any additional costs incurred by him and/or his accompanying guests for any services booked separately, plus statutory VAT. Payments may be made in cash, by Maestro (debit card) or by the following credit cards: American Express, Mastercard, Diners Club, VISA.

Cash payments may be supported by vouchers issued or accepted by the Accommodation Provider.

- 8.2 The Accommodation Provider is not obliged to accept foreign currency. If the Accommodation Provider does accept foreign currency in individual cases,

the current exchange rate will apply. The Party to the Agreement must meet all costs related thereto, i.e. enquiries with credit card companies, exchange fees, telegrams, etc.

- 8.3 The Party to the Agreement accepts liability to the Accommodation Provider for any damage caused by him or the Guest or other persons accepting the services of the Accommodation Provider with the knowledge or intent of the Party.

## **9. Rights of the Accommodation Provider**

9.1. Should the Party to the Agreement refuse or delay the required payment, the Accommodation Provider shall have recourse to the legal right of retention in accordance with § 970c of the General Civil Code of Austria as well as the legal right of lien in accordance with § 1101 of the General Civil Code of Austria on items brought in by the Party or the Guest. The Accommodation Provider may also call upon this right of retention or lien to secure payment requests in accordance with the Accommodation Agreement for catering, other disbursements incurred on behalf of the Party and for any claims for reimbursement of any kind.

- 9.2 Should the rooms occupied by the Guest be used in a different manner from that specified in the Agreement, the Accommodation Provider has the right to terminate the Agreement without prior notice, in which case the bill for the agreed amount will not be reduced.

- 9.3 The Accommodation Provider has the right to payment for his services at any time, or an interim payment.

## **10. Obligations of the Accommodation Provider**

- 10.1 The Accommodation Provider shall provide the standard range of his agreed services.

- 10.2 Special services of the Accommodation Provider subject to price labelling, which are not included in the payment for accommodation, must be paid separately.

## **11. Liability of the Accommodation Provider for Damages to Items Brought In**

- 11.1 The Accommodation Provider is in accordance with § 970 ff of the General Civil Code of Austria liable for items brought in by the Party to the Agreement. The Accommodation Provider's liability is then only applicable if the items have been handed over to the Accommodation Provider or to those authorised by him, or brought to one of the places indicated by them or set aside for this purpose. If the Accommodation Provider fails to furnish proof thereof, the Accommodation Provider shall be liable for his own fault or the fault of his staff as well as people entering and exiting. The Accommodation

Provider is in accordance with § 970 Par. 1 of the General Civil Code of Austria liable for a maximum amount of 5,000.00 euro. Should the Party to the Agreement or the Guest fail to comply with the Accommodation Provider's request to deposit his items in a particular safe storage facility, the Accommodation Provider shall be exempt from all liability. The amount of any liability of the Accommodation Provider is limited to the maximum amount of the liability insurance of the Accommodation Provider. Any fault on the part of the Party or Guest will be taken into account.

- 11.2 The liability of the Accommodation Provider does not extend to minor negligence. The liability will also exclude gross negligence if the Party to the Agreement is an entrepreneur. In this case the onus rests with the Party to furnish proof that fault exists. Consequential damages or indirect damages as well as foregone profits will on no account be reimbursed.
- 11.3 The Accommodation Provider is only liable for precious objects, money and securities up to an amount of 5,000.00 euro. The Accommodation Provider will be liable for damages above this amount only in the event that he has taken charge of these items for safe storage aware of their nature, or in the event that the damages were his own fault or the fault of his staff. The same applies to the liability limitation in accordance with 12.1 and 12.2.
- 11.4 The Accommodation Provider may decline to place precious objects, money and securities into safe storage if the items are considerably more valuable than those usually stored for guests at the accommodation institution.
- 11.5 In each instance of storage liability will be waived if the Party to the Agreement and/or Guest fails to notify the Accommodation Provider immediately of the damages incurred. Such claims must, moreover, be pursued by judicial process within three years from notification or possible notification by the Party to the Agreement; failing which this right will lapse.

## **12. Liability Limitations**

- 12.1 The Accommodation Provider will not be liable for minor negligence if the Party to the Agreement is a consumer, with the exception of personal injury.
- 12.2 The Accommodation Provider will not be liable for minor or gross negligence if the Party to the Agreement is an entrepreneur. In this case the onus rests with the Party to furnish proof that fault exists. Consequential damages, non-material damages or indirect damages as well as foregone profits will not be reimbursed. Damages to be reimbursed will in any case be limited to the amount of the interest the injured Party had in the existence of the contract.
- 12.3 Responsibility for participation in sports and other activities offered by the Accommodation Provider rests with the Party to the Agreement himself, and these activities are carried out at his own risk. The Party is required to inspect sports facilities, apparatus and vehicles in any case prior to using them. The Accommodation Provider is liable for accidents at any sports

and/or outdoor event only if he has been directly at fault. Parents will be liable for their children. It is recommended to take out sports insurance.

- 12.4 When transporting people or luggage free of charge the Accommodation Provider's liability for injuries to persons and damage to items is limited by the statutory motor insurance. There is definitely no liability for loss and delay. The Party to the Agreement shall hold the Accommodation Provider harmless.

### **13. Keeping of Animals**

- 13.1 Animals may only be brought to the accommodation with the prior consent of the Accommodation Provider and in all cases on payment of a fee.
- 13.2 If the Party to the Agreement brings an animal with him, he shall be obliged to keep or look after the animal in the proper manner for the duration of his stay, or arrange for it to be kept or looked after by a third party at his own expense.
- 13.3 If the Party to the Agreement or Guest brings an animal with him, he will need to take out an appropriate animal liability insurance or personal liability insurance that also covers possible damage caused by animals. Proof of the appropriate insurance must be supplied at the Accommodation Provider's request.
- 13.4 The Party to the Agreement or the insurer shall be jointly and severally liable to the Accommodation Provider for any damages caused by accompanying animals. The damages also include in particular any compensation due from the Accommodation Provider to third parties.
- 13.5 Animals may not be brought into saloons, guest lounges, restaurants and fitness centres.

### **14. Extension of Accommodation**

- 14.1 The Party to the Agreement has no claim to an extension of stay. The Accommodation Provider may agree to an extension of the Agreement provided that the Party notifies the Accommodation Provider in good time of his wish to extend the stay. There is no obligation on the part of the Accommodation Provider.
- 14.2 If the Party to the Agreement cannot leave the accommodation on the day of departure because all departure routes are blocked or rendered unusable as a result of unforeseeable emergencies (e.g. extreme snow fall, flooding etc), the Accommodation Agreement will be automatically extended for as long as departure remains impossible. A reduction to the payment due for this period can at any event only be made if the Party is unable to make full use of the services offered by the Accommodation Provider as a result of the

emergency weather conditions. The Accommodation Provider is entitled to charge as a minimum a price similar to that usually charged in low season.

## **15. Termination of the Accommodation Agreement – Early Cancellation**

- 15.1 If the Accommodation Agreement has been made for a definite term, it shall end upon the expiry of such term.
- 15.2 If the Party to the Agreement leaves early, the Accommodation Provider will be entitled to the full payment agreed. The Accommodation Provider will deduct what he has saved as a result of his services not being taken up or what he has received through otherwise hiring out the rooms. A saving can only be made if the accommodation is used to full capacity at the time the guest failed to take up the accommodation and if the rooms can be hired out to other guests as a result of the cancellation by the Party to the Agreement. The burden of proof of saving rests with the Party.
- 15.3 The Agreement with the Accommodation Provider will be terminated in the event of the death of a guest.
- 15.4 If the Accommodation Agreement has been made for an indefinite term, it can be cancelled by the Parties by 10.00 a.m. of the third day before the intended expiry of the Agreement.
- 15.5 The Accommodation Provider is entitled to cancel the Accommodation Agreement with immediate effect on important grounds, in particular if the Party to the Agreement or the guest
  - a) resorts to gross misuse of the premises or through inconsiderate, offensive or otherwise highly improper conduct spoils the stay or cohabitation for the other guests, the owner, the owner's staff or third parties staying at the accommodation, or falls guilty of a punishable action against property, morality or physical safety towards these persons;
  - b) contracts an infectious disease or a disease the duration of which exceeds the term of the Agreement, or otherwise falls in need of care;
  - c) fails to pay the invoices submitted within a reasonable timescale (3 days).
- 15.6 If the Agreement cannot be fulfilled as a result of a force majeure event (e.g. natural catastrophes, strikes, lock-outs, orders of the authorities etc), the Accommodation Provider may cancel the Accommodation Agreement at any time with no prior notice, in as far as the Agreement is not already deemed to be cancelled in law, or the Accommodation Provider is exempt from his duty to accommodate. No claims can be brought for reimbursement of damages etc on the part of the Party to the Agreement.

## **16. Place of Performance, Jurisdiction and Choice of Law**



- 16.1 The place of performance is the place at which the accommodation is situated.
- 16.2 This Agreement is governed by Austrian formal and material law under exclusion of the Regulations of the Private International Law (in particular the PIL and the Convention on the Law Applicable to Contractual Obligations) as well as the UN CISG Sales Law.
- 16.3 If the Party is an entrepreneur, the exclusive place of jurisdiction shall be the domicile of the Accommodation Provider; however, the Accommodation Provider shall also be entitled to assert his rights before any other court that is competent for the location and matter.

## **17. Other**

- 17.1 Unless otherwise specified in the above conditions, any time limits shall start upon the delivery of the document stipulating such time limit to those Parties to the Agreement that must adhere to the time limit. When calculating a time limit based on days, the day of the moment or event to which the start of the time limit refers shall not be included in the calculation. Time limits based on weeks or months refer to the day of the week or month that corresponds to the day starting from which the time limit should be counted according to its name or number. If there is no such day in the relevant month, the last day of this month will be used.
- 17.2 Any declarations must be received by the other Party on the last day of the time limit (12.00 midnight).
- 17.3 The Accommodation Provider shall be entitled to offset any of its claims against claims of the Party to the Agreement. The Party shall not be entitled to offset any of its claims against claims of the Accommodation Provider unless the Accommodation Provider is insolvent or the Party's claim has been established by a court or acknowledged by the Accommodation Provider.
- 17.4 If any omissions arise in relation to the Agreement, the applicable legal provisions shall apply.
- 17.5 Wake-up services shall be carried out by the Accommodation Provider with the greatest care. However, claims for compensation cannot be made in case of service failure.
- 17.6 Information of any kind will be supplied to the best of the Accommodation Provider's knowledge, but no guarantee can be given.

- 17.7 Lost property will only be forwarded on request and on payment of costs. The Accommodation Provider undertakes to store items for up to 6 months. After this time the items will be put to use.
- 17.8 Newspapers, post and packages will be handled with care for the Guests. On request the Accommodation Provider will take over the storage, delivery and forwarding of said items. There will, however, be no liability for loss, delay or damage.
- 17.9 Correction of mistakes such as typing and calculation errors is reserved.
- 17.10 Verbal agreements shall not be valid until confirmed in writing by the Accommodation Provider.
- 17.11 Should any of the above conditions be invalid, the validity of the other conditions will not be affected. Any invalid conditions shall be replaced by a relevant clause that comes as close as possible.
- 17.12 There is no right of withdrawal according to § 11 Abs. 1 FAGG, instead the AGBH (General Terms and Conditions of business for the Hotel Industry) apply to our house. (<http://www.hotelverband.at/down/AGBH061115.pdf>)

## **18. Data Protection**

The Customer agrees that all data generated on account of his / her business relationship, which are first name, last name, address, e-mail address, telephone number, fax number, Customer account data (orders placed, articles, prices, IP address), any texts entered in Print- at-Home vouchers, value card queries (voucher number, date, IP address), (in short, the "data") are automatically processed by the Seller.

The purpose of processing data is the handling of the respective business transactions, and - if the Customer has agreed - the marketing of products, services and services of the Therme Seewinkel Betriebsgesellschaft m.b.H, special offers and events, as well as the distribution of Therme Seewinkel Betriebsgesellschaft m.b.H news (including the dispatch of appropriate marketing materials by post, e-mails, text message, and contact by phone).

The processing of data for the handling of the respective business transaction is based on Art.6 (1) (b) of the EU General Data Protection Regulation (performance of a contract). The processing of data for marketing purposes is based on Art. 6 (1) (a) of the Regulation (consent by data subject).

Upon instructions by the Seller, the data are processed and transferred to VAMED Standortentwicklung und Engineering GmbH (Sternngasse 5, A-1230 Vienna), styleflasher GmbH (KR Martin Pichler-Str. 1, A-6300 Wörgl), Cards & Systems EDV-Dienstleistungs GmbH (Landstraßer Hauptstraße 5, 1030 Vienna) and mediasupport GmbH (Lerchenfelder Straße 124/Top 6, 1080 Vienna), TAC | The Assistant Company, Schildbach 111, 8230 Hartberg, Wirecard Central Eastern Europe GmbH (Taborstrasse 1-3, 10. Stock, 1020 Wien) for the purpose of handling the respective business case, as well as for marketing purposes to SC-NETWORKS GMBH, Enzianstr. 2, 82319 Starnberg und travelClick (Via Augusta, 117, Barcelona 08006). The data are not transferred to third parties other than the ones above.

The contact data of the Data Protection Officer are:  
Mag. Per-Oliver Gustavson, Sternngasse 5, 1230 Wien,  
[datenschutz@stmartins.at](mailto:datenschutz@stmartins.at).

The data are saved for the processing of the respective business case, for marketing purposes, and exceeding this period, if there are legally required storage periods, or for the period during which any legal claims can be lodged in connection with the subject contractual relationship, or in the event of other reasonable circumstances justifying further storage of these data.

The consent to being addressed by mail, e-mails, text messages or on the phone may be revoked in writing at any time by e-mail to [info@stmartins.at](mailto:info@stmartins.at). Notwithstanding the above is the lawfulness of the processing of data before such revocation is received. The Customer may request – to the extent this is in accordance with legal regulations – information about his or her personal data saved in the system, as well as the correction or erasure of these data. Furthermore, Customers have the right to object to or restrict the processing of their data, or to prohibit the transferability of their data. They may also file a complaint with the supervising authority.