

GENERAL TERMS AND CONDITIONS OF BUSINESS AND USE
FOR USERS OF [WWW.AUSTROTEL.AT](http://www.austrotel.at)
(as consumers within the meaning of the KSchG (Austrian Consumer Protection Act))

Current as of 1 June 2007

1 Imprint, disclosure, scope of application

- 1.1 These General Terms and Conditions of Business and Use for users of the Austrotel website (hereinafter, the "GTCBU") of Austrotel HotelbetriebsgesmbH, Breite Gasse 9, A-1070 Wien, tel. +43 (1) 524 84 83 - 0, fax +43 (1) 524 84 83 - 9, e-mail office@austrotel.at, entered in the company register of the Vienna Commercial Court under no. 69884x (hereinafter "Austrotel"), shall replace Austrotel's previous terms and conditions for users.
- 1.2 Austrotel enters into contracts with users who are consumers within the meaning of the KSchG exclusively on the basis of these GTCBU. The applicability of any (general) terms and conditions of the consumer is precluded. Any changes of, or agreements in addition to, these GTCBU shall only be valid if made in writing and signed by persons duly authorized to represent Austrotel under commercial law. By the user's use of the Austrotel website these GTCBU shall be deemed to be integrated into the contract for the use of the website.
- 1.3 Austrotel has the VAT No. ATU 16198308 and is subject to the supervision by the Municipal Authority for the VI and VII Districts of Vienna and in particular to the regulations set out in the GewO (*Austrian Trade and Industry Code*) (retrievable at <http://ris.bka.gv.at/bundesrecht>).
- 1.4 Austrotel, with its registered seat in Vienna, is the media owner and publisher of the website at www.austrotel.at. The objects of business of Austrotel comprise the hotel trade.

2 Definitions

- 2.1 "accommodation": The letting of hotel premises by Austrotel to the guest on a rental basis; unless expressly agreed otherwise, such letting shall not include the right to subletting or letting to third parties or the right to use the premises for purposes other than accommodation.
- 2.2 "accommodation contract": The contract on accommodation entered into between the user/guest and Austrotel, which shall be based on these GTCBU.
- 2.3 "reservation": Request by the guest/user to enter into a contract with Austrotel, whereby the contract shall be validly entered into only upon Austrotel's acceptance/ booking confirmation; the written confirmation of a reservation shall be at Austrotel's discretion. Austrotel is entitled to accept reservations only in part. Reservations by the user

can only be made via the online booking system on the Austrotel website; all other cases shall be subject to the terms and conditions for consumers ("AGB").

- 2.4 "electronic mail": Any text, voice, sound or picture message transmitted via a public communications network that can be stored in the network or on the recipient's terminal until retrieved.
- 2.5 "guest": A natural person who, as a consumer, makes use of the accommodation provided by Austrotel and intends to become, or is, a contract partner of Austrotel. Persons arriving together with the guest (e.g. family, friends, etc.) shall also be deemed to be guests. If the user/person placing the reservation is not identical with the guest he shall nevertheless be included in the meaning of "guest" hereinbelow; in any such case the person placing the reservation shall impose the duty on the actual guest to join the existing obligation between Austrotel and the person placing the reservation upon request by Austrotel as debtor and payer on the part of the person placing the reservation/ user.
- 2.6 "rented rooms": The hotel premises let exclusively to the guest by Austrotel on a rental basis; *mutatis mutandis* the provisions relating to rented rooms shall also apply to the hotel premises not let exclusively to the guest.
- 2.7 "user": The party accessing or retrieving the Austrotel website or otherwise using information or offers provided on the Austrotel website, in particular in connection with the online booking system.
- 2.8 "online picture gallery": A database accessible via the Austrotel website comprising pictures and graphics that may be utilized by the user subject to the terms and conditions set out in the GTCBU.
- 2.9 "reserved rooms": The hotel premises reserved by the guest/ user and allocated by Austrotel, which shall be regarded as rented rooms from the commencement of accommodation.
- 2.10 "consumer": As defined by the KSchG 1979, as amended.
- 2.11 "Austrotel website": The aggregate online information provided by Austrotel at www.Austrotel.at and/or parts thereof.

3 Use of the Austrotel website and the online picture gallery

- 3.1 The use of the Austrotel website in whichever form shall be mandatorily subject to these GTCBU. The user guarantees that he has read and understood the essential characteristics of the services and information provided on the Austrotel website and in the GTCBU. The user guarantees that he is of age and has unlimited capacity to contract and that he discloses to Austrotel exclusively correct data and his true identity.

- 3.2 Subject to the special provisions applicable to the online picture gallery, Austrotel grants to the user rights of use and rights of exploitation in regard of the Austrotel website only to the extent such granting of rights is absolutely essential for enabling the proper use of the Austrotel website; in particular, the user shall not have the right to duplicate and/or disclose to third parties the Austrotel website or parts thereof, contents or any computer code in whichever form, unless this is absolutely essential for enabling the proper use of the Austrotel website.
- 3.3 The offer of a duplication of the pictures and graphics in the online picture gallery free of charge is non-binding and on a non-exclusive basis; any editing, abridging or the like shall be precluded. The removal of copyright notices, if any, is prohibited. The source "*Online picture gallery, www.Austrotel.at*" must be indicated in all cases; collective picture credits are not permitted. The right of archiving or of disclosure to third parties shall not be included. Any utilization of a disparaging nature or otherwise infringing the interests of Austrotel shall be prohibited. In particular, the right of a direct commercial utilization shall not be included, unless for purposes of media coverage in line with the applicable code of conduct of the Austrian Press and with the requirements stipulated by the Readers' Council. In every case of an exploitation of contents of the online picture gallery, a complete specimen copy shall be forwarded to Austrotel free of charge and of the relevant user's own accord.

4 Entry into the contract – payment on account

- 4.1 The accommodation contract shall be deemed to be validly entered into upon Austrotel's explicit acceptance of the user's online reservation; Austrotel has the right to refuse reservations without giving a reason.
- 4.2 The user herewith irrevocably confirms that Austrotel has informed him about the following issues in connection with the online booking system in a clear, comprehensible and unequivocal manner: (i) the individual technical steps resulting in the user's reservation and the entry into a contract; (ii) that the reservation will be stored and the user cannot subsequently access the text of the reservation; (iii) that prior to sending, the reservation will be displayed to the user one more time to permit him to identify and correct input errors; and (iv) that contractual agreements can be entered into in German or English. The user is aware of the fact that the internet is not a secure communications medium and that data transmitted via the internet may become known to, or be changed by, third parties. This risk shall be borne by the person placing the reservation, as a result of his choice of this communications medium, and Austrotel shall in no case be liable in this regard.
- 4.3 Austrotel will check the user's credit card data required for booking via the online booking system in order to obtain an authorization by the credit card company. Payment by the guest will be made, and will have to be made, prior to his departure, unless set out otherwise in these GTCBU.

5 Commencement and end of accommodation

- 5.1 Unless Austrotel agrees to any other time of moving in in any individual case, the guest shall have the right to move into the reserved rooms at or after 2:00 p.m. on the agreed day of arrival.
- 5.2 If the use of a room starts before 6:00 a.m., the previous night shall be counted as the first overnight stay.

5.3 The rented rooms shall be vacated by the guest by 12:00 a.m. on the agreed day of departure. Austrotel shall have the right to charge the guest for any additional day if the rented rooms are not vacated/cleared in due time.

6 Rescission of accommodation contract – cancellation fee

6.1 The accommodation contract via the online booking system is entered into subject to the condition that the authorization by the credit card company is obtained.

6.2 If the guest rescinds the accommodation contract by unilateral notice and such notice is provably delivered at the latest 48 hours before 2:00 p.m. of the agreed day of arrival, no cancellation fee shall be payable. After the expiry of this deadline the rescission of the contract by unilateral notice of the guest shall be subject to the payment of a cancellation fee amounting to the remuneration for all booked services for one day.

6.3 Irrespective of the guest's arrival the premises are kept reserved until 12:00 a.m. on the day after the agreed day of arrival and will be charged by Austrotel accordingly; after the expiry of the said deadline the obligation to provide accommodation shall cease to apply. If the guest is prevented from arriving on the day of arrival owing to any unforeseeable, exceptional, important reasons for which the guest is not responsible and which are not attributable to the guest (e.g. extreme snowfall, floods, etc.) rendering any reasonable way of traveling impossible, the guest shall be under no obligation to pay the agreed remuneration for the day of arrival but shall be obliged to provide evidence on the relevant circumstances to Austrotel of his own accord. The obligation to pay the remuneration for the booked stay shall revive once traveling is again possible.

6.4 Until two months before the agreed day of arrival, Austrotel shall have the right to rescind the accommodation contract without compensation by unilateral notice.

7 Provision of replacement accommodation

7.1 Austrotel has the right to provide an adequate replacement accommodation (equal standard) to the guest, unless this is absolutely unreasonable for the contract partner.

7.2 A factual justification is deemed to exist e.g. if the reserved rooms have become unusable, if an overbooking has occurred that is not due to gross fault on the part of Austrotel, or if other important operational measures render the provision of replacement accommodation necessary.

7.3 Any additional expenses incurred by the guest in connection with the replacement accommodation shall be borne by Austrotel.

8 Rights and duties of the guest

8.1 By entering into an accommodation contract the guest acquires the right to the customary use of the rented rooms and the facilities of Austrotel that are usually made available to guests without special conditions, and the right to the customary service; if the guest uses any services offered on the basis of separate price lists, the guest shall be liable to pay the remuneration pursuant to the relevant current price lists.

8.2 Unless expressly agreed otherwise with Austrotel, the guest has no claim to be allocated any specific rooms.

8.3 The guest shall exercise his rights in accordance with the Austrotel guidelines ("house rules") on display.

- 8.4 The guest shall be obliged to pay to Austrotel the agreed remuneration plus any additional amounts owed as a result of the use of separate services by the guest and/or the guests accompanying him, plus statutory VAT, levies and cash outlays, at the latest at the time of his departure.
- 8.5 The guest shall be liable to Austrotel for any damage caused by the guest or by other persons using services of Austrotel with his knowledge or consent, irrespective of fault.

9 Rights and duties of Austrotel

- 9.1 Austrotel is obliged to provide the agreed services in a scope in compliance with Austrotel's standard. Special services offered by Austrotel which are subject to separate quotation and are not included in the remuneration for the accommodation, include inter alia (if available):
- 9.1.1 special services by Austrotel, e.g. the provision of seminar rooms, sauna (in Innsbruck), the use of a car park (in Innsbruck), etc.;
- 9.1.2 the provision of additional beds and/or cots;
- 9.1.3 the provision of internet access, minibars, Pay TV (Premiere);
- 9.1.4 ironing and laundry services.
- 9.2 The provision of a parking space to the guest by Austrotel in Innsbruck shall not constitute a safekeeping agreement (even if a fee is charged); Austrotel and its agents shall be liable for any damage in connection with the vehicles only in case of gross fault.
- 9.3 Austrotel shall have the right to submit an invoice or an interim invoice for the services at any time.
- 9.4 If the guest refuses to pay the agreed remuneration or is in default with the payment thereof, Austrotel shall be entitled to the statutory right to retain property pursuant to § 970c ABGB (*Austrian Civil Code*) and the statutory lien pursuant to § 1101 ABGB in respect of the property brought into the premises by the guest, whereby it is assumed that any and all property brought into the rooms rented by the guest is his unencumbered property. Austrotel shall further be entitled to the said right to retain property or the said lien in order to secure its claims under the accommodation contract, in particular in respect of catering, other outlays incurred on behalf of the guest, as well as any claims for compensation of whichever kind.

10 Pets

- 10.1 Pets may be brought to the hotel only upon Austrotel's prior approval and, if applicable, against the payment of a special fee. In Vienna it is not permitted to bring pets to the hotel.
- 10.2 A guest who brings a pet to the hotel is obliged to properly keep and supervise his pet, or have it properly kept and supervised by suitable third parties at his expense, throughout his stay. Pets must not be brought to seminar rooms, common rooms, restaurant premises or the wellness area.
- 10.3 A guest who brings a pet to the hotel is obliged to provide for an adequate liability insurance for pets or a private liability insurance that also covers damage caused by pets. Upon request, evidence on the relevant insurance is to be submitted to Austrotel. The guest and his insurer respectively are liable to Austrotel jointly and severally for any

damage caused by the pets brought to the hotel. Such damage shall in particular also include any compensation to be provided by Austrotel to third parties.

11 Extension of the stay or of other services

- 11.1 If the guest informs Austrotel timely of his intention to extend his stay or any other services, Austrotel may accept the offer of an extension of the accommodation contract or service contract. Austrotel shall in no case be obliged to extend the stay or any other services, and the guest has no claim to such extension.
- 11.2 If the guest is prevented from departing on the day of departure owing to any unforeseeable, exceptional, important reasons for which the guest is not responsible and which are not attributable to the guest (e.g. extreme snowfall, floods, etc.) rendering any reasonable way of traveling impossible, the accommodation contract shall be automatically extended for as long as departure remains impossible. A reduction of the remuneration payable during such time may be possible only if the guest is prevented from using the services offered by Austrotel in full due to the exceptional weather conditions. Austrotel is entitled to charge a remuneration at least equal to the usual off-season rate.

12 Termination of the accommodation contract - early termination

- 12.1 If the accommodation contract was entered into for a definite term it shall terminate upon the expiry of such term.
- 12.2 If the guest departs before the expiry of the term, Austrotel is entitled to demand payment in full of the agreed remuneration. Austrotel will deduct any savings incurred by Austrotel as a result of any non-use of offered services or amounts received from renting the reserved rooms to other parties. Savings are deemed to have been incurred only if at the time of the non-use of the premises reserved by the guest Austrotel is fully booked and the premises were rented out to other guests as a result of the cancellation. The burden of proof regarding such savings shall be on the guest.
- 12.3 Austrotel shall have the right to terminate the accommodation contract with immediate effect for important reasons, in particular if the guest
 - 12.3.1 uses the rented rooms in a substantially harmful manner, or by careless, offensive or otherwise grossly impertinent behavior towards other guests, Austrotel or its agents or third parties residing at the hotel spoils such persons' stay at the hotel, or is guilty of any punishable act against the property, morals or physical integrity of such persons, whereby an attempt to commit such act and reasonable suspicion shall suffice;
 - 12.3.2 arouses reasonable suspicion that his use of hotel services may substantially jeopardize the smooth operation of the business, the safety or the public reputation of the hotel or Austrotel;
 - 12.3.3 is afflicted by an infectious disease or a disease continuing for longer than the duration of his stay or otherwise requires permanent medical care;
 - 12.3.4 fails to settle the submitted invoices when due within a reasonable period of one day;
 - 12.3.5 becomes insolvent, or if there is reasonable suspicion that he will become insolvent.
- 12.4 If the performance of the contract is made impossible by an event to be regarded as force majeure (e.g. natural disasters, strikes, lockouts, decrees by the authorities, etc.) Austrotel

may terminate the accommodation contract without prior notice at any time, unless the contract is deemed to have been terminated already pursuant to applicable laws or Austrotel is released from its duty to provide accommodation. Any claims for damages, etc. by the guest shall be precluded.

13 Illness or death of the guest

- 13.1 If a guest falls ill during his stay Austrotel shall arrange for medical care upon the guest's request. In case of pending danger Austrotel will arrange for medical care also in the absence of a relevant request by the guest, in particular if such care is needed and the guest is unable to arrange for it himself.
- 13.2 For as long as the guest is unable to take decisions or the guest's family cannot be contacted, Austrotel shall arrange for medical care at the expense of the guest. The provision of these services will terminate once the guest is able to take decisions or his family has been informed of his illness.
- 13.3 Austrotel has a claim against the guest or, in case of his death, against his successors and assigns to be reimbursed in particular for the following costs: unpaid doctor's fees, costs incurred for ambulance services, medicaments and remedies, the necessary disinfection of rooms, linens, bed linens and bed equipment that have become unusable or otherwise the disinfection or thorough cleaning of these items, the restoration of walls, furnishings, carpeting etc. to the extent these were soiled or damaged in connection with the illness or death, room rental rates to the extent the premises were used by the guest and for the number of days, if any, for which the rooms were unusable due to their disinfection, clearing, etc., any other damage incurred by Austrotel.
- 13.4 Upon the death of a guest the contract with Austrotel shall terminate, which shall not affect the aforesaid. If the guest had concluded the accommodation contract on behalf of several guests, the contract shall not terminate.

14 Prices, price adjustments and terms of payment

- 14.1 All prices are inclusive of applicable statutory VAT and levies and refer to the relevant applicable unit (persons, days, portions, glasses, bottles, etc.). Accommodation services shall include general hotel service.
- 14.2 If the agreed period between the placing of the reservation and the performance of the contract exceeds four months and the price generally charged by Austrotel for such services increases, Austrotel shall have the right to increase the agreed price adequately, however, by not more than ten percent. Austrotel is further entitled to alter prices if the guest changes his reservation, in particular in respect of the number of guests and the duration of the stay.
- 14.3 Payments and payments on account shall be made without deductions or discounts. The cost of the transaction (e.g. remittance charges) shall in all cases be borne by the guest. Credit and debit cards shall be subject to the relevant terms and conditions of the credit or debit card companies.
- 14.4 Austrotel is under no obligation to accept foreign currencies. If so, they are accepted as payment whenever feasible and on the basis of the relevant day's current exchange rate. Where Austrotel accepts foreign currencies or cashless modes of payment, any and all costs incurred in this context, e.g. for inquiries with credit card companies, etc., shall be borne by the guest.

14.5 Any and all payments owed by the guest shall be made when due, failing which it is agreed that default interest at a rate of five percentage points above the base rate, or a comparable successor interest rate, per annum shall apply. The guest undertakes to bear any and all reasonable and appropriate costs and expenditures in connection with the collection of Austrotel's claims, including in particular collection or reminder charges in accordance with applicable tariffs, such as e.g. reminders by solicitors.

15 Liability by Austrotel

15.1 Austrotel is liable pursuant to §§ 970 ff. ABGB for the property brought into the premises by the guest. Such liability of Austrotel shall, however, only apply if the relevant property has been handed over to Austrotel or persons authorized by Austrotel or has been deposited in a place pursuant to their instructions or designated by them for such purpose. Austrotel's liability shall in no case exceed the amount set out in the Federal Law of 16 November 1921 on the liability of innkeepers and other entrepreneurs, as amended. If the guest fails to deposit his property in the specific place of deposit designated therefor, Austrotel shall be released from any liability. In terms of amount any liability of Austrotel shall be limited to the amount insured under the liability insurance. Any fault on the part of the guest is to be taken into account.

15.2 Austrotel's liability for valuables, money and securities shall also not exceed the amount set out in the Federal Law of 16 November 1921 on the liability of innkeepers and other entrepreneurs, as amended. Austrotel shall be liable for any damage in excess of such amount only if the nature of the relevant property was known when it was accepted for safekeeping or in case the damage was caused by gross fault on the part of Austrotel or its agents. Austrotel has the right to refuse acceptance of valuables, money or securities for safekeeping without giving a reason, however, in particular if such property is considerably more valuable than the property usually deposited for safekeeping by guests.

15.3 Any property accidentally left at the hotel by the guest shall not be deemed to be in Austrotel's safekeeping or to have been brought into the hotel by the guest but will be kept ready for collection by the guest for a maximum period of three months.

15.4 Austrotel will endeavor to ensure the availability, completeness and correctness of the used data but cannot guarantee the same, and Austrotel shall in no case be liable for the availability of the website or errors or defects caused to the user's hardware and/or software; the same shall apply to the data transmitted by Austrotel. In particular, Austrotel shall not be liable for the pictures and/or graphics in the online picture gallery to be reproducible or otherwise free from defects. Generally the user shall hold harmless and indemnify Austrotel in respect of the exploitation of the online picture gallery and its contents respectively.

15.5 Any liability of Austrotel for slight negligence – also in respect of precontractual and/or ancillary obligations, wake-up calls, forwarding of messages and mail, or similar – shall also be precluded, unless in cases of physical injury to the guest. No compensation will be provided for consequential or indirect damage or lost profits. The amount of liability is in any case limited to the value of the consideration paid by the guest.

15.6 Any liability of Austrotel shall be precluded in any case if the guest fails to notify Austrotel of the damage, and to evidence the damage to Austrotel, forthwith upon learning of the occurrence of the damage. Moreover, any such claims must be judicially

enforced within one year of the time the guest learns or could have learned thereof; failing which the claims shall be forfeited.

16 Data protection statement

- 16.1 The guest agrees that the data disclosed in connection with the placing and processing of the reservation may be used also by automated means for purposes of performance of the contract, accounting, internal market research and marketing. The guest further agrees that the electronic mail address disclosed by him may be used for Austrotel's direct marketing via electronic mail, whereby the guest may revoke such permission towards Austrotel at any time.
- 16.2 Austrotel also offers an e-mail newsletter service, for which the user/guest can register and which will keep him updated on news, special offers, etc. relating to Austrotel. The registration may be revoked towards Austrotel at any time.
- 16.3 The user shall address his justified and well-founded requests for information, correction or cancellation or his objections to Austrotel in writing, whereby the user agrees that Austrotel may process his requests via e-mail.

17 Place of performance, governing law

- 17.1 The place of performance of the accommodation contract shall be the place where the Austrotel hotel is located.
- 17.2 This contract shall be governed by Austrian procedural and substantive law, whereby the applicability of the rules of international private law (in particular the IPRG (*Austrian Act on International Private Law*) and the Convention on the law applicable to contractual obligations) and of the UN Convention on Contracts for the International Sale of Goods shall be precluded.

18 Miscellaneous

- 18.1 Unless specifically provided otherwise above, any period of time allowed shall commence upon the service of the document providing for the period of time to the contract partner obliged to comply with such period of time. When fixing a period computed by days, the day on which the point of time or event on which the commencement of the period depends, occurs shall not be counted. Periods computed by weeks or months shall refer to the day of the week or month which corresponds, by name or number, to the day from which the period is computed. If the relevant day does not occur in the relevant month, the last day of the relevant month shall be decisive. Notices must be served on the other contracting party by the last day of the period of time allowed (12:00 p.m.).
- 18.2 The contracting parties are not entitled to a setoff against counterclaims, unless the relevant claim has been confirmed by the courts or has been acknowledged.
- 18.3 The present or future invalidity of any individual provision in these GTCBU shall not affect the validity of the remaining provisions, and the contracting parties undertake to replace the invalid provision by a valid provision as closely as possible reflecting the (economic) purpose and intent of the invalid provision.

Austrotel HotelbetriebsgesmbH