

## **GUESTCOMPASS AUSTRALIA TERMS AND CONDITIONS**

### **Article 1: Applicability**

1. These General Terms and Conditions apply to all quotations, offers and agreements between GuestCompass Australia and the purchaser of goods from GuestCompass Australia or the user of the services of GuestCompass Australia, hereinafter referred to as: “The Client” and further to all legal relationships arising from these agreements as well as to all extra-contractual relationships between the parties, in particular tort.
2. Deviation from these General Terms and Conditions is only possible if agreed in writing between GuestCompass Australia and the Client.
3. The applicability of any general terms and conditions used by the Client is hereby excluded.

### **Article 2: Definitions / Scope**

In these general terms and conditions, the following terms shall have the following meanings:

1. GuestCompass Australia
2. The Client: the company or (legal) person who wishes to make use of the Services of GuestCompass Australia;
3. Agreement: the Agreement between GuestCompass Australia and the Client and the associated general terms and conditions regarding the Service;
4. Website: the website of GuestCompass Australia: [www.GuestCompass.com.au](http://www.GuestCompass.com.au)
5. Data: the (personal) data processed and generated by the Client using the Platform;
6. Platform: The GuestCompass Australia Platform, through which the communication channels of The Client (i.e. website and/or mobile website and/or Apps of The Client) are controlled where The Client can promote its company, its specific services, including but not limited to robotics and authentication services, as well as the company and services of third parties to its guests and through which guests can log in, make reservations, book etc. with The Client and the company of third parties offering a service to the guest;
7. The Services: offering, (user) preparation and integration of the Platform at the Client as well as advice and support regarding the use and development of the Platform;
8. Error: an essential, identifiable and reproducible defect in the Platform of GuestCompass Australia which causes it not to comply with the Documentation;

9. Documentation: the standard manuals and instruction materials for the use of the GuestCompass Australia Platform (which may be modified by GuestCompass Australia from time to time);
10. Incident: an unexpectedly occurring problem in (the software of) the Platform regarding security, including but not limited to cyber-attacks and/or hacks, integrity and/or capacity limits, where intervention by means of technical measures, at the discretion of GuestCompass Australia, is necessary;
11. The nullity and/or voidability of one or more provisions of the Agreement shall not affect the validity of the other provisions of the Agreement. The parties will then consult in order to agree on new provisions to replace the void or nullified provisions, taking into account the purpose and purport of the original provision if and as far as possible.
12. These General Terms and Conditions are made available on the Website, where the Terms and Conditions can be stored and printed. The most recently deposited version or the version that was valid at the time of the conclusion of the Agreement always applies.
13. GuestCompass Australia reserves the right to change these terms and conditions unilaterally. An amendment will also apply to Contracts concluded prior to the amendment. An amendment will not take effect until fourteen days after notification of the amendment to the Client. The notification is free of form. If The Client does not agree with the amendment, they have the right to terminate the Agreement by the date on which the amendment takes effect.

### **Article 3: Establishment of the Agreement**

1. The Client accepts the contract by signing the offer sent by GuestCompass Australia or by paying the first invoice.
2. Upon acceptance of the Agreement, the Client acquires a limited, personal, non-transferable, non-exclusive, non-sublicensable right to use the Platform after payment of the fee as agreed in the Agreement.
3. During the term of the Agreement GuestCompass Australia acquires the right to use the Client's name and/or logo to support the execution of the Agreement as well as for advertising and publicity purposes of GuestCompass Australia.

### **Article 4: Configuration and acceptance**

1. After the conclusion of the Agreement and after GuestCompass Australia has signed and made the Platform ready for use by the Client, GuestCompass Australia gives the Client the opportunity to test the Platform prior to acceptance and operational use (the "Acceptance test").
2. From the moment of operational use of the Platform by the Client, the Platform is deemed to have been accepted.

3. If problems arise from the Acceptance Test, GuestCompass Australia will endeavor to resolve these Errors within a reasonable period of time. Any support by GuestCompass Australia requested by the Client is subject to the full responsibility of the Client.
4. Upon acceptance of the Platform (i) Client releases GuestCompass Australia from all obligations arising from acceptance of the Platform, (ii) Client agrees with the Platform and acknowledges that the Platform meets the requirements.
5. If the Client does not accept the Platform due to Errors which cannot be resolved despite the efforts of GuestCompass Australia, the Client is entitled to terminate this Agreement, whereby the Client is only entitled to a refund of the monthly flat-rate payment for the remaining months of the calendar year from the time the Errors are reported to GuestCompass Australia.

#### **Article 5: Fulfilment Agreement**

1. After conclusion of the Agreement, GuestCompass Australia will make the Platform ready for use by the Client within the period specifically agreed between the parties.
2. After acceptance of the Platform, the Client will be able to use the Platform freely, as well as be provided with login data that allows the Client to modify the existing information about the Client and/or the Client's Data within the Platform.
3. GuestCompass Australia does not guarantee that the Platform meets or can be used for the Client's intended purpose or economic success.
4. If personal data is processed as part of the use of the Platform, this processing is subject to the provisions of the processing agreement.
5. When using the Platform, The Client must ensure that all laws and regulations applicable to it are complied with.
6. The purchase, use and maintenance of electronic means of communication and the Client's own IT infrastructure (including software and hardware) to enable the use of the Platform is at the Client's own expense and risk. GuestCompass Australia is under no circumstances liable for damage, loss or costs, including loss of Data, or the lack of possibilities to use the Platform due to a shortcoming, defect, other malfunction and/or other unavailability of the aforementioned electronic means of communication and/or IT infrastructure and/or because the Client does not comply with the Technical and Functional Requirements (set by GuestCompass Australia) and/or because the Client uses insufficient Data.
7. GuestCompass Australia reserves the right to temporarily disable the Platform in connection with scheduled regular maintenance work. GuestCompass Australia will notify the Client of the regular maintenance work in writing or by email at least 24 hours in advance.
8. In the event of an Incident, GuestCompass Australia is entitled at any time to deactivate the Platform temporarily and/or permanently without prior written notification to The

Client. GuestCompass Australia will make every effort to prevent (nuisance caused by) Incidents as much as possible.

9. GuestCompass Australia reserves the right to charge software updates by operating systems or other used systems of third parties to the Client.

#### **Article 6: Payment / Pricing**

1. The Client shall pay the fee as agreed in the offer for the provision of services to GuestCompass Australia, consisting of a fee for the creation of the Platform as well as a monthly fixed fee per calendar year, or remaining months in the calendar year from the time of conclusion of the Agreement. The fee will be invoiced prior to the Services, unless otherwise agreed in writing between the parties.
2. Invoices from GuestCompass Australia must be paid within 14 days, unless the parties agree otherwise in writing.
3. The amounts on the invoices of GuestCompass Australia are always stated in Australian dollars and exclusive of VAT.
4. Possible price changes for services will be announced at least 30 days in advance. Price changes can be entered once per calendar year and will be announced well in advance.
5. Based on the CPI (consumer price index), an annual price indexation for GuestCompass Australia services is maintained and charged. Unless otherwise agreed.
6. If the invoice payment deadline is exceeded, GuestCompass Australia is entitled to charge statutory commercial interest on the overdue invoice amount as well as to charge extrajudicial collection costs equal to 15% of the overdue amount.

#### **Article 7: Obligations of the Client**

1. The Client is fully and solely responsible for the services and/or products offered by them or third parties on the Platform.
2. The Client is obliged to describe all products and/or services offered on the Platform as completely and truthfully as possible.
3. The Client is the (only) party to enter into an agreement with third parties regarding the services offered by the Client through the Platform. GuestCompass Australia is explicitly not a representative or agent of and/or for The Client and is completely outside the legal relationship between The Client and the third party.
4. The Client is obliged to actually provide the services and/or products he offers to third parties at the time of purchase.
5. The Client shall ensure that minors and/or third parties who are incapable of acting and/or acting incapable of acting can only purchase products and/or services with the explicit consent of a (acting) parent and/or legal guardian.

6. The Client may not provide any personal login details to third parties and is responsible for the safe storage of their data without third parties having access to the data.
7. Should The Client breach their obligations, GuestCompass Australia may, depending on the seriousness of the breach, temporarily restrict and/or block the use of the services offered by GuestCompass Australia or terminate the contract with immediate effect.
8. The Client must ensure that the guests who wish to use the Platform give their prior consent to GuestCompass Australia and the Client to use the privacy data of the respective guests and/or to send push messages. Guests must be given the opportunity to withdraw their consent at any time.
9. GuestCompass Australia will only use the Client's and/or the third party's privacy data to improve the Service, in accordance with Dutch privacy legislation (the “GDPR” and its implementation) and the Dutch Telecommunications Act.

#### **Article 8: Intellectual property**

1. GuestCompass Australia shall respect the intellectual property rights to which the Client is entitled subject to the right of use set out in clause 3.3.
2. The Client shall respect the intellectual property rights of GuestCompass Australia. These intellectual property rights include patent rights, copyrights, design rights, trademark rights, sui generis rights to data files, as well as applications for registration of such rights, and (rights to) trade secrets or know-how and other intellectual or industrial rights of any kind anywhere in the world.
3. It is not permitted without the express written permission of GuestCompass Australia to take over or copy substantial parts of the Platform or Website or to reuse them in any way for purposes other than the agreed use.
4. Additional platform modules developed by or with GuestCompass Australia remain the property of GuestCompass Australia.

#### **Article 9: Termination of Agreement**

1. The Agreement is entered into for a period of 24 months, unless the parties agree otherwise in writing.
2. The Agreement will be automatically renewed for an indefinite period after the expiry of the agreed term, as recorded in article 8.1 of these terms and conditions, unless the Client terminates the Agreement at the latest one (1) month before the expiry of the agreed term, as recorded in article 8.1 of these terms and conditions.

3. After expiry of the agreed term, as recorded in article 8.1 of these terms and conditions, the Agreement can be terminated prematurely by both parties, subject to a notice period of twelve (12) months.
4. Notice of termination must be given by registered letter or by bailiff's writ, failing which the notice of termination shall have no effect.
5. The Agreement can be terminated directly by GuestCompass Australia (in writing) at any time without judicial intervention (and without notice of default) if:
  1. The Client does not fulfil their obligations under the Agreement;
  2. The Client is in a state of bankruptcy and/or applies for suspension of payment, or there is a "pre-pack", or loses the disposal of their assets in any other way;
  3. The Client is dissolved, liquidated and/or a 'change of control' takes place within The Client.
  6. Upon termination of the Agreement, the invoices sent to The Client are immediately due and payable. There will be no refund of fees already paid.
  7. Upon termination of the Agreement, The Client owes and will continue to owe the (monthly) fee for the Services for the period up to the moment that the Agreement ends.

#### **Article 10: Liability**

1. The Client indemnifies GuestCompass Australia against any (consequential) damage suffered by third parties due to shortcomings in the performance of the Service on the part of the Client or defects in the goods offered by the Client.
2. The Client acknowledges and accepts that GuestCompass Australia only has a facilitating role and is solely responsible for what is stipulated in the contract. The Client also indemnifies GuestCompass Australia against any damage incurred by third parties as a result of using the service or goods provided by the Client, including the processing of data.
3. The Client is solely responsible for providing correct information about the goods or services offered. The Client hereby indemnifies GuestCompass Australia and agrees to compensate GuestCompass Australia for and against all claims, demands, actions and claims or costs arising therefrom, including court costs and reasonable attorney fees, which arise from or are connected with (i) the use of the Service, (ii) non-compliance with obligations and/or warranties of the Client under the Contract, (iii) negligent or intentional misconduct on the part of the Client.
4. GuestCompass Australia shall not be liable to the Client for any damage, loss or delay resulting from an attributable shortcoming, tort or for any reason whatsoever, except in the case of intent or deliberate recklessness on the part of GuestCompass Australia. Nor is GuestCompass Australia liable for any damage, loss or delay caused by third parties.

**Article 11: Force majeure**

1. Parties shall not be obliged to fulfil any obligation if they are hindered to do so as a result of a circumstance for which they are not to blame and for which they are not responsible by virtue of the law, a legal act or generally accepted practice.
2. In these general terms and conditions, in addition to what is understood in law and jurisprudence, force majeure means all external causes, foreseen or unforeseen, on which GuestCompass Australia has no influence, but as a result of which GuestCompass Australia is unable to fulfil its obligations.
3. Each of the parties is obliged to inform the other immediately of any circumstances that reasonably result in the party no longer being able to meet its obligations under the Agreement.

**Article 12: Third parties**

1. GuestCompass Australia is permitted to use the services of third parties for the execution of its Services.
2. Parties are not allowed to transfer rights and/or obligations under the Agreement to third parties without the express written consent of the other party.

**Article 13: Applicable law and choice of court**

1. The Agreement is exclusively governed by Dutch law. Dutch law shall also apply to the Agreement, to the exclusion of the Vienna Sales Convention, if an obligation has been or will be wholly or partly performed abroad or if the Client resides or is established abroad.
2. Disputes between The Client and GuestCompass Australia will initially be resolved by mutual consultation, with or without the help of mediation, after which, if desired, the dispute will be submitted to the competent Court of North Holland, location Haarlem.