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**1- Define an accommodation contract. What are the essential legal elements required for its validity?**

**Ans**

**The Accommodation Contract: Structure and Necessary Legal Requirements.**

**Definition**

An accommodation contract is an agreement between two parties, one of which is the accommodation provider (who is usually a hotel, hostel, or resort) and the other one is the guest, where the accommodation provider agrees to offer temporary accommodation and other service related accommodations to the customer in exchange of money. It is an incorporated or compound contract, a sort of lease (temporary usage of the area), a service contract (cleaning, reception, food, etc.), and in certain jurisdictions, a custody contract (custody of belongings of the visitor).

The accommodation contract does not involve the possession of the property, unlike a typical lease; the provider of the accommodation continues to have the premises under his control but gives the guest a temporary right of use. The contract can be express (written confirmation, booking voucher) or implied (verbal agreement at check-in), although in modern commercial practice, practically due to the use of online platforms, a written or electronic document is always generated.

**Essential Legal Elements of validity.**

To become a valid and enforceable accommodation contract, it is necessary to comply with the general rules of contract law, of which (in the majority of legal systems in both common law and civil law traditions) the following are the key ingredients:

**Offer and Acceptance (Mutual Consent)** There has to be a definite offer by the accommodation provider - establishment of room type, dates, price, conditions and unambiguous acceptance

by the guest. Online booking, the offer is usually the listing of the property and acceptance is made once the guest makes the bookings and gets confirmation. The consent should not be based on any mistake, fraud, duress, unreasonable influence and in this case the contract can be canceled.

**Legal Capacity** Both the parties should possess the legal ability to make a contract. This simply implies they have to be of legal age (18 in most countries) and in good health. A reservation done by a minor without the parental consent can be invalid. To the provider side, the business should be of legal nature and shall be licensed and licensed to conduct business (with relevant licences and permits).

**Legal Object / Subject Matter** The object of the contract temporary accommodation should be legal and permissible. An agreement to furnish accommodation to unlawful acts, or at a premise which is not licensed or unsecured, would have no legal purpose and would not be enforceable. The topic of the order should also be clear: it is necessary to identify the type of accommodation, the days and services proposed.

**Consideration (or Cause)** The common law systems need consideration to occur, i.e. a value or something should be provided by both parties. The guest makes (or agrees to make) the specified price; the accommodation is delivered by the provider. Under civil jurisdiction, this aspect is termed as cause - the motivation or intent behind the obligation of each party. The contract does not have this necessary aspect without an agreed price or an exchange equivalent.

**True Consent** on the most important terms The parties should also be in agreement on the essential terms: the check-in and check-out dates, the accommodation type and price, as well as the cancellation terms. Uncertainty or ambiguity on these issues may make the contract illegal or may cause difference of opinion in the content.

## **2- Identify and explain the main parties involved in:**

- **Direct hotel booking**
- **Booking through an online platform**

### **Ans**

#### **Primary Purchasers of Hotel Reservations.**

##### **A. Direct Hotel Booking**

Under a direct booking i.e. through the hotel web pages, telephone or its front desk, the two main parties are the customer and the hotel so the contractual relationship is simple as the contract is between them:

**The Guest (Consumer)** The guest refers to the natural or legal person that is requesting temporary accommodation. They are the ones who start the booking process, provide personal and payment details, accept the terms and conditions of the hotel and take the responsibilities of the contract upon themselves (payment, following house rules, leaving at the right time). In most countries consumer protection law entitles the guest to obtain certain rights namely; right to correct information, protection against unfair terms, and remedies in non-performance.

**The Accommodation Provider (Hotel)** Hotel Accommodation (Hotel, independently owned or a chain) is the direct contracting party on the supply side. It has the role of verifying availability, ensuring the type of room that has been booked, service delivery (cleaning, reception, facilities), safety and living conditions, as well as payment. The hotel has complete authority

of pricing, cancellation and guest information and has direct legal liability in case of breach of the contract.

### **B. Booking via an Internet-based Solution (OTA - Online Travel Agency)**

When a guest makes a reservation through a third-party service like Booking.com, Expedia or Airbnb, the structure of the contract is much more elaborate, and at least three different parties are involved:

**The Guest (Consumer)** The role of the guest is the same as with the direct booking situation as they search, choose, and book the accommodation. But in OTA model the guest communicates with the platform interface where he/she sees integrated search results, standardised terms and one payment gateway. The visitors are to agree to the terms of the use of the platform and the cancellation and house policies of the separate property. In other models (agency model), the guest is contracted to make payments to the hotel; in other models (merchant model), the guest is contracted to pay the platform.

**The Online Platform (OTA / Intermediary)** It is the middleman between the guests and the properties. In law, it can do so in two capacities:

As an agent (agency model): it helps to establish the contract between guest and hotel without any part to the accommodation contract. Commissions are imposed on the hotel as a source of revenue.

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