

# GENERAL TERMS AND CONDITIONS FOR APARTMENTS "SKI-HANS" PLANNERALM

## § 1 Area of application

These terms and conditions are valid for the renting of apartments from the company Ferienwohnung Ski-Hans, Planneralm 2, 8953 Donnersbach.

## § 2 Glossary

Terms:

„Proprietor“:	Is a natural or legal person that accommodates paying guests
„Guest“:	Is a person who takes accommodation with consent of the proprietor. The guest is at the same time the contractual partner. People travelling with the contractual partner are also valid guests (Family members, friends etc).
„Contractual partner“:	Is a natural or legal person acting as guest or for a guest that closes a contract for accommodation.
„Consumer“ and „Entrepreneur“:	The terms are to be understood as amended in 1979 under the Consumer Protection Act 1979 idgF.
„Contract for Accommodation“:	Is the closed contract between the proprietor and the contractual partner, in which the contract content is to be specifically regulated.

## § 3 Conclusion of contract – Deposit

The contract for accommodation comes in conclusion after receipt of the reservation from the contractual partner through the proprietor. The contract is legally binding when the deposit, communicated by the proprietor, arrives on the bank account of the proprietor. Should the guest or contractual partner fail to transact the deposit within 7 working days after receiving confirmation of reservation the contract for accommodation becomes invalid and the proprietor may take reservations from another guest without written extension of time. The deposit is a partial payment of the agreed total amount.

## § 4 Begin and end of the accommodation

The contractual partner has the right, if the proprietor offers no other reference time, to occupy the rented premises as of 2:00pm on the agreed day of arrival.

The rented premises are to be vacated on the day of departure by 9:00am. The proprietor is authorised to charge for a further day if the premises is not vacated by this time.

## **§ 5 Cancellation of the contract for accommodation – Cancellation fee**

### **Cancellation by the proprietor**

Does the contract for accommodation require a deposit, and the deposit is not transacted before the due date by the contractual partner the proprietor may, without delay, cancel the contract for accommodation.

If the guest does not arrive before 5:00pm on the agreed date of arrival then there is obligation for accommodation unless a later arrival time was agreed on.

If the contractual partner has made a deposit, then the premises remains reserved until 12:00 midday at the latest on the following day of the agreed arrival date. By prepayment of more than four days the proprietors obligation of accommodation ends at 5:00pm on the fourth day, at which the arrival day ist the first day unless the guest has organised a later date of arrival.

Up to three months at the latest, before the agreed arrival date of the contractual partner the contract for accommodation may be cancelled by the proprietor for justifiable reasons, unless other agreements are made, though a unilateral explanation.

### **Cancellation by the contractual partner – Cancellation fee**

Up to three months before the agreed date of arrival the guest has the possibility to cancel the contract for accommodation with a unilateral decleration by the contractual partner without payment of a cancellation fee.

Within the three month time period a cancellation with a unilateral decleration by the contractual partner is only possible with the following cancellation fees:

- up to 1 month before the date of arrival 50% from the total arranged price;
- up to 1 week before the date of arrival 80% from the total arranged price;
- during the last week before the date of arrival 100 % from the total arranged price.

### **Travel and arrival difficulties**

Should the contractual partner not be able to arrive at the premises of accommodation on the agreed date of arrival due to unforeseen circumstances (avalanche, floods etc) making travel possibilities impossible, is the contractual partner not liable to pay the agreed amount for the arrival day. The payment for the booked accommodation comes into place from the next possible date of arrival, should arrival be possible within three days.

## **§ 6 Providing substitute accommodation**

The proprietor may offer the contractual partner or respectively the guest an adequate replacement accommodation (of same quality), when this is for the contractual partner reasonable, particularly if the difference is insignificant and justified. Factual justification is then given for example, when the premises becomes unsuitable for accommodation, when other guests extend their accommodation period, when over booking occurs or if other important operational measures justify this. Any additional costs for the substitute accommodation shall be paid by the Proprietor.

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

By the closing of a contract for accommodation the contractual partner becomes the rights for the usual usage of the available rented holiday premises and the facilities of the accommodation establishment, in the usual manner and without special conditions. The contractual partner has the right to exercise appropriate house rules.

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

The contractual partner is required, no later than the agreed time of departure the agreed sum plus any extra costs as a result of special services used by his/herself or thier companions and the goods and service tax.

The contractual partner is liable for payment to the proprietor for all damage that has been caused by the guest or others. The contractual partner is also liable to pay for costs occured by the leaving behind of excessive disorder and mess (eg. dried up or decomposed food scraps, unclean microwave etc).

## **§ 9 Rights of the proprietor**

The proprietor becomes the right of retention,(according to § 970c ABGB) as well as the legal lien (§ 1101 ABGB) in the case of refusal of payment of the conditional fees by the contractual partner or by delay of payment. These legal lien rights provides the proprietor to insure his or her claim from the contract for accommodation especially for catering and other expenses that where conducted for the contractual partner and for compensation claims of all type. The proprietor has the right of settlement and interim billing at any time.

## **§ 10 Obligations of the proprietor**

The proprietor is obliged to provide the agreed services to an appropriate standard. Required extra services from the proprietor are exceptions and are not included in the accommodation fee. (Tobogganing, Snooker etc). This applies especially for all usable materials such as toilet paper, dish washing tabs etc. The use of one set of bed linen, one set of hand and bath towels per person as well as the provided kitchen utensils is included in the accommodation fee.

## **§ 11 Liability of the Proprietor for damage to any brought items**

The proprietor is liable for brought items of the contractual partner according to §§ 970. The liability of the Proprietor shall only be given if the items handed over to the Proprietor or the persons authorized by the Proprietor or have been taken to an instructed location. Unless the proprietor can prove otherwise then the proprietor and other persons under authorisation are liable for any negligence. The proprietor is liable according to § 970 Abs 1 ABGB, at the maximum up to the federal law from 16. November 1921 on the liability of the proprietor and other businesses according to the relevant version. If the contractual partner does not act on the demands of the proprietor to relocate all items in a specified location then the proprietor is freed of all liabilities. The amount of any liability of the proprietor is limited to the maximum of the third party insurance of the Proprietor. The fault of the contractual partner is to be considered.

The liability of the proprietor for light negligence is excluded. Is the contractual partner a business then the liability, also for larger negligence, will be excluded. In this case the contractual partner has the reesponsibility to provide evidence. Resulting or indirect damage such as loss of profit will not be reimbursed.

The proprietor is liable for valuables, money and commercial papers up to an amount of € 550,-. The proprietor is liable for any further damage only in the event that he has taken responsibility for storage or in the event that the damage was caused by him/herself or one of their staff. The proprietor may refuse to take responsibility of storing valuables, money and commercial papers if the items are of considerably higher value than normally kept by guests on the premises.

In all cases liability of the deposited goods is excluded when the contractual partner and/or guest fails to immediatly notify the proprietor. In addition the claims must be made judicially within three years by the contractual partner or guest otherwise the rights are extinguished.

## **§ 12 Limitation of liability**

If the contractual partner is a consumer, the liability for light negligence, with the exception of personal injury is excluded.

Is the contractual partner an entrepreneur, then negligence of the proprietor, small or large, is excluded. In this case, the contractual partner bears the burden of proof for the presentation of fault. Consequential damages, immaterial damage or indirect damages such as lost profits will not be replaced. In all cases the level of compensation is limited to the interest of the person in trust.

## **§ 13 Keeping of animals**

Animals may only be kept on the premises with permission from the proprietor. The contractual partner who brings an animal is required to keep and supervise the animal or to provide a carer for the animal at their own cost.

The contractual partner or guest who brings an animal must also have an adequate insurance policy to cover any damage caused by the animal. The insurance documents are to be presented if requested by the proprietor. The contractual partner as well as his or hers insurer are liable to the proprietor for any damage caused by the animal. The damage caused also includes any service costs that the proprietor must provide.

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

The contractual partner has no rights of extension of their accommodation period. If the guest gives his /her wishes to extend with adequate notice the the proprietor may agree on an extension of the contract of accommodation. The proprietor has no obligations.

Is it not possible for the contractual partner and/or guest to leave the premises while due to unforeseen circumstances (eg floods, avalanch etc) and the different travel possibilities have become closed, so is the contract of accommodation automatically extended according to the time of delay. A reduction of the accommodation fee for this period may only be possible if the contractual partner cannot fully use the services offered by the establishment of accommodation due to the exceptional weather conditions. The proprietor is entitled to payment of accommodation to atleast the normal rates charged during the off peak season.

## **§ 15 Termination of the Accommodation Agreement - Early cancellation**

Has the contract of accommodation been concluded for a specific time frame, so ends the contract at the end of this time. On early departure from the contractual partner or guest the proprietor is entitled to charge the full amount of the contract of accommodation. The proprietor shall reduct what has been saved by unused services or by further rental during this time. The burden of proof for the saved amount carries the contractual partner. The contract with the proprietor ends following the death of a guest.

If the accommodation contract is concluded for an indefinite period of time, the parties may terminate the contract of accommodation by 10.00 am on the third day before the intended end of the contract.

The proprietor holds the rights to cancel the contract of accommodation with immediate effect for important reasons, especially when the contractual partner and/or guest:

1. misuses or mistreats the premises or disturbs other guests, the proprietor and staff or through committing a punishable offense against the property, the moral and physical safety of others due to their inconsiderate, indecent or otherwise improper behavior
2. becomes an illness that is infectious, or an illness that will last longer than the period of accommodation, or is in need of care.
3. does not pay the accommodation bill before the due date within a reasonable time frame (3 days).

When the fulfilment of the contract is not possible due to higher powers (eg. Elementary events, strikes, closures, government regulations etc.), then the proprietor may cancel the contract at any time without keeping tot he legal period of notice, as lond as the contract has not been allready cancel by law, or the proprietor has been freed from duties. Possible claims to compensation etc are excluded.

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

Should a guest of the accommodation premises become ill during their stay, the proprietor if wished for by the guest shall organise medical care. In the case of imminent danger, the Proprietor shall arrange for medical care even without the special request of the Guest, in particular when this is necessary and the guests is not capable. As long as the guest is unable to make decisions or the relatives of the guest can not be contacted, the Proprietor shall arrange at the expense of the Guest for medical treatment. However, the extent of such care shall expire in the time at which the guest can make decisions or their family has been informed about the sickness.

The proprietor has the right to receive compensation from the contractual partner and/or guest or in case of death from their legal successors in particular for the following expenses:

- a) unpaid doctors fees, costs for medical transport, medicines and healing aids,
- b) necessary disinfection of rooms,
- c) linen, bed linen and bed accessories, that have become unusable or for the cleaning of these items,
- d) necessary rebuilding or renovations of walls, furnishings, carpets and so on in the case of these items being damaged as a result of illness or death,
- e) room rental, as long as the rooms were occupied by the guest, as well as any other days where the rooms could not be used due to disinfection, clearance, cleaning etc,
- f) Any other special damage that may affect the proprietor.

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

Place of payment is Donnersbach.

This contract is subject to special regulations from austrian formalities and material rights under exclusion of the rules of private international law (insb. PRG und EVÜ) plus the United Nations Convention on Contracts for the International Sale of Goods. Exclusive jurisdiction is by a bilateral business partnership is the proprietors, as the Proprietor shall also be entitled to assert his or her rights before any other competent court location and court of law. Has the contract of accommodation been closed with a contractual partner who is consumer and has official place of residence or respectively has normal residence in Austria, then law suits may only be filed against the consumer exclusively at the place of residence or at the place of occupation of the consumer.

Has the contract of accommodation been closed with a contractual partner who is consumer and has official place of residence or respectively has normal residence in a country of the European Union (except Austria), Island, Norway or Switzerland, is the regional court having jurisdiction for the place of residence of the consumer, for law suits against den consumer exclusively responsible.

## **§ 18 Miscellaneous**

The proprietor is authorised on request to the contractual partner to make their own price rates. The contractual partner is not authorised to charge against fees and conditions from the proprietor, unless the proprietor is insolvent or the conditions of the contractual partner are legally set by a court of law, or if accepted by the proprietor. Should one or more paragraphs be declared invalid then the other paragraphs remain valid. The appropriate laws apply if loopholes are found, respectively the guidelines of the ÖHVB (die Austrian Hotel contractual terms and conditions) as in ist latest version.

**Only the German original text is legally valid.**