

# Booking Conditions

## (General Terms of Business)

Documentation of General Terms of Business pertaining to Lodging Agreements

### I. Legal Scope

1. These General Terms of Business (hereinafter referred to as: "Terms") apply to guests (hereinafter referred to as: "Guest") of Wagner Hotels GmbH including its businesses "Hotel Wagner", "Apparthotel Samson" and "Hotel Tauernpasshöhe", Pionierstr. 2, 5562 Obertauern, Tel. + 43 6456 7256, Fax: +43 6456 7520, Email: [info@hotel-wagner.at](mailto:info@hotel-wagner.at) (hereinafter referred to as: "Hotel"), registered with the Vienna Commercial Court ("Handelsgericht Wien") No. FN251134s. These Terms apply to all lodging agreements as well as all services and deliveries on the part of the Hotel provided on behalf of the Guest.

2. The Hotel enters into all agreements subject exclusively to these Terms as the foundation. Divergent provisions, even if they are contained in the General Terms of Business of the Guest or the orderer, shall have no application, other than if they are expressly accepted by the Hotel. In the aforementioned regard, acceptance on the part of the Hotel must be indicated in written form and signed by authorized representatives of the Hotel.

### II. Definitions of Terminology

#### 1. "Lodging":

The granting of hotel accommodations by the Hotel to the Guest on a rental basis. It does not encompass any right on the part of the Guest to sub- or relet the accommodations, or the usage thereof for other than accommodation purposes.

#### 2. "Lodging Agreement":

Refers to the accommodation agreement entered into between the Guest and the Hotel, with these Terms serving as the basis for said agreement.

#### 3. "Order":

Request of the Guest or a third party with a view to entering into an accommodation agreement with the Hotel.

#### 4. "Orderer":

Refers to the Guest as well as any third party (natural person who on behalf of the Guest or in whose name, or a business) submits the order.

#### 5. "Guest":

Refers to any natural persons who avail themselves of accommodations at the Hotel. The term Guest also applies to all those persons who arrive with the primary Guest (e.g. family members, friends etc.).

6. "Rented Rooms/Spaces":

Refers to those rooms/spaces which the Hotel grants to the Guest exclusively on a rental basis.

7. "Reserved Rooms":

Refers to those Hotel rooms/spaces which have been ordered by the Guest and assigned by the Hotel, which become rented rooms/spaces pursuant to relinquishment by the Hotel.

8. "Consumer", "Business":

These terms are to be understood consistent with the Consumer Protection Act ("Konsumentenschutzgesetz") 1979 in its most current form.

9. "Force majeure":

An external, out of the ordinary and unforeseeable event that cannot be prevented even despite utmost care on the part of the affected parties. This includes fire, severe weather, earthquakes, strikes, traffic accidents, wars, hostage takings, natural catastrophes.

### **III. Conclusion of the Contract / Deposits**

1. The accommodation agreement comes into force through expressed acceptance of the Guest's order by the Hotel. Electronic declarations are deemed to have been delivered to the Guest if they can be accessed by the Guest under normal circumstances and by the Hotel during the publicly announced hours of business.
2. The parties to the agreement are the Hotel and the Guest. If a third party undertakes the order on behalf of the Guest, as the orderer said third-party is jointly liable with the Guest for all obligations resulting from the agreement, insofar as a corresponding declaration on the part of the orderer has been presented to the Hotel. This notwithstanding, every orderer is required to forward all information relevant to the booking, in particular these Terms, to the Guest. Failure to do so will result in the orderer being liable to the Hotel for all adverse consequences that may result.
3. a) The Hotel is entitled to make conclusion of a lodging agreement subject to receipt of a deposit. In such a case, the Hotel is required to notify the Guest about the required deposit prior to formally accepting the Guest's written or verbal order. If the Guest declares in writing or by word-of-mouth their agreement with the deposit, the lodging agreement comes into force upon receipt of the Guest's declaration of acceptance by the Hotel. If the lodging agreement was entered into subject to payment of a deposit, the Guest's deposit must be received no later than 14 days after receipt of the booking confirmation, deposited to the bank account we have stipulated (NO CREDIT CARDS). This deposit is deemed a partial payment of the full remuneration as stipulated.
3. b) If the Guest does not appear by 6 PM of the stipulated arrival day, the Hotel is only obligated to provide accommodations if a later arrival time has been agreed upon.
3. c) If the Guest has provided prompt payment of the deposit, the room reservation shall remain in effect until no later than 12 noon of the day following the previously stipulated arrival day.

4. The Hotel is free to reject orders without provision of reasons.

#### **IV. Duration of Room Relinquishment, Arrival and Departure:**

1. The Guest acquires no rights to the provision of specific rented rooms, other than if the Hotel confirms the provision thereof in writing.

2. The Hotel specifies the time when the Guest may occupy the rented rooms. If the lodging agreement does not stipulate a specific time, the Guest may occupy the rented rooms after 2 PM of the stipulated arrival day. The Guest has no right to assume occupancy of these rooms at an earlier time.

3. If the Guest first assumes occupancy of the room prior to 6 AM, the previous night shall be deemed to be the first night that is subject to payment.

4. Booked rooms are to be occupied by the Guest by no later than 6 PM of the stipulated arrival day. Insofar as a later arrival time has not been agreed upon, after 6 PM the Hotel has the right to rent out the booked rooms to other persons without the Guest deriving any claim to compensation. To that extent, the Hotel enjoys a revocation right.

5. On the departure day, the Guest must vacate the rooms and relinquish them back to the Hotel by no later than 10 AM. Insofar as the room is not vacated by the Guest in timely fashion, the Hotel is entitled to charge the daytime room rate for additional usage of the room and, after 6 PM, 100% of the full applicable lodging price.

6. A Guest is considered to be everyone whose name appears on the municipal guest registration forms (Untertauern or Tweng).

#### **V. Performance, Price, Payment, Set-Offs**

1. The Hotel is obligated to provide the rooms rented by the Guest as well as the stipulated services in accordance with these Terms.

2. The Guest is obligated to pay the applicable and stipulated prices of the Hotel in accordance with the lodging agreement as entered into for the rooms provided as well as any additional services of which the Guest has availed themselves. This also applies to Hotel services and expenses incurred on behalf of the Guest or orderer with respect to third parties.

3. The stipulated prices include statutory value added tax, though not any local tourism taxes.

4. If the time period between conclusion and fulfillment of the agreement exceeds 4 months and the price generally billed for such services has increased or decreased in the meantime, the Hotel may correspondingly amend the price originally stipulated in the agreement, though the increase or decrease in price may not exceed 10%.

5. The prices may also be amended by the Hotel if the Guest subsequently wishes to make changes to the number of booked rooms, the services provided by the Hotel or the duration of the stay, and these changes are agreed to by the Hotel in writing.

6. Hotel bills immediately become due in full upon receipt at the time of checkout. Insofar as no other terms of payment have been stipulated, the Guest shall be considered in default if payment has not been received within 30 days or by another date as stipulated in the bill. In the event of

payment default, Wagner Hotels GmbH is entitled to charge interest for the late payment in the amount of 5% per annum. With respect to businesses, the interest rate for late payments will be 8% above the base lending rate.

7. In the event of payment default, in addition to late-payment charges the Guest also bears responsibility for reminder fees in the amount of € 5 per reminder.

8. Furthermore, the Hotel is entitled to issue an interim bill for charges which have been accrued in the course of the Guest's stay at the hotel and demand immediate payment thereof.

9. This supplemental provision applies to Hotel Tauernpasshöhe: Payment for the entire cost of the hotel stay must be transferred no later than 10 days prior to arrival. In the event of a short-notice booking, the bill shall be paid in cash upon arrival.

10. The hotel bill is based on prices which are listed per day and person or per day and room. The total price as stated represents the sum of the aforementioned rates and the Guest is advised to inspect the bill for possible calculation errors.

11. At the time of payment, the Guest shall check the bill for accuracy. Complaints are only accepted within 8 days of the date of issue.

## **VI. Revocation, Cancellation**

### **i. Revocation by the Hotel:**

1. If the accommodation agreement was entered into subject to the condition that the Guest make a deposit, and if the Guest has failed to pay the deposit by the stipulated deadline, the Hotel may revoke the accommodation agreement free of any requirement to offer a grace period.

2. Furthermore, the Hotel is entitled to revoke the agreement for compelling reasons. In this regard, compelling reasons may include in particular:

- Instances of force majeure or other circumstances for which the hotel bears no responsibility which make fulfillment of the agreement impossible.
- If rooms were reserved according to misleading or erroneous information which obscured significant facts about the person of the Guest or the purpose of the stay.

3. The host reserves the right to cancel bookings received via the tourist office (CapCorn) without stating the reasons:

- If the Hotel has a well-founded reason to assume that use of the Hotel's services might endanger the smooth business operation, security, or public reputation of the Hotel being ascribed to the Hotel's sphere of control or organization.
- A no-show of the Guest as detailed in Pt. IV. 4.
- If the Hotel becomes aware that the financial circumstances of the Guest have deteriorated significantly subsequent to conclusion of the accommodation agreement, and in particular if the Guest does not remit payment for bills already received from the Hotel or not to a sufficient degree, thereby suggesting that the Hotel's payment demands may be at risk.
- The Guest has initiated either insolvency proceedings pertaining to their financial assets or extrajudicial debt-settlement proceedings.

- Insolvency proceedings directed at the assets of the Guest have been initiated or the initiation thereof has been rejected due to lack of assets to cover costs or for other reasons.
4. The Guest intends to make the room available to a person unknown to the hotel (a person not listed in the registration form), even if only on an hourly basis.

#### **ii. Revocation by the Guest:**

1. The Hotel grants the Guest revocation rights subject to the following provisions:

- In the event the Guest rescinds the booking, the Hotel has a right to commensurate compensation.
- The cancellation conditions are cited individually within the respective lodging agreement.
- The Guest who does not make use of the booked room or services without providing timely notice shall pay the contractually stipulated price in full.
- If the Hotel has granted the Guest an option within the lodging agreement to withdraw from the contract by a specific deadline without further legal consequences, the Hotel has no right to compensation. The timeliness of a revocation declaration is determined by the point in time it is received at the Hotel. The Guest must declare their revocation in writing.

If specific cancellation conditions have not been stipulated within the lodging agreement, the following cancellation conditions shall apply:

a) By no later than 7 days subsequent to having made a binding booking, the Guest is entitled to dissolve the lodging agreement without the payment of cancellation charges by means of a unilateral written declaration that is received by the Hotel.

b) Beyond the time period as defined in Point 1a., revocation is only possible by means of a unilateral declaration on the part of the Guest subject to payment of the following cancellation charges:

- More than 21 days prior to arrival, the deposit will be forfeited
- From 21 days to 0 days prior to arrival, as well as in the event of delayed arrival or premature departure, we charge 90% of the price of a room, 100% of the price of a holiday apartment.

Statutory revocation provisions pertaining to long-distance conclusion of lodging agreements as defined in KSchG remain unaffected by the aforementioned provisions.

2. Upon entering into a lodging agreement, the Hotel shall inform the Guest in writing about how they may assert their revocation rights.

3. In the aforementioned instances of revocation, the Guest has no right to compensation.

#### **iii: Epidemic, pandemic or any other reason:**

1. In case of an epidemic, pandemic or any other reasons by which the hotel could be official closed by authority your payments for the affected period of time will be refunded. All other cancellation conditions are not valid in that case. There is no claim on provision an alternative accommodation or other compensations.

2. Should official requirements exist due to epidemic, pandemic or other events and not all services can be used as stated in the booking confirmation (indoor pool, sauna, steam bath, infrared cabin, fitness room, breakfast buffet, etc.), the guest has none right to price reduction.

## **VII. Hindrances to Arrival**

If the Guest is unable to appear at the lodging establishment on the scheduled arrival day due to reasons over which the Guest has no control, the Guest is not obligated to make payment for the days involving arrival. Only instances of force majeure are considered to be valid such reasons. The obligation to make remuneration for the booked stay shall revive as soon as arrival becomes possible again provided that it does so within three days.

## **VIII. Provision of Alternate Accommodations**

1. The Hotel is entitled for factually justifiable reasons to provide the Guest with adequate alternate accommodations (of the same or similar quality) if this is reasonable with respect to the Guest especially if the difference is minimal and factually justified.
2. Factually justifiable reasons include, in particular, if the reserved rooms have become unusable, if guests who are already staying in the accommodations have extended their stays, if there has been an overbooking, or if other important other operational issues require this step to be taken.
3. Any additional expenses associated with the alternate accommodations shall be borne by the Hotel.

## **IX. Rights of the Guest:**

By concluding a lodging agreement, the Guest acquires the right to customary use of the rented rooms, including those rooms of the Hotel that are generally accessible and available for general use, as well as those services which are typical at that particular location. The Guest shall exercise their rights in accordance with Hotel and/or guest regulations (house rules) and shall treat the premises of the Hotel with extreme care while showing consideration for the other guests.

## **X. Obligations of the Guest:**

1. The Guest is required to pay the stipulated remuneration along with any additional amounts which have accrued due to use of special services by the Guest and/or accompanying persons, plus any statutory value-added taxes, by no later than the time of checkout.
2. The Hotel is not obliged to accept foreign currency. If the Hotel expressly accepts foreign currency, this will be taken in payment to the extent possible in accordance with the daily exchange rate. If a Hotel accepts foreign currency or cashless payment methods, the Guest bears all related costs, for example inquiries directed towards credit card companies, telegrams, etc.
3. The Guest is liable to the Hotel for any damages which are caused either by the Guest themselves or by other persons who, with the knowledge and consent of the Guest, make use of hotel services.

## **XI. Rights of the Hotel**

1. If the Guest refuses to make the stipulated remuneration or is in arrears therewith, the Hotel may exercise its statutory rights of retention in accordance with § 970c ABGB as well as its statutory rights of lien in accordance with § 1101 ABGB with respect to items which have been introduced into the hotel by the Guest. Such retention and lien rights may also be asserted by the Hotel as surety for claims pertaining to the lodging agreement, in particular for meals, other expenses incurred by the Guest as well as any and all claims for compensation associated with lodging.
2. If the Guest requires room or other services at unusual times of day or night (after 8 PM and before 6 AM), the Hotel is entitled to bill special fees for such services. These fees are listed by the Hotel on a fee schedule posted in the hotel room. The Hotel may refuse to provide such services for operational reasons.

## **XII. Hotel liability for damage caused to Guest property**

1. The Hotel is liable as provided for in §§ 970 through 970c ABGB for property introduced by the Guest into the hotel. The Hotel is only liable if said property was handed over to the Hotel or to persons authorized by the Hotel, or if the property has been brought to a location to which the Guest has been directed or which is intended for such purposes. Insofar as the Hotel is unable to provide evidence to the contrary, the Hotel is liable for its own negligence, the negligence of its people as well as persons entering and exiting the hotel. The Hotel is liable in accordance with § 970 par. 1 ABGB only to the maximum amount as stipulated in federal statutes dated 16 November 1921 in their most current form (currently €1100) pertaining to the liability of lodging providers and other businesses. If the Guest fails to accede promptly to directions from the Hotel to deposit their items in a special storage location (e.g. safe), any liability on the part of the Hotel is excluded. The extent of potential liability on the part of the Hotel is capped by the amount of the Hotel's own liability insurance coverage. Any culpability on the part of the Guest will be taken into account and may correspondingly reduce the amount of liability.
2. With respect to valuables, money and securities, the Hotel is only liable up to the current amount of € 550. The Hotel is only liable for damages in excess of this amount in the eventuality that the Hotel has accepted responsibility for safekeeping and is fully aware of the nature of the items, or in the instance that the damage was caused by the Hotel itself or its people.
3. The Hotel may deny safekeeping of valuables, money and securities if this involves items that are significantly more valuable than are customarily provided safekeeping on behalf of guests at the hotel.
4. Regardless of the circumstances of safekeeping, liability is excluded if the Guest does not notify the Hotel of damages promptly upon becoming aware thereof. Furthermore, the Guest may only legally assert related claims within three years of having become aware of, or potentially having become aware of the damages; Otherwise this right will lapse.

## **XIII. Liability Restrictions**

1. If the Guest is a consumer, liability on the part of the Hotel for slight negligence, with the exception of personal injury, is excluded.

2. If the Guest is a business, liability on the part of the Hotel is excluded for slight as well as gross negligence. In this circumstance, the Guest bears the burden of providing evidence of culpability. Consequential damages, immaterial damages or indirect damages as well as lost earnings will not be compensated. Whatever the case, the amount of damages will be restricted by the degree to which reliance may be realistically placed within the scope of the agreement itself.

#### **XIV. Termination of the Lodging Agreement – Premature Termination**

1. If the lodging agreement is entered into for a specific time period, the agreement shall terminate upon expiration of the time period as stipulated.

2. If the Guest departs prematurely, the Hotel is entitled to demand payment in full. The Hotel will deduct any savings resulting from the Guest's failure to make full use of services or any compensation it may have received as a result of renting out the rooms to other guests. Savings are only deemed to have occurred if the hotel is fully booked at the time the Guest fails to make use of rooms they have previously reserved and the rooms, due to the Guest's cancellation, can be rented out to other guests. The burden of demonstrating savings is borne by the Guest.

3. The death of a Guest will terminate the lodging agreement with the Hotel.

4. The Hotel is entitled to terminate the lodging agreement with immediate effect due to pressing reasons. Pressing reasons include in particular, if the Guest

a) makes significantly detrimental use of the rooms or, through their inconsiderate, repugnant or other grossly inappropriate behavior with respect to other guests, the owners, the owner's people or other third parties staying at the lodging establishment, negatively affects coexistence, or if the Guest is guilty of criminally threatening the aforementioned persons' property, common decency, or physical safety;

b) makes use of electronic appliances (e.g. electric water jugs, hot plates, heating elements etc.), gas stoves, open fires or candles etc. which they have personally introduced into the room, thereby causing a danger both to themselves and other guests.

c) is suffering from an infectious disease or an illness that extends beyond the duration of the lodging agreement, or otherwise becomes in need of care;

d) fails to pay bills which they have received when due.

5. If fulfillment of the agreement becomes impossible due to an incident of force majeure (e.g.: natural disasters, strikes, lockouts, official decrees etc.), the Hotel may revoke the lodging agreement at any time without provision of a notice period, insofar as the agreement is not already deemed to have been dissolved by law, or the Hotel has been exempted from its lodging obligation. Potential damage claims on the part of the Guest within this context are excluded.

#### **XV. Keeping of Animals:**

1. Animals may only be brought with prior approval from the lodging provider and are potentially subject to additional charges.

2. The contractual party who brings an animal is required to take proper care of and oversee the animal, or to have a suitable third-party take proper care and oversee the animal on their behalf.

3. The contractual party/Guest who brings an animal must hold appropriate animal liability insurance or private liability insurance that will cover any potential damages caused by the animal. Proof of such insurance must be presented to the lodging provider on demand.
4. The contractual party and his insurer are jointly and severably liable to the lodging provider for damages caused by accompanying animals. Such damages encompass in particular such compensation as the lodging provider may be required to provide to third parties.
5. Animals are not allowed in the salons, lounges, dining and wellness areas.

#### **XVI. Third-Party Services:**

1. Ski passes are sold exclusively in the name and on account of Liftgemeinschaft Obertauern. Consequently, the Guest shall have no liability claim against the lodging establishment in the event of an accident. In such instances, Liftgemeinschaft Obertauern is solely responsible for responding to liability claims.

#### **XVII. Place of Fulfillment, Jurisdiction and Applicable Law**

1. The place of fulfillment is the place where the lodging establishment is located.
2. This agreement is subject to Austrian formal and substantive law under exclusion of the rules of international private law (in particular the IPRG and EVÜ codes) as well as the UN Sales Convention.
3. If the Guest is a business, the exclusive seat of jurisdiction will be that where the hotel is headquartered, whereas the Hotel is also entitled to assert its rights before all other competent courts *ratione loci* and *ratione materiae*.
4. If the lodging agreement was entered into with a guest who is a consumer and has their domicile or usual place of residence in Austria, complaints against the consumer may only be brought at the Guest's domicile or usual place of residence, or their place of employment.
5. If the lodging agreement was entered into with a guest who is a consumer and has their domicile in a member state of the European Union (with the exception of Austria), Iceland, Norway or Switzerland, the court with competence *ratione loci* and *ratione materiae* over the domicile of the consumer shall have exclusive jurisdiction.

#### **XVIII. Miscellaneous**

1. Insofar as the aforementioned provisions did not specify otherwise, the period of a deadline begins with delivery of documentation containing the deadline to the Guest who is responsible for abiding by said deadline.

When determining a deadline based on a specific number of days, the day upon which the deadline or event falls is not included when calculating the beginning of the deadline period. Deadlines based on weeks or months are based on those days of the week or the month, citation of which or the number corresponds to the day from which the deadline should be calculated. Should that day be absent in a particular month, the last day in said month shall pertain.

2. Declarations must be received by the other party by midnight of the final day of the deadline.
3. The Hotel is entitled to offset claims on the part of the Guest with claims of its own.

The Guest is not entitled to offset claims on the part of the Hotel with claims of their own, other than if the Hotel is insolvent or the Guest's claim has been confirmed by a court of law or the Hotel has recognized said claim.

4. In the eventuality that any provision has been omitted, appropriate legal provisions will apply.

5. Wake-up calls are undertaken by the Hotel with painstaking care. However, except in instances of gross negligence or premeditation, damage claims are excluded.

6. Messages, post and deliveries for guests are handled with care. The Hotel undertakes the delivery, safekeeping and – upon request and subject to charges, the forwarding thereof as well as of lost property. Damage claims, except in the event of gross negligence or premeditation, are excluded. After storing items in safekeeping for no more than one month, the Hotel is entitled to hand over the aforementioned items to the local lost property office and bill the Guest appropriately for such services.

7. Damage claims on the part of the Guest expire no later than three years subsequent to becoming aware of the damages and of the responsible party.

8. Amendments or addenda to the agreement as well as acceptance of these Terms must be in writing. Unilateral amendments or addenda on the part of the Guest are null and void.

9. Should individual provisions of these Terms become null or void, this shall in no way affect the validity of the remaining provisions.

10. The lodging agreement refers exclusively to the Hotel and not to the services or announcements provided by Obertauern Tourist Office or Liftgemeinschaft Obertauern. This applies in particular to snow and weather.

11. Lack of snow and bad weather do not constitute instances of force majeure. Offers which include a ski pass expressly exclude any guarantees with respect to snow and lift operations. In the event that no ski lifts are open, ski passes will not be billed. That notwithstanding, the lodging agreement itself shall remain unaffected.

12. Certain rooms as identified are subject to video surveillance.

13. In the event of an epidemic, pandemic or catastrophe, the instruction of the hotel staff must be followed and the prescribed rules of conduct observed. If this does not happen, the hotel takes the right to expel the guest from the hotel with immediate effect and the total costs are to be borne by the guest.