



GENERAL TERMS AND CONDITIONS OF BUSINESS FOR ACCOMMODATION AT THE HEALTH RESORT OF MOUNT MED RESORT BETRIEBS GMBH KIRCHEN, OBERAU 72 A-6311 WILDSCHÖNAU-OBERAU

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LIST OF CONTENTS

- Section 1 About us
- Section 2 Scope of application
- Section 3 Conclusion of the Agreement – down payment
- Section 4 Start and end of accommodation
- Section 5 Withdrawal from the Accommodation Agreement – cancellation fee
- Section 6 Provision of substitute accommodation
- Section 7 Rights of the contractual partner
- Section 8 Obligations of the contractual partner
- Section 9 Rights of MMR
- Section 10 Obligations of MMR
- Section 11 Liability of MMR for damage to items brought by guests
- Section 12 Limitations of liability
- Section 13 Prolongation of the accommodation
- Section 14 Termination of the Accommodation Agreement – premature cancellation
- Section 15 Place of performance, place of jurisdiction and applicable law
- Section 16 Data protection
- Section 17 Miscellaneous

SECTION 1 ABOUT US

- 1.1 Mount Med Resort Betriebs GmbH (MMR) runs the Mount Med Health Resort in Wildschönau, Tirol. MMR offers a variety of services, products and programs under one roof. At the resort the hotel accommodation is at 5-star level, and catering is provided in the restaurants. The holistic area offers therapy and treatment rooms, as well as fitness and exercise areas, and a wellness and spa area with indoor and outdoor pools, saunas and steam rooms. The medical area has physicians' rooms, examination rooms and a sports medicine / orthopaedics area. MMR attaches great value to holistic and integrative medicine, but never acts as a contracting party for medical and healthcare services, even when these are provided directly in the health resort. Exclusively our medical cooperation partners are available for this.
- 1.2 These General Terms and Conditions for the respective Resort Accommodation Agreement from MMR (referred to hereinafter in brief as Terms) are based on the current "*General Terms and Conditions for the Hotel Industry*" in the version of 15.11.2006, issued by the Austrian Economic Chamber, but supplement or modify these, particularly with regard to our offering as a health resort.



SECTION 2 SCOPE OF APPLICATION

- 2.1 These Terms apply on the one hand for the respective hotel agreement concerning accommodation together with the associated gastronomic services, and on the other hand for all additional services offered and provided and so-called “*holistic services*” from MMR. These Terms do not exclude special agreements and are subsidiary in particular to agreements made in writing.
- 2.2 These Terms and the respective Resort Accommodation Agreement expressly exclude the medical and healthcare services provided in the resort which are reserved to physicians, and which also cannot be made the subject of the MMR Resort Accommodation Agreement by individual agreement. The medical and healthcare treatments at the health resort always take place exclusively by, on behalf of and as the result of the individual and separate commissioning of the cooperating physicians, in any event if and insofar as they are reserved to physicians. As required, MMR also provides collection services for the cooperating physicians for the services they have exclusively provided independently and within the scope of their professional licence. The contracting party agrees that not only can the claims of the cooperating physicians be taken over for collection by MMR, but that where applicable the cooperating physician can cede their claim for remuneration to MMR by means of a separate individual agreement.
- 2.3 These Terms correspond to current national Austrian law as well as EU law, and take account of consumer protection for the customers or guests. They apply exclusively to the health resort in Wildschönau-Oberau. The offerings are intended exclusively for consumers within the meaning of Section 1 of the Consumer Protection Act [*Konsumentenschutzgesetz*] (KSchG). A consumer is any natural person who concludes a legal transaction for purposes which primarily cannot be attributed to either their commercial or independent professional activity.
- 2.4 Insofar as the contracting party and the respective guest are different people, the following applies: the contracting party hereby declares their agreement that these Terms, and in particular also the house rules accepted with these (Section 7), shall be binding not only on the contractual partner themselves, but also on the respective guest on whose behalf the booking is made. The contracting party undertakes to make the respective guest aware of these Terms and to ensure that the latter acknowledges and observes the provisions of these Terms. This does not oblige the guest to assume liability for financial obligations that arise within the framework of the contractual relationship between the contracting party and the health resort, unless these obligations involve personal injury or damage to property that has been caused intentionally or due to gross negligence. The financial responsibility remains with the contracting party. However, by making the booking the latter confirms that the guest accepts the Terms of MMR and undertakes to comply with the provisions contained therein during their stay.
- 2.5 Provisions deviating from these Terms of MMR, even if they are contained in the contracting party’s general terms of business, do not apply unless they have been expressly recognised by MMR.



SECTION 3 CONCLUSION OF THE AGREEMENT – DOWN PAYMENT

- 3.1 The resort contract comes about upon the acceptance of the contracting party's order by MMR. Electronic declarations shall be deemed received when the party to which they are addressed can collect them under normal circumstances and they are received during MMR's published business hours.
- 3.2 MMR is entitled to enter into the Resort Accommodation Agreement on condition that the contractual partner makes a down payment. In this case, MMR is obliged to inform the contractual partner of the required down payment before accepting the contractual partner's written or oral order. If the contractual partner agrees to the down payment (in writing or orally), the Resort Accommodation Agreement shall come about when MMR receives the contractual partner's declaration of agreement to the down payment.
- 3.3 The contracting party is obliged to make the down payment no later than five days after their reservation has been confirmed. The costs for the financial transaction shall be borne by the contractual partner. Credit and debit cards are subject to the terms and conditions of the card company.
- 3.4 The down payment is a partial payment of the agreed remuneration.

SECTION 4 START AND END OF ACCOMMODATION

- 4.1 Unless MMR offers any other time of occupancy, the contractual partner shall be entitled to occupy the rented rooms from 2.00 p.m. on the agreed day ("date of arrival").
- 4.2 If a room is occupied for the first time before 6.00 a.m., the preceding night shall be deemed the first night of accommodation.
- 4.3 The rented rooms must be vacated by the contractual partner by 11.00 a.m. on the date of departure. MMR is entitled to charge a further day if the rented rooms are not vacated in due time.

SECTION 5 WITHDRAWAL FROM THE ACCOMMODATION AGREEMENT – CANCELLATION FEE

- 5.1 If the Resort Accommodation Agreement provides for a down payment and this payment has not been made by the contractual partner in due time, MMR may withdraw from the Resort Accommodation Agreement without granting any grace period.
- 5.2 Unless otherwise agreed, MMR may withdraw from the Resort Accommodation Agreement for objectively justified reasons by means of a unilateral declaration up to 3 months at the latest before the contracting party's agreed date of arrival.
- 5.3 The Resort Accommodation Agreement can be dissolved without a cancellation fee by means of a unilateral declaration by the contractual partner up to 21 days at the latest before the guest's agreed date of arrival.
- 5.4 Outside the period specified in Section 5.3, withdrawal by means of a unilateral declaration by the contractual partner is only possible with the payment of the following cancellation fees:



- a) From 20 days to 8 days before the agreed date of arrival: 50% of the total package price,
 - b) From 7 days before the agreed date of arrival: 90% of the total package price,
 - c) On the date of arrival, in the event of non-arrival or if the trip is interrupted: 100% of the total package price.
- 5.5 If the contractual partner is prevented from arriving at the accommodation on the date of arrival because all means of arrival are impossible due to unforeseeable extraordinary circumstances (e.g. extreme snowfall, floods etc.), the contractual partner shall not be obliged to pay the agreed remuneration for the day of arrival.
- 5.6 The obligation to pay the remuneration for the booked stay shall apply as soon as arrival becomes possible again, if it becomes possible again within three days.

SECTION 6 PROVISION OF SUBSTITUTE ACCOMMODATION

- 6.1 MMR may provide the contractual partner or guests with adequate substitute accommodation (of the same quality) if this is reasonable for the contractual partner, particularly if the difference is minor and objectively justified.
- 6.2 An objective justification shall exist, for example, if the room(s) has (have) become unusable, or if this becomes necessary due to other important operating activities.
- 6.3 Any extra expenses arising from such substitute accommodation shall be paid by MMR.

SECTION 7 RIGHTS OF THE CONTRACTUAL PARTNER

- 7.1 By concluding an accommodation agreement, the contractual partner acquires the right to make normal use of the rented rooms, the facilities of the accommodation that are usually accessible for guest use without any special conditions, and the usual service. The contractual partner shall exercise their rights in accordance with any applicable hotel and/or guest regulations (house rules).
- 7.2 Within the framework of the house rules, MMR can stipulate binding rules for the use of particular rooms or facilities such as the sauna, swimming pool, fitness and exercise areas, or the car garage.

SECTION 8 OBLIGATIONS OF THE CONTRACTUAL PARTNER

- 8.1 The contractual partner is obliged to pay the agreed remuneration as well as any extra amounts that have arisen from the use of special services by the contractual partner and/or their guest, together with any statutory VAT, by the date of departure at the latest. In addition to MMR's hotel operation costs, including all additional services, the contractual partner must at this time also pay the fees for the physicians' medical and healthcare services.
- 8.2 MMR is not obliged to accept foreign currencies. If MMR does accept foreign currencies, they shall be accepted at the current daily rate wherever possible. If MMR accepts foreign currencies or cashless means of payment, the contractual partner shall pay all associated costs, such as for credit card companies etc.



- 8.3 The contractual partner shall be liable to MMR for any damage caused by themselves or the guest or any other persons that accept services from MMR with the knowledge or intention of the contractual partner.

SECTION 9 RIGHTS OF MMR

- 9.1 If the contractual partner refuses to pay the agreed remuneration, or is in arrears, MMR is entitled to make use of the legal right of retention in accordance with Section 970c ABGB [*Austrian Civil Code*], as well as the legal right of lien in accordance with Section 1101 ABGB in respect of the items the contractual partner or guest has brought with them. Furthermore, MMR shall be entitled to make use of this right of retention or lien in order to secure its claims under the Resort Accommodation Agreement, particularly for catering, other expenses made for the contractual partner, and for compensation claims of any kind.
- 9.2 MMR is entitled to issue invoices or interim invoices for its services at any time.

SECTION 10 OBLIGATIONS OF MMR

- 10.1 MMR is obliged to provide the agreed services to an extent that complies with its standards.
- 10.2 Medical services are provided exclusively by specialist physicians on the basis of separate medical treatment agreements (see Section 2.2 above).

SECTION 11 LIABILITY OF MMR FOR DAMAGE TO ITEMS BROUGHT BY GUESTS

- 11.1 MMR shall be liable in accordance with Sections 970 ff ABGB for the items the contractual partner has brought with them. MMR shall only be liable if the items have been handed over to MMR or the persons authorised by MMR, or deposited in a place assigned by them or intended for such purpose. Unless MMR can provide other evidence, MMR shall be liable for its own fault or the fault of its vicarious agents and of any persons entering and leaving the premises. In accordance with Section 970 Para. 1 ABGB, MMR shall only be liable up to the amount specified in the Austrian Law on the Liability of Landlords and Other Entrepreneurs of 16 November 1921 [Bundesgesetz über die Haftung der Gastwirte und anderer Unternehmer] as amended. If the contractual partner or the guest fails to immediately comply with MMR's request to deposit their items in a special place of safekeeping, MMR shall be released from any liability. The amount of any liability of MMR shall be limited as a maximum to the sum insured under MMR's third-party liability insurance. Any fault of the contractual partner or guest must be taken into account.
- 11.2 MMR cannot be held liable for slight negligence. If the contractual partner is an entrepreneur, MMR may also not be held liable for gross negligence. In this case, the burden of proof to show the existence of such a fault shall lie with the contractual partner. No consequential or indirect damage and no loss of profit shall be reimbursed.



- 11.3 MMR shall only be liable for valuables, money and securities up to an amount of currently EUR 550. MMR shall only be liable for any damage exceeding this amount if it has accepted such items for safekeeping knowing their quality, or if the damage has been caused by MMR itself or its vicarious agents. The limitation of liability in accordance with Sections 12.1 and 12.2 shall apply accordingly.
- 11.4 MMR may refuse to keep valuables, money and securities safe without stating the reasons, in particular if the items are significantly more valuable than those usually handed over by guests for safekeeping.
- 11.5 In every event of MMR accepting items for safekeeping, liability shall be excluded if the contractual partner and/or guest fails to inform MMR of the damage that has occurred immediately they became aware of it. Furthermore, such claims must be asserted in court within three years of their becoming known, or possibly becoming known, by the contractual partner and/or guest; otherwise, the right shall lapse.

SECTION 12 LIMITATIONS OF LIABILITY

- 12.1 We expressly point out that by its very nature, a health resort will in particular have wet and outdoor areas, which should only be walked on with particular caution and suitable footwear, especially in view of the possible risk of slipping (e.g. wintry outdoor areas with snow/ice, wet areas in the spa facilities). The guests are politely asked to bear this in mind. Any fault attributable to guests themselves will reduce any liability of MMR accordingly.
- 12.2 If the contractual partner is a consumer, MMR cannot be held liable for slight negligence, except for bodily injury.
- 12.3 If the contractual partner is an entrepreneur, MMR cannot be held liable for slight or gross negligence. In such a case, the burden of proof to show the existence of fault shall lie with the contractual partner. No consequential, non-material or indirect damage or loss of profit shall be reimbursed. The damage to be reimbursed shall in all events be limited to the amount of damage incurred due to the contractual partner having relied on the validity of the agreement (*Vertrauensinteresse*).

SECTION 13 PROLONGATION OF THE ACCOMMODATION

- 13.1 The contractual partner has no entitlement to a prolongation of their stay. If the contractual partner informs MMR in good time that they wish to prolong their stay, MMR may consent to a renewal of the accommodation agreement. However, MMR is under no obligation to do so
- 13.2 If the contractual partner is prevented from leaving the accommodation on the date of departure because all means of travel are blocked or unusable due to unforeseeable extraordinary circumstances (e.g. extreme snowfall, floods etc.), the Resort Accommodation Agreement shall automatically be renewed for the duration of the inability to depart. The remuneration to be paid for this period can, however, only be reduced if the extraordinary weather conditions make it impossible for the contractual partner to fully use the services offered by the accommodation. MMR shall be entitled as a minimum to charge the remuneration corresponding to the price usually charged.



SECTION 14

TERMINATION OF THE ACCOMMODATION AGREEMENT – PREMATURE CANCELLATION

- 14.1 If the Resort Accommodation Agreement was concluded for a definite term, it ends upon the expiry of this term.
- 14.2 If the contractual partner departs prematurely, MMR is entitled to charge the total agreed remuneration. MMR shall deduct any amount it has received by letting the booked rooms to other guests. Such savings shall only be deemed to exist if the accommodation is booked to capacity at the time of the Guest's failure to use the booked rooms, and the room can be let to other guests due to the cancellation by the contractual partner. The burden of proof to show that savings have been made shall lie with the contractual partner.
- 14.3 MMR is entitled to terminate the Resort Accommodation Agreement with immediate effect for important reasons, particularly if
- a) the contractual partner or the guest makes significantly adverse use of the rooms, or through their inconsiderate, objectionable or grossly offensive behaviour makes their stay intolerable for the other guests, MMR's employees or the third parties staying at the accommodation, or commits an act against the property, morality or physical safety of these persons that is subject to penalty;
 - b) MMR has justified grounds to assume that the use of the hotel service could jeopardise the smooth business operations, the safety or the public image of MMR without this being attributable to MMR's control or organisation;
 - c) when the rooms and other services were booked, misleading or incorrect information was provided about material facts, e.g. concerning the person of the guest or the purpose;
 - d) unauthorised subletting or further letting takes place;
 - e) the contractual partner or the guest fails within a reasonably set period (three days) to settle the invoices presented when they become payable.
- 14.4 If the performance of the Agreement becomes impossible due to circumstances deemed events of force majeure (e.g. natural disasters, strike, lockout, official orders etc.), MMR may terminate the Resort Accommodation Agreement at any time without giving prior notice, unless the Agreement is already deemed terminated by law or MMR is released of its obligation to accommodate the contractual partner. Any claims by the contractual partner for damages etc. shall be excluded.

SECTION 15

PLACE OF PERFORMANCE, PLACE OF JURISDICTION AND APPLICABLE LAW

- 15.1 The place of performance and the place of payment is MMR's registered office. The place of jurisdiction is A-6311 Wildschönau-Oberau.
- 15.2 This Agreement is governed by Austrian procedural and substantive law with the exclusion of the provisions of international private law (particularly IPRG [*Austrian Act on International Private Law*] and the Rome Convention of 1980) and the UN Convention on Contracts for the International Sale of Goods (CISG).



- 15.3 The exclusive place of jurisdiction in bilateral entrepreneurship is MMR's registered office, with MMR also entitled to assert its rights at any other court that has competence for the location and subject matter.
- 15.4 If the Resort Accommodation Agreement was concluded with a contractual partner that is a consumer and that has their domicile or normal place of residence in Austria, legal actions against the consumer may exclusively be brought at the domicile, normal place of residence or place of employment of this consumer.
- 15.5 If the Resort Accommodation Agreement was concluded with a contractual partner that is a consumer and that has their domicile or normal place of residence in the European Union (except for Austria), Iceland, Norway or Switzerland, in the event of legal actions against the consumer the court that is competent for the domicile of the consumer in the relevant matter shall have exclusive jurisdiction.

SECTION 16 DATA PROTECTION

- 16.1 Within the scope of concluding the Agreement, MMR processes the data concerning the contractual partner and their guests which are necessary for the provision of the contractual services (e.g. name, contact details). If payments are made directly via the system, MMR also stores and processes the credit card number, the card verification code, details of the validity period of the credit card, and the first and last name of the cardholder. In the absence of any further express consent from the person concerned, these data will be processed solely for the purpose of performing Resort Accommodation Agreements and processing the payment. These data are lawfully collected in accordance with Art 6 Para. 1 (b) of the General Data Protection Regulation (referred to hereinafter in brief as "GDPR"), as they are necessary for the performance of the agreement between MMR and the contractual partner and/or guest. The participant's personal data will only be forwarded to the payment services provider, medical cooperation partners and other providers of services to MMR when this is absolutely necessary for the performance of this Agreement, or for the fulfilment of the legitimate interests of the medical cooperation partners and/or of MMR. Data provided voluntarily by the contractual partner and/or guest will be processed in accordance with the purpose stated or intended by them, and deleted after this purpose has been fulfilled.
- 16.2 The contractual partner and/or guest has the right at any time to request information about which data concerning them MMR has collected. If the data collected are or become incorrect, the contractual partner and/or guest can request that these data be rectified. If the legal requirements are met, the contractual partner and/or guest also has the right to erasure (Art 17 GDPR), to restriction of processing (Art 18 (f) GDPR) and to data portability (Art 20 GDPR). The English version of the GDPR can be found via the following link:
<https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679>
- Participants who have any questions about the processing of their data can contact MMR at the following address: info@mountmedresort.com.
- 16.3 If the contractual partner and/or guest believes that when processing their data MMR is in breach of the legal provisions, they have the right to lodge a complaint with a supervisory authority (in Austria this is the Austrian Data Protection Authority).
- 16.4 The contractual partner and/or guest can find MMR's privacy policy, which is an integral component of these terms of use, via the following link: <https://www.mountmedresort.com/en/privacy-policy>.



SECTION 17 MISCELLANEOUS

- 17.1 Unless specified otherwise in the above provisions, any time limits shall commence on the day on which the document by which such time limit is instructed is delivered to the party that must comply with the time limit. Time limits determined by weeks or months refer to the day of the week or month which through its name or number corresponds to the day from which the time limit is to be counted. If there is no such day in the month, the last day in this month shall be decisive. If the last day of a time limit falls on a public holiday or weekend, the following working day shall apply.
- 17.2 Declarations must have been received by the respective party on the last day of the time limit (12 midnight).
- 17.3 MMR is entitled to set off its own claims against claims by the contractual partner. The contractual partner is not entitled to set off its own claims against claims of MMR unless MMR is insolvent, or the contractual partner's claim has been established as valid by a court of law, or has been recognised in writing by MMR.
- 17.4 In the event of loopholes, the corresponding legal provisions shall apply.