

## General Terms and Conditions of Business (T&Cs)

Bergbahn AG Kitzbühel (hereinafter shortly "Bergbahn")

Version dated 09 June 2020

### **Scope**

1. Bergbahn concludes contracts with any party exclusively on the basis of these T&Cs. They therefore apply to contracts of any kind. In particular, when acquiring a ticket (e.g. by purchase, voucher), the Contracting Party submits to the T&Cs and the conditions of transport that are displayed at the respective valley stations.
2. With the purchase of a Snow Card Tirol, Bike Card Tirol, Kitzbüheler Alpen Sommercard or Super Ski Card, the T&Cs that apply to each of these shall become an additional part of the contract. Their T&Cs are available on the respective website.
3. In the event of invalidity of provisions, this shall not affect the remaining provisions. An invalid provision shall be replaced by a provision that reflects the meaning of the invalid provision as closely as possible.
4. Any other T&Cs are not accepted by Bergbahn.

### **Performance of Bergbahn**

1. Bergbahn shall perform its respective service only upon presentation of a ticket.
2. If an operation provided by Bergbahn ceases, irrespective of the reason, there shall be no claim for compensation in respect of the transport fare, not even on a pro-rata basis. Cessation may ensue for example due to weather conditions (storm, thunderstorm, heavy rain), lack of snow, chaotic snow conditions, official directive (e.g. in case of a risk of disease, epidemic, pandemic), technical defects, maintenance work or force majeure. The decision to halt operations, close slopes, etc. shall be at the sole discretion of Bergbahn.
3. The period of performance of a ticket shall not be extended on account of any hindrances to the use of it, whether they are attributable to Bergbahn, the Contracting Party or force majeure.
4. In case of impossibility of performance, Bergbahn shall be released from all contractual obligations. The Contracting Party shall have no claims whatsoever against Bergbahn.
5. Bergbahn shall be entitled to have services rendered in whole or in part by third parties.
6. All information in brochures, circulars, catalogues, advertisements, price lists, etc. is also non-binding.

### **Fees**

1. For services without a prior price agreement, Bergbahn shall be entitled to charge fees in accordance with its current price list or the usual, appropriate price.
2. Unless otherwise agreed, fees shall be due immediately and without deduction.
3. In the case of tickets valid for several days, Bergbahn shall charge a mixed price if the validity period falls into different tariff zones.
4. For a KeyCard the purchaser of a ticket must pay a deposit of € 2.00. The KeyCard may be returned and the deposit refunded at any Bergbahn ticket outlet, ticket return machines or OPOS partners. Bergbahn shall not be required to accept the return of damaged KeyCards or KeyCards from the previous season.

### **Validity of ski passes (= tickets)**

1. When using Bergbahn's transport services, a valid ticket must be carried and presented in the control zones (= the entire area of Bergbahn's cable cars and lifts, including slopes and ski routes) upon request.

2. Tickets for several days are valid only for consecutive days unless a different validity period has been expressly agreed in writing (e.g. ski pass options)
3. Days that are not used lose their validity and shall not be refunded, replaced or credited.
4. Tickets are not transferable.

#### **Loss, exchange, compensation**

1. The loss of a ticket must be reported immediately. Bergbahn shall issue a replacement ticket exclusively for KitzSki season tickets or an optional ski pass 10 for the season for which an administration fee of € 15.00 shall be payable. The replacement ticket shall be valid for the remaining contractual period after issue. The lost ticket shall be blocked.
2. It is not possible to exchange, extend or postpone the validity period of a ticket.
3. Should a ticket fail to work, this shall be reported immediately to the nearest Bergbahn ticket office. Subsequent complaints relating to function and billing shall not be considered.
4. If the Contracting Party is prevented from using the ticket due to accident or illness or in any other cases of non-use, there shall be no entitlement to compensation. However, in accordance with its internal guidelines, Bergbahn shall pay pro-rata compensation as a goodwill gesture upon presentation of a certificate from a local doctor in the case of an accident or illness and on return of the ticket before expiry of the validity period. There shall be no legal entitlement to this.
5. For day tickets and single tickets (e.g. pedestrians), Bergbahn excludes the possibility of compensation from the outset even as a goodwill gesture.

#### **Misuse**

1. The misuse of a ticket, such as an unauthorised transfer, shall result in its withdrawal without compensation and the obligation to pay a penalty of at least € 100.00 as well as compensation for damages. Bergbahn also reserves the right to report the offence to the police.
2. In the case of reduced-price tickets (e.g. children, young people, senior citizens), proof of age must be presented on request by means of an official document. In the absence of such evidence, Bergbahn shall be entitled to charge the difference between the reduced and normal transport fee plus an administration fee of € 15.00.
3. Anyone who obtains a service from Bergbahn by false pretences (e.g. using a third-party ticket or using the transport service without a ticket) shall owe Bergbahn a penalty of at least € 100.00 in addition to the respective fee, without prejudice to any further compensation for damages. Bergbahn reserves the right to report an offence to the police.

#### **Liability**

1. Bergbahn shall only be liable for intent or gross negligence. Liability for slight negligence shall be excluded.
2. Bergbahn shall not be required to render compensation for consequential or financial losses, loss of interest or losses resulting from claims by third parties against the Contracting Party.
3. If Bergbahn is liable to the Contracting Party for loss, the amount of compensation for which Bergbahn is liable shall be limited to the amount of liability insurance.
4. Bergbahn shall not be liable for losses incurred by a user of the cable cars and lifts or by the Contracting Party due to actions of third parties.
5. Under no circumstances shall Bergbahn be liable for losses that occur outside of the groomed or closed slopes, outside of operating hours, winter hiking trails or their technical installations.

Roads, paths and trails are not part of Bergbahn's facilities for which reason Bergbahn shall not be liable for any loss or damage caused there.

### **Obligation of the Contracting Parties**

1. The user of Bergbahn's cable cars and lifts, especially of the ski slopes and ski routes, shall be required to comply with FIS rules. The FIS rules can be found on the noticeboard and will be provided on request.
2. Instructions given by Bergbahn staff, the information team and piste rescue service must be complied with.
3. Ski sport is permitted only on marked slopes and ski routes. Non-compliance will result in a penalty in accordance with the forestry law. Designated protected areas may not be entered or driven on at all.
4. Walking and tobogganing on slopes is strictly prohibited. Pedestrians must only use the winter hiking trails. People must operate with consideration and respect for nature as well as other people and when engaging in sport. This also includes keeping a safe distance from piste machines, skidoos and snow-making facilities.
5. Contamination, discarding waste, cigarettes, etc. must be avoided.
6. In the event of an accident, the rescue team appointed by Bergbahn shall decide how to provide care and carry out rescue measures. The rescue team shall be entitled to take measures based on their decision as well as their training and experience in the best interests of the casualty. The costs of a rescue operation shall be borne by the casualty.
7. It is essential to observe the piste and ski route closure times. A piste must not be used after closing time. During this time, preparation works take place and there is danger to life.
8. The terms and conditions of transport displayed at all valley stations shall form an integral part of the contract of transport. They apply to the transport of people and behaviour in the lift areas. The Contracting Party undertakes to comply with all terms and conditions of transport. Breach of the terms and conditions of transport shall have legal consequences in terms of liability.
9. Bergbahn shall have the right to exclude a person from transport and to prohibit the person from using cable cars and lifts in the case of reckless or dangerous conduct, in particular when using the ski slopes and in the case of non-compliance with closures or other instructions or any breach of obligations. Tickets that can no longer be used shall not be reimbursed.

### **Data protection**

1. It must be noted that Bergbahn operates webcams in certain areas that transmit images in real time also on television. Even if it is difficult to identify persons, the possibility of identification cannot be excluded. No claims may be derived from this.
2. If personal data is provided, it shall be used to process queries and/or bookings, to provide other services, and to carry out administrative tasks.
3. The Contracting Party agrees that their personal data will be stored and processed as necessary. The Contracting Party's personal data shall be kept strictly confidential in the meaning of the provisions of data protection.
4. The Contracting Party's personal data shall not be sold or otherwise marketed to third parties. Their personal data shall only be forwarded or otherwise transmitted to third parties if this is necessary for business purposes or if it was previously consented to by the Contracting Party.

The Contracting Party may withdraw their consent at any time. It may also be necessary to disclose personal data in order to comply with legal requirements or procedures.

5. Transportation shall take place after entry control. The Contracting Party's place and number of entries shall be used exclusively for billing purposes and stored only insofar as this is necessary for performance of the order.
6. The Contracting Party hereby notes that a reference photo shall be taken of the ski pass holder on their first use of a camera-equipped turnstile. This reference photo shall be compared by lift staff to each additional photo taken at camera-equipped turnstiles.
7. The reference photo shall be deleted immediately upon expiry of the ticket; other photos shall be deleted no later than 30 minutes after the ski pass holder uses the turnstile.

### **Place of jurisdiction**

1. The exclusive place of jurisdiction for all legal disputes with Bergbahn shall be the court that has subject matter jurisdiction for 6370 Kitzbühel.

### **APPENDIX:**

#### **Rules and regulations for the purchase of vouchers and tickets in the online shop / webshop:**

1. Only those aged 18 or over shall be entitled to make purchases in the online shop.
2. Placing an order online shall constitute a binding offer to buy on the part of the Contracting Party. This offer to buy may be accepted by Bergbahn in an order confirmation email.
3. It is not possible to receive special season ticket offers, such as the Family Bonus or disability discount, etc. in the online shop.
4. Vouchers and tickets purchased in the online shop shall be valid from the moment the purchase price is paid in full. Bergbahn reserves the right to block the validity of vouchers or tickets in the event of misuse during electronic processing.
5. Payments in the online shop may be made by SEPA direct debit mandate, express bank transfer or credit card (Master or Visa Card). Payments made by credit card are debited immediately with the payment reference "Bergbahn AG Kitzbühel".
6. Season tickets and optional ski pass 10 for the season may only be booked with a current photograph.
7. Vouchers may be printed directly after purchase and will additionally be emailed to the email address provided if the purchaser selects the shipping method: "Download and instant receipt by email". In this event, the purchaser shall not be charged an order fee.
8. If the shipping method chosen for vouchers and/or tickets is "Delivery by post", the vouchers and/or season tickets shall be posted to the recipient. Delivery by post takes up to one week and the company accepts no liability for any delays in delivery by post.
9. If a ski pass has been bought and registered in the online shop for the first time and no data storage device (KeyCard) is available, it shall be collected by the Contracting Party from a Bergbahn Kitzbühel cash point on presentation of their booking confirmation and a valid photo ID. The KeyCard deposit is € 2.00 and shall not be included in the ticket price.
10. Vouchers may be redeemed for Bergbahn's entire service range (including the Aquarena spa centre). It is not possible to exchange the vouchers for cash. Vouchers may only be redeemed at Bergbahn's ticket offices.
11. Vouchers shall be sent to customers with a tamper-proof code. Even if a voucher is printed several times, it shall only be redeemable once; it is an offence to try to redeem further copies of the voucher using the same code and such action may be reported to the police.
12. Lost vouchers will not be replaced.

13. If the value of a voucher exceeds that of the service consumed, a new voucher shall not be generated for the remaining credit. In such cases, the remaining sum according to the current credit of the barcode on the voucher shall remain. Unused voucher credit cannot be exchanged for cash. Bergbahn shall not be obliged to accept payment in unpaid vouchers.
14. Vouchers are subject to the statutory expiry period of 30 years.
15. The price for vouchers does not include VAT. A VAT invoice can only be generated in accordance with the Austrian VAT Act upon voucher redemption and performance of the purchased service.
16. All information provided shall be electronically processed. The Contracting Party agrees to receive marketing materials from the company.
17. Upon conclusion of the contract, the Contracting Party shall completely and correctly provide all data that are relevant and requested. In the event that the Contracting Party supplies the Company with incorrect, incomplete or unclear information, it shall indemnify Bergbahn against all costs and damages incurred by the Company as a result.
18. The value of each voucher shall be equivalent to the sum paid for the voucher. If the Contracting Party has written on the voucher, it shall not be binding on the Company.
19. **Consumers' right to cancel (does not apply to companies)**

#### **CANCELLATION INSTRUCTIONS**

A customer who is a consumer within the meaning of the Consumer Protection Act has the right to cancel this contract within 14 days without giving any reason.

The cancellation period is 14 days from the day on which the consumer or a nominated third party who is not the carrier **takes possession of the goods**;

**OR** (in the event that a contract is concluded regarding **several goods** that are ordered together but **delivered separately**) from the day on which the consumer or a nominated third party who is not the carrier **takes possession of the last item ordered**;

**OR** (in the event that a contract is concluded regarding one item **sent over several part deliveries** or in pieces) from the day that the consumer or a nominated third party who is not the carrier **takes possession of the last part delivery** or piece of the item. If the consumer exercises their right to cancel within the appropriate period, their order shall no longer be binding. The date for exercising the right to cancel shall be the date on which the rescission notice or ordered items are sent back to the Company.

The consumer may exercise their right to cancel by sending:

Bergbahn AG Kitzbühel  
 Hahnenkammstrasse 1a  
 6370 Kitzbühel / Austria  
 Phone: +43 5356 6951, Fax: +43 5356 6951-133

Email: [info@kitzski.at](mailto:info@kitzski.at) a clear statement (e.g. by a mailed letter, fax or e-mail) regarding their decision to cancel this contract. The consumer may use the cancellation form provided below, but this is not obligatory.

To observe the cancellation period, it suffices to send the company notification that the right to cancel will be exercised before the cancellation period expires.

However, the right to cancel shall **not** exist if use of the service concerned has already begun within the cancellation period. In addition, the purchase of season tickets and all tickets for a fixed period of time shall not be subject to the right to cancel under Section 18(1) No. 10 of the Austrian Distance Selling Act.

#### **Consequences of cancellation:**

If this contract is cancelled, Bergbahn shall immediately reimburse all payments made to it by the

consumer, including all delivery costs, no later than 14 days from the date on which it receives notification that the consumer wishes to exercise their right to cancel. Bergbahn shall refund any money owed to the consumer using the same payment method used in the original transaction, unless expressly agreed otherwise with the consumer. The consumer shall under no circumstances be charged a fee for this refund. The Company shall be entitled to withhold the refund until it has received the returned goods or the consumer has provided evidence that the goods have been returned, whichever is earlier. The consumer shall return or hand over the goods to Bergbahn immediately and, in any case, no later than 14 days from the day on which they informed the company of their desire to cancel the contract. The cancellation period shall be deemed to be observed if the consumer sends the goods back to the company before this 14-day period expires.

**END OF CANCELLATION INSTRUCTIONS**

**Sample cancellation form for consumers:**

If you wish to cancel this contract, please fill out the form below and send it back to Bergbahn AG Kitzbühel, Hahnenkammstrasse 1a, 6370 Kitzbühel, Austria, Phone: +43 5356 6951-0, Fax: +43 5356 6951-133, email: info@kitzski.at.

I/we (\*) hereby cancel the contract I/we (\*) concluded for the purchase of the following goods (\*)/performance of the following services (\*):

Ordered on(\*)/received on(\*): \_\_\_\_\_

Consumer's name: \_\_\_\_\_

Consumer's address: \_\_\_\_\_

Consumer's signature (only if submitted on paper): \_\_\_\_\_

Date: \_\_\_\_\_

(\*) Delete as necessary.