

GENERAL TERMS AND CONDITIONS of the IFMGA mountainguide PAUL PÖCHER



1. Scope, service content:

The mountain and ski guide Paul Pöcher provides his services exclusively on the basis of the following General Terms and Conditions (GTC). These apply to all legal relationships between the mountain guide and the guests, even if no explicit reference is made to them.

The mountain guide contract covers all obligations as a mountain guide to guide a guest on a particular tour. In return, the guest undertakes to pay the fee, unless it has been expressly agreed that the guide is to be provided free of charge.

The conditions mentioned in the programs or tour descriptions must be fulfilled by the participant. Each guest is responsible for the condition and maintenance of any equipment he/she may have brought with him/her, as well as his/her own state of health. In order to assess the suitability of the individual guest for the planned tour, the guest undertakes to provide truthful information to the mountain guide.

Due to the legal obligation, the mountain guide has to make sure that the guests are sufficiently and appropriately equipped before the start of a tour. The mountain guide reserves the right to refuse to guide persons who are inadequately equipped or who are obviously not up to the difficulties of the planned tour. In this case there is no right to a refund of the fee.

In spite of the best tour planning and guidance, no unlimited guarantee of success can be given for the achievement of the planned program goals or summit. Decisions regarding the choice between several route variants, continuation and termination of the tour, the inclusion of breaks and their lengths, the decision regarding the carrying and use of equipment (especially rope, crampons, ice axes, etc.) are the full responsibility of the mountain guide.

No claims for compensation can be made for tours omitted for safety reasons (such as rock and ice falls, avalanches, falls, changes in weather, etc.) or through the fault of the participant.

Damages from loss or repair costs of damages to the rental equipment, which exceed normal wear and tear, are to be compensated by the participant.

Due to the special responsibility for the correct execution of the tour, the guests commit themselves with the conclusion of the mountain guide contract to submit to the instructions of the mountain guide, which the guide gives in his function as responsible and competent leader of the tour. If these are ignored by the guests, the mountain guide cannot be held responsible for any consequences arising from this.

2. Conclusion of contract:

The mountain guide contract between the guest and the mountain guide is concluded when agreement has been reached on the essential elements of the contract (goal/purpose of the enterprise, fee, time and the number of persons to be guided, etc.) The booking can be made in writing or verbally. Bookings made by telephone are legally binding. If several participants register at the same time, the person making the registration is liable for the payment of the invoice amount. Acting in one's own name is presumed. Otherwise, if a mountain guide contract is concluded for the management of a mountain tour with several persons, all guests are jointly and severally liable for the fee claim.

The mountain guide reserves the right to cancel the training and tour programme due to

unforeseeable circumstances at any time to change, restrict or expand. Due to the dependency on weather conditions or other unforeseeable circumstances, the originally planned route cannot always be guaranteed.

With the registration a deposit of 50% has to be paid, the remaining payment has to be received at the latest 21 days before the tour start on the given account free of deduction and expenses. In exceptional cases and only with the express agreement of the mountain guide, cash payment on site before the tour starts can be agreed upon.

3. Change in the person of the guest:

If the guest is prevented from starting the tour, he/she can transfer the contractual relationship to another person, provided that this person fulfils all the conditions for participation and the transfer is notified to the mountain guide within a reasonable period of time before the departure date. The transferor and the acquirer are jointly and severally liable for the outstanding payment and any additional costs arising from the transfer. A refusal of the transfer by the mountain guide is possible for objectively justified reasons.

4. Minimum number of participants:

All events can only be carried out if the minimum number of participants is reached. If this is not the case, the mountain guide is entitled to withdraw from the contract up to 7 days before the start of the event. The fee already paid will be refunded in full. If the guest still insists on the event being held, a new offer can be made with a recalculated price. If the guest agrees with the newly calculated price, a new contract is concluded. However, the mountain guide is not obliged to carry out the event again.

5. Insurance:

The mountain guide has the legally required liability insurance. Any private insurances (e.g. accident insurance) in connection with the planned tours must be taken out by the guests themselves. In this context, it is pointed out that helicopter or mountain rescue operations can cause very high costs, which are usually not covered by the responsible social insurance agencies and must therefore be paid for by the guest concerned. It is therefore strongly recommended that you take out rescue cost insurance.

In principle, there is no cancellation insurance. The guest is responsible for the observance of any passport, visa, customs, foreign exchange and health regulations at his own expense.

6. Warranty:

The guest has a warranty claim in the event of non-delivery or defective performance. The guest declares that he/she agrees that a defect-free service will be provided within a reasonable period of time instead of his/her claim to conversion or price reduction, insofar as this is possible. In any case, the guest is obliged to notify the mountain guide in order to carry out the improvement during the ongoing mountain tour.

If a disturbance of performance is justified in the sphere of the guest, such as an impairment of health (e.g. too slow acclimatisation to the altitude, lack of fitness, ...), the guest cannot derive any claims from this.

7. Compensation:

In the event of a culpable injury of an obligation arising from the contractual relationship, the mountain guide is obliged to compensate the guests for the resulting damages within the the scope of the legally required liability insurance for personal injury, property damage and financial losses.

The mountain guide is not liable in case of slight negligence. Equally excluded are claims for compensation for lost holiday enjoyment. Any compensation for damages is limited to the amount of the liability insurance sum existing at that time.

Apart from the legal liability situations, the guests participate in the mountain tours at their own risk. A considerable degree of prudence is therefore required of each guest. The mountain guide cannot take responsibility in case of accidents, damages or other irregularities that occur due to the realization of alpine dangers (such as the danger of falling, altitude sickness, cold, avalanche danger, crevasse fall, rock fall). This is expressly accepted by the guest with his/her registration.

All events are prepared and guided to the best of our knowledge and belief. No guarantee can be given for summit successes or fulfilment of subjectively presented travel destinations. It is in the nature of the event that a certain residual risk and uncertainty remains for the guest. An appropriate tour preparation through endurance sports, appropriate technical training and personal prudence reduces the risk of accidents and is therefore strongly recommended to every guest.

8. Cancellation of the contract:

The guest has the right to withdraw from the contract at any time. There are no costs for cancellation up to 30 days before the start of the program. Cancellation at a later date will cause the following costs:

- 29th to 21st day before tour start 25%
- 20. to 08. day before tour start 50%.
- until 07. days before tour start 80%
- from 24 hours before the start of the event 100 % of the respective fee.

In addition, any cancellation costs of hotels or huts etc. must be paid by the participant. It is recommended to take out a cancellation insurance. If the space freed up by the cancellation can be resold, no costs will be incurred. Changes of dates apply like cancellation and new registration.

Should a guest fail to arrive at the agreed starting point of the tour, or should the tour be cancelled due to negligence on the part of the guest or due to force majeure, 75% of the guide's fee plus any expenses can be retained by the mountain guide.

9. Resignation of the mountain guide before tour start:

If the mountain guide has to withdraw from the contract due to unusual and unforeseeable events over which he had no influence and the consequences of which could not have been avoided despite the application of due diligence, the guest must reimburse the expenses incurred so far. Such events include, for example, government orders, strikes, war or war-like conditions, natural disasters, epidemics, weather and avalanche conditions, etc.

10. Resignation of the mountain guide after tour start:

The mountain guide will be released from the service provision if a guest on a tour disturbs the execution of the tour or endangers others by improper or grossly careless behaviour, regardless of a warning.

In this case, the guest is obliged to pay damages to the mountain guide if he/she is at fault. In such a case the guide fee will not be refunded.

11. Changes of the contract:

The mountain guide reserves the right to increase the fee confirmed with the booking for reasons beyond the control of the mountain guide, if the date is more than three months after the conclusion of the contract. Such reasons are, for example, the change of possible transport and ascent costs or the exchange rates to be applied for the execution of the tour.

All tours are subject to changes in the program due to changes in the weather, other alpine dangers as well as weaknesses in the fitness of the individual guests and other reasons. In accordance with the applicable mountain and ski guide law, the mountain guide is obliged to abort a mountain tour if unforeseeable special circumstances arise in which the physical safety of his guests appears to be at risk. The guests cannot assert any claims for compensation against the mountain guide due to these circumstances. The decision has to be based on the weakest guest and the other guests of the enterprise share the same fate.

The principle of personal execution of the mountain guide contract applies. In the event of prevention for important reasons (e.g. illness, death in the family, etc.), the mountain guide is entitled to transfer the guiding activity to a third party. The guest expressly agrees to this possibility of transfer. In such a case the liability is limited to a possible fault of choice.

12. Providing information to third parties:

Information about the names of the guests as well as the places of stay will not be given to third parties, even in urgent cases, unless the guests wish expressly to provide the information. The costs arising from the transmission of urgent messages must be covered by the guest.

13. Privacy and advertising:

The mountain guide is entitled to process and store personal data within the framework of the contract and for purposes resulting from the contract. Furthermore, the guest expressly agrees to pass on personal data to the course leader, participants and accommodation when booking. By participating in an event, the participant agrees that videos and photos taken by him during the event may be used for advertising purposes of the mountain guide.

14. Final provisions:

Austrian law shall apply to the exclusion of the conflict of laws rules. Should individual provisions of the contract with the guest, including these General Terms and Conditions, be or become invalid in whole or in part, the validity of the remaining provisions shall not be affected. The wholly or partially invalid provision shall be replaced by a provision that comes as close as possible to the economic purpose of the invalid provision.

15. Place of jurisdiction:

The place of jurisdiction for all disputes arising from the contract and possible subsequent claims is A-9020 Klagenfurt.

PAUL POECHER
mountain guiding