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## I. Scope

1. These general terms and conditions replace all previously valid general terms and conditions from the date of their applicability on 25.05.2020. You can download the general terms and conditions here as a PDF file.

2. Deviating provisions in B2B contracts, even if contained in the user's general terms and conditions of business, shall not apply unless expressly in writing. General terms and conditions of the user are expressly contradicted. A further objection to the user's general terms and conditions of business is not required.

3. These General Terms and Conditions of Business expressly do not apply to data protection aspects. Our data protection information can be found at [kurzzeitmiete.at/data protection information](https://kurzzeitmiete.at/data-protection-information). For further questions or information about data protection, please contact us by

E-mail to [office@kurzzeitmiete.at](mailto:office@kurzzeitmiete.at) or letter to kurzzeitmiete.at GmbH, Sonnenweg 4, 5204 Straßwalchen or contact us by phone at +43 662 23 10 55.

## II. Definitions, subject matter and parties to the contract

1. kurzzeitmiete.at GmbH (hereafter referred to as "Operator") operates an online portal on the website [kurzzeitmiete.at](https://kurzzeitmiete.at), which links providers of living space for short-term rental (hereafter referred to as "**Lessor**" or "user") and persons interested in the temporary rental of living space (hereafter referred to as "**Lessee**" or "user") with each other and enables registered persons to contact each other for the purpose of establishing an existing relationship. In addition, the Operator offers general services and support services in the context of the use of the online portal, as well as services related to connection of interested persons, which are explained in more detail below.

2. Subject of the contract with the Operator is the use of the online portal [kurzzeitmiete.at](https://kurzzeitmiete.at) for initiation of a lease and the provision of further services of the Operator, which may be used by the user and which are connected with the service via the online portal.

3. The registered **Lessor** has created a personal account via the Operator's online portal in order to publish existing properties for the purpose of attracting **Lessees** and to rent them out by the help of the online portal. The Operator's online portal offers the **Lessee** the opportunity to find suitable living space for his purposes and needs and to rent it after registration and contacting the **Lessor**.

4. The Operator always acts only as a service provider between the **Lessor** and **Lessee**. The mediated agreements/contracts about the living space are exclusively between the **Lessor** and the **Lessee** at the respectively agreed conditions. The living spaces themselves and related announcements, statements, declarations and services of the **Lessor** or **Lessee** are

therefore in no case subject matter of the contract in the relationship between **Lessee** and Operator or **Lessor** and Operator.

### **III. Conditions of use, registration and conclusion of contract**

1. In order to be able to use the services of the Operator to the full extent, a registration on kurzzeitmiete.at is necessary. The Operator is entitled to change the technical equipment used for the provision of his services at his own discretion, if neither an impairment of the services nor the rights of the users can be expected.
2. With the registration by entering the data provided in the input mask and clicking the "Register" button, a user account is created. In order to activate the account, a confirmation via the e-mail address provided is necessary. After completing the registration via the website, a link for activating the account, as well as the contract data and general terms and conditions will be sent to the e-mail address provided.
3. By completing the registration process, the user accepts the conditions according to the summarized contract data and general terms and conditions. The contract between the Operator and the User is concluded on the basis of this contract data and the present General Terms and Conditions by the acceptance of the contractual declaration of the User by the Operator.
4. The registered **Lessor** has the possibility to offer one or more existing properties for rent via the online portal kurzzeitmiete.at.
5. The registered **Lessee** has the possibility to conclude a lease with the **Lessor** via the lease contract deposited in the online portal.

### **IV. Photo service**

1. The Operator offers in selected cities as an additional service for **Lessors** a professional photo and video shooting of the existing property to be advertised on the online portal.
2. If the **Lessor** uses the photo and video service offered by the Operator, costs in the total amount of € 290,00 plus VAT are incurred as soon as a lease of the photographed property is initialized via the Operator's online platform or rented out by circumventing the Operator's claims. Payment is made by deduction from the first month's rent in the case of brokerage via the online platform.
3. A photo appointment confirmed by the **Lessor** can be cancelled by the **Lessor** or the Operator at the latest 24 hours before the agreed appointment without any disadvantageous consequences.

4. In case of a cancellation of an appointment not in due time, the non-appearance at the appointment or a delay of the **Lessor** of more than 15 minutes, the **Lessor** has to pay the costs of the photo appointment, less possible saved expenses, in full.

5. The **Lessor** will be provided with the photos of the existing object exclusively with watermark. The **Lessor** undertakes to use all photos provided exclusively by himself and to use the watermark and the copyright. Any violation of this obligation shall result in a penalty of € 500.00.

6. The Operator is permitted to use the photographs or parts thereof taken of the object free of charge until revoked, with or without reference to the existing or terminated business relationship with the photographer and/or the person entitled to dispose of the photographed object, without any restrictions in terms of time and space, for his own advertising and marketing purposes on his own website, in print and online media, advertising folders, social networks and in advertising videos on the Internet and TV. Furthermore, the Lessor has the right to demand the deletion of the photos from the website at any time.

## V. Deposit and rent management

1. The Operator supports the **Lessor** in the management of the deposit and the acquisition of the rent through appropriate efforts in direct contact with the **Lessee** by monitoring and processing payments under the following conditions:

1.1 The deposit is fixed at one gross monthly rent and is to be deposited by the **Lessee** with the Operator at least 7 days before the beginning of the lease.

1.2 If the remaining rental period is less than 10 days, the partial amount is invoiced with the last rental payment to be paid for a full calendar month and must be deposited with the Operator at the same time.

1.3 The handing over of the keys by the **Lessor** to the **Lessee** will only take place after the Operator has confirmed receipt of the deposit.

2. If the **Lessee** does not make use of the existing property without justification and despite repeated contact (Non-appearance without reason and simultaneous unavailability), the deposit paid in advance be paid out to the **Lessor, insofar as the Lessee doesn't contact the Lessor or kurzzeitmiete.at GmbH** to find an amicable solution taking into account the loss of rent of the **Lessor**.

3. Rent payments received from the **Lessee** will be forwarded by the operator to the **Lessor** within one week of the move-in date.

4. Damages are to be documented by the **Lessor** under proof of the condition of the rental property before the respective rental and the amount is to be proven by at least two independent cost estimates. The Operator will pay out the deposit in the appropriate amount to the **Lessor** and return any remaining amount to the **Lessee** if all requirements are met.

5. The deposit will be collected before moving in and will be returned to the **Lessee** immediately after the end of the rental period, at the latest within 14 days. **Lessor**s are requested to report any damage to the rented property actively and as soon as possible so that the deposit can be transferred to settle any justified claims of the **Lessor** arising from the rent.

## VI. Remuneration, payment, advance payment and penalty

1. The Operator's claim for payment arises with the binding confirmation of the rental offer by the **Lessee**.

2. The fee (Operator fee) to be paid by the **Lessee** (operator's fee), which is always included in the communicated total price, is to be paid in the course of the final binding confirmation, by payment by credit card or instant bank transfer.

After the **Lessee** and **Lessor** have been connected and the operator fee has been paid, a subsequent reduction of the operator fee due to a shortening or reduction of the rental period is not possible.

If the accommodation is uninhabitable and no adequate replacement is available, the operator agrees to return the full amount of the operator's fee.

3. Upon conclusion of the tenancy agreement or an equivalent agreement of use or transfer of accommodation, a service fee shall be paid by the **Lessor**. This will be transparently communicated to the **Lessor** and calculated on the basis of an advance price calculation when the accommodation is placed. Payment is made by deduction from the first month's rent.

After the **Lessee** and landlord have been linked and the service fee has thus been invoiced, a subsequent reduction of the operator's fee due to a shortening or reduction of the rental period is not possible.

4. If a contract for the use of the property or an equivalent agreement for use or the provision of living space was initiated using the online portal or the merit of the Operator, but was concluded or processed by circumventing the fees to which the Operator is entitled, **Lessor** and **Lessee** are obliged to indemnify the Operator for loss of income.

5. A dissolution or premature termination of the existing relationship for which the operator is not responsible has no effect on the amount of the operator fee.

6. The Operator settles due fees with an online invoice to the user. The deadline for payment of the invoice amount can be found on the respective invoice.

7. Only payment by bank transfer or, in the case of short-term rentals, by credit card is accepted as a method of payment for the rentals. The renter's operating fee can only be paid by credit card or immediate bank transfer. If there are less than 14 days between the binding agreement between the **Lessor** and the **Lessee** and the date of occupancy, the **Lessee** shall pay the deposit simultaneously with the Operator's fee by credit card or immediate bank

transfer. If there are more than 14 days between the binding agreement between **Lessor** and **Lessee** and the move-in date, the **Lessee** must pay the deposit by bank transfer.

## **VII. Extension of the existing contract, follow-up contract**

1. Should the support of the operator be required for the extension of the contract or an equivalent agreement between **Lessee** and **Lessor**, an appropriate fee shall be paid for this as agreed upon.

## **VIII. Duties of the Lessor**

1. The **Lessor** undertakes to offer exclusively existing properties via the Operator's online portal, over which he is actually entitled to dispose.

2. The **Lessor** undertakes to check the legal requirements for the permissibility of the property in question before the first letting in accordance with the applicable legal provisions (esp. MRG, ROG, accommodation taxes, etc.). his own expense and risk and to independently fulfil related legal obligations in order to ensure a legally compliant letting. The operator is of course available for support.

3. The **Lessor** assures the accuracy and completeness of all data provided. If data change, the **Lessor** has to update them immediately. Furthermore, the **Lessor** is obliged to provide true and accurate descriptions of the existing property online.

4. The **Lessor** is not allowed to publish the address of the existing property, its exact residential or Internet address, as well as clear references to its natural or legal person on the online portal. The Operator reserves the right to delete unlawfully published information directly.

5. The **Lessor** is obliged to keep the occupancy calendar always up to date.

6. The **Lessor** is obliged to offer each existing property exclusively at a flat rate rent. The lump-sum rent shall include all operating costs in connection with the existing property and any common rooms. Any additional services that are not part of the operating costs, such as bicycle rental, cleaning, washing and ironing services, shopping services, etc. must be shown separately and invoiced by the **Lessor**.

7. If the **Lessor** uses the Operator's photo service, he undertakes to use all photographs provided exclusively himself and to use the watermark and the copyright. Each violation of this obligation entitles the Operator to assert a penalty at the amount of € 500.00.

8. The responsible handling of personal data as well as the assurance of the highest possible data security level for the protection of personal data must always be guaranteed for all users of the online portal. The **Lessor** therefore undertakes to process all personal data received in the course of using the online portal in compliance with the constitutionally

anchored basic right to data protection and the highest possible level of privacy of all persons concerned.

9. The **Lessor** is obliged to treat the passwords required for the use of the online portal confidentially and to keep them safe.

10. Malfunctions are to be reported immediately at office@kurzzeitmiete.at or by telephone at +43 662 23 10 55.

11.. The **Lessor** is obliged to store data required for whatever reason on a storage medium independent of his account on the Operator's online portal.

## **IX. Duties of the Lessee**

1. The **Lessee** undertakes to pass on the contact details of **Lessors** exclusively to those persons who are necessarily involved in the fulfilment and processing of the contractual relationship. Any infringement may result in civil law consequences in addition to data protection law consequences, which the Operator expressly reserves the right to.

2. If the **Lessee** violates his obligations according to point IX. 1 the Operator is entitled to terminate the contract immediately. In addition, the Operator is entitled to immediately render the **Lessee** inactive or to remove the **Lessee's** data from the online portal.

3. The responsible handling of personal data as well as ensuring the highest possible level of data security for the protection of personal data shall always be guaranteed for all users of the online portal. The **Lessee** therefore undertakes to process all personal data received in the course of using the online portal in compliance with the constitutionally anchored basic right to data protection and the highest possible level of privacy of all persons concerned.

4. The **Lessee** is obliged to treat the passwords required for the use of the online portal confidentially and to keep them safe.

5. Malfunctions are to be reported immediately at office@kurzzeitmiete.at or by telephone at +43 662 23 10 55.

6. The **Lessee** is obliged to store data required for whatever reason on a storage medium independent of his account on the Operator's online portal.

## **X. Right of withdrawal (right of revocation) for consumers**

1. If the user is a consumer, he has the right to withdraw from the contract concluded with the Operator within 14 days without giving reasons.

2. The withdrawal period begins on the day on which the User has concluded the contract with the Operator.

3. If the User expressly requests that the provision of services should begin during the withdrawal period, there is still a right of withdrawal within the meaning of this provision.

However, the User is obliged to pay the costs incurred for the provision of the service until the withdrawal.

If, at the express request of the User, the service has been commenced before the end of the withdrawal period and the service has been provided in full, the right of withdrawal shall not apply.

4. To exercise the right of withdrawal, the User must provide the Operator with a clear declaration of withdrawal from the contract. The sample form can be used for this.

The resignation can be beyond that

by letter: kurzzeitmiete.at GmbH, Sonnenweg 4, 5204 Straßwalchen, Austria

by telephone: +43 662 23 10 55 (Austrian fixed network number, fee depending on tariff)

by e-mail: [office@kurzzeitmiete.at](mailto:office@kurzzeitmiete.at)

or in any other way in writing or verbally.

5. After receipt of the withdrawal form, a withdrawal by e-mail or letter as well as after withdrawal by telephone, the user will immediately receive a written confirmation of receipt of the withdrawal.

6. It is sufficient to send the notification of the exercise of the right of withdrawal before the end of the withdrawal period in order to comply with the withdrawal period.

## **XI. Consequences of the rescission**

If the Operator has started to provide the service at the express request of the user during the withdrawal period, the user is obliged to pay the proportionate costs incurred until then for the provision of the service.

## **XII. Withdrawal form**

(If you want to cancel the contract, you can fill out this form and send it to the Operator)

To

**kurzzeitmiete.at GmbH**

Sonnenweg 4

5204 Straßwalchen

Austria

e-mail: [office@kurzzeitmiete.at](mailto:office@kurzzeitmiete.at)

I hereby revoke the contract concluded by me for the provision of the following service (\*)



.....

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

.....

Last name, first name of consumer

.....

Address of the consumer

.....

Signature of the consumer (only for communication on paper)

.....

Date

.....

(\*) Delete as applicable

### **XIII. Liability, warranty, default**

1. The Operator always acts exclusively as a service provider between **Lessor** and **Lessee**. In the relationship between **Lessor** and **Lessee**, claims are settled directly between **Lessor** and **Lessee**. The Operator is not liable for announcements except in the event of a breach of the duties of protection and due diligence, statements and services of the **Lessor** or **Lessee**, nor for performance disruptions or damages for which the **Lessor** or **Lessee** is responsible, nor for other claims.

2. A reimbursement of the Operator's fee for reasons arising from the relationship between **Lessor** and **Lessee** is excluded. In the event that the **Lessor** exercises a right leading to a proportional or full reimbursement of the rent, the **Lessee** shall pay any proportional or full rent due to the **Lessor** from his own resources.

3. The Operator is not liable for damages resulting from breaches of duty by the **Lessor** or **Lessee**.
4. The Operator is not liable for legal violations set by the **Lessor** or **Lessee**. Furthermore, there is no liability of the Operator for information provided on the website by users.
5. The Operator is not liable for contracts of inventory that are changed, supplemented or independently created by the user.
6. If a consumer business exists, the legal liability, compensation and warranty provisions apply in the relationship between the Operator and user. The provisions according to point XIII. 1. to XIII. 5. also apply without restriction to consumer transactions.
7. If there is a mutual business-related transaction, the Operator, his employees, contractors or other vicarious agents ("people") are only liable for property damage or financial losses in cases of gross negligence. The existence of gross negligence must be proven by the user.
8. If a bilateral business-related transaction exists, the liability of the Operator for indirect damages - such as loss of profit, claims of third parties, etc. - is expressly excluded.
9. If a bilateral business-related transaction exists, the User's claims for damages shall expire six months after knowledge of the damage, but in any case after three years from the Operator's act of infringement.
10. In the event of a transaction involving both parties to the contract, the right of the user to contest the error is excluded, except in the case of gross negligence.
11. If a bilateral business-related transaction exists, a set-off against claims of the Operator with counterclaims of any kind is excluded.
12. If and as long as the Operator is unable to fulfil its obligations due to force majeure, or is unable to fulfil them properly, this does not constitute a breach of contract and the Operator is not liable for any damages in connection therewith.
13. Data protection-juridical claim bases are not covered by the preceding liability regulations expressly.

## **Warranty**

1. In the case of a bilateral business-related transaction, the warranty period shall be six months from the date of performance. The right of recourse against the Operator according to § 933b para. 1 ABGB expires one year after performance for entrepreneurs in the case of business-related transactions.
2. If a bilateral business-related transaction exists, the user is not entitled to withhold payments due to warranty claims. The presumption regulation of § 924 ABGB is excluded.

## Default

1. If the User is a consumer, the Operator is entitled after at least two unsuccessful payment reminders to claim the costs of appropriate legal action in connection with the collection of claims from the consumer.

If the User is an entrepreneur, the Operator is entitled to charge a reminder fee of at least € 40.00 or the actual costs incurred for each reminder after the occurrence of default.

The assertion of further rights and claims remains unaffected by this, both towards consumers and entrepreneurs.

2. In case of default of payment of the Lessee, the Operator can invoice all services and partial services after at least two unsuccessful payment reminders of the due partial amount, also within the scope of other contracts concluded with the User, with immediate maturity.

3. If the **Lessor** is more than 30 days in arrears with his payment obligation, the Operator is entitled to render the existing property and/or the **Lessor** inactive.

## XIV. Termination of contract

1. The contractual relationship can be terminated by the user at any time without giving reasons. The obligation to pay for services already partially or completely provided by the Operator remains unaffected by the termination of the contract.

2. The Operator is entitled to terminate the contractual relationship in the event of breaches of duty against point VIII. 1 to VIII. 6. if the **Lessor** does not or not completely fulfil his obligation despite a written request by the Operator within a reasonable period of time set by the Operator, or if the establishment of a proper or legally compliant state is not possible. Furthermore, in such cases the Operator is entitled to immediately remove all **Lessor** and property data from the online portal. Furthermore, the Operator is entitled to immediately deactivate the existing property and/or the **Lessor**.

If the **Lessor** repeatedly violates an obligation that applies to him according to points VIII. 1. to VIII. 6., the Operator is entitled to immediately terminate the contract and remove all **Lessor** or object data from the online portal without further request.

## XV. Applicable law, place of jurisdiction

1 Austrian law shall apply to the exclusion of the IPRG and the UN Convention on Contracts for the International Sale of Goods, whereby the relevant mandatory provisions of the country of residence shall also apply to consumers.

2. If the user is a consumer to whom the EuGVVO or the LGVÜll apply, the place of jurisdiction shall be determined according to the aforementioned legal norms.

3. If the user is a consumer to whom neither the EuGVVO nor the LGVÜll apply or if the user is an entrepreneur, the place of jurisdiction for all claims and possible disputes is the competent court at the Operator's headquarters. The Operator is, however, free to make a claim against the user at his place of jurisdiction.

4. Should individual provisions of these General Terms and Conditions be or become invalid or impracticable, the validity of the remaining provisions shall not be affected. In the case of contracts with entrepreneurs, the invalid or unenforceable provision shall be replaced by a valid and enforceable provision whose effects come closest to the economic purpose of the invalid or unenforceable provision.