

THE TRAVEL BIRDS

WE KNOW THE WORLD

TERMS AND CONDITIONS FOR TRAVELLING (ARB 1992)

ADJUSTMENT TO THE AMENDMENT OF THE CONSUMER PROTECTION ACT, FEDERAL LAW GAZETTE 247/93 AND THE ACT AMENDING WARRANTY LAW, FEDERAL LAW GAZETTE I N NO 48/2001

Jointly deliberated in the Consumer Policy Advisory Council (Konsumentenpolitischer Beirat) of the Federal Ministry for Health, Sports and Consumer Protection in accordance with Section 73 (1) Trade Act (GewO) 1994 and Section 8 of the Ordinance of the Federal Minister for Economic Affairs, as amended in 1994, on the regulations for the exercise of the travel agency business (now Section 6, Federal Law Gazette II No. 401/98).

The travel agency can either act as a travel agent (Section A) and/or as a tour operator (Section B). A travel agent undertakes to use efforts to fulfil a claim to the services of others (tour operator, transport company, hotel owner, etc.).

A tour operator either offers several tourist services at a package price (package holiday / tour operation) or provides individual tourist services on their own and provides, in general, their own brochures, ads, etc.

An undertaking acting as a tour operator may also act as a travel agent when third-party services are being arranged (e.g., an optional tour at the holiday location), if the undertaking points out that it acts as a travel agent.

The following terms and conditions constitute the text of the contract, which travel agencies usually conclude as travel agents (Section A) or as tour operators (Section B) with their customers/travellers (note: according to the Consumer Protection Act).

The special terms of

- the arranged tour operator,
 - the arranged transport company (e.g., rail, coach, aircraft, and boat) and those of
 - the other arranged service providers
- will prevail.

A | TRAVEL AGENCY AS TRAVEL AGENT

The following terms and conditions form the basis of the contract (management contract) which customers conclude with a travel agent.

1 | BOOKING/CONCLUSION OF CONTRACT

Customers may book either in writing, by phone, or verbally. The travel agency should promptly confirm in writing any bookings that were made on the phone or by verbal statement. Travel agencies should use booking forms that contain any significant information on the customer's order and refer to the travel ad (catalogue, brochure, etc.) on which the booking is based. With respect to the travel agent's own service and the services of the tour operator arranged by the travel agent, the latter shall incorporate by reference these TERMS AND CONDITIONS FOR TRAVELLING pursuant to Section 6 of the Regulations for the exercise of the travel agency business, shall demonstrably refer to deviating travel terms and hand these over prior to the conclusion of the contract. If the services of foreign businesses (service providers, tour operators) were arranged, foreign law may apply.

Whoever makes a booking on their own behalf or on behalf of third parties shall be deemed to be the customer and shall assume the obligations (payments, withdrawal from the contract, etc.) under the awarded contract vis-à-vis the travel agency, unless otherwise stated. The travel agency may charge a service fee and ask for a (minimum) down payment in connection with the booking. The residual sum and cash outlays (phone charges, fax charges, etc.) are payable when the travel documents (not including personal documents) of the relevant organizer or service provider are handed over at the travel agency. Tour operators who accept bookings are obligated to hand over to the traveller a confirmation on the travel

contract (travel confirmation) upon or immediately after conclusion of the contract.

2 | INFORMATION AND OTHER ANCILLARY SERVICES

2.1 | INFORMATION ON REGULATIONS RELATING TO PASSPORTS, VISA, FOREIGN CURRENCY, CUSTOMS, AND HEALTH REGULATIONS

It is assumed that customers are aware that a valid passport is regularly necessary to travel abroad. The travel agency shall inform the customer of any additional immigration regulations with respect to passports, visa requirements, and health requirements, and, upon request, of foreign currency and customs regulations if such information can be obtained in Austria. Furthermore, it is the customer's responsibility to comply with these provisions. If possible, the travel agency will procure a visa that may be necessary against payment. Upon request and if possible, the travel agency will inform the customer about special regulations that apply to aliens, stateless persons, and holders of dual citizenship.

2.2 | INFORMATION ABOUT TRAVEL SERVICES

The travel agency is obligated to feature the tour operator's or service provider's service to be arranged to the best of its knowledge, considering the particularities of the arranged contract and the circumstances of the relevant country or place of destination.

3 | LEGAL POSITION AND LIABILITY

The travel agency is liable for:

- the careful selection of the tour operator or service provider and the careful analysis of past experience;
- the proper provision of services and corresponding information to the customer, and for handing over the travel documentation;
- the demonstrable onward transmission of ads, declarations of intent, and payments between customers and arranged businesses, and vice versa (such as changes of the agreed services and the agreed price, withdrawal notices, complaints).

The travel agency is not liable for the provision of the service arranged or procured by them. Along with the travel confirmation, the travel agency shall disclose to the customer the company name (product name), the tour operator's address and, where appropriate, that of an insurance company, unless that information is already part of the brochure, catalogue, or other detailed promotional materials. Failure by the travel agency to do so will result in liability vis-à-vis the customer as tour operator or service provider.

4 | IRREGULAR PERFORMANCE

If the travel agency infringes its obligations under the contractual relationship, the travel agency shall compensate the damage suffered by the customer if the travel agency does not prove to not act with either premeditation or gross negligence. In cases of a breach of contract based on minor fault, the travel agency will be obligated to compensate the customer for any resulting damage up to the amount of the commission of the arranged transaction.

B | TRAVEL AGENCY AS TOUR OPERATOR

The following terms form the basis of the contract - hereinafter „Travel Contract“ - which persons booking a tour conclude either with the tour operator directly or in reliance on an intermediary. If a contract is concluded directly, the tour operator will also have the obligations incumbent on an intermediary. The tour operator generally acknowledges these TERMS AND CONDITIONS RELATING TO TRAVEL. Any deviations are shown in all of the tour operator's detailed promotional materials pursuant to Section 6 of the exercise regulations.

1 | BOOKING/CONCLUSION OF CONTRACT

A Travel Contract is concluded between the booking customer and the tour operator if they agree on the material components of the contract (price, service, and date). This results in rights and obligations for the customer.

2 | CHANGE OF TRAVELLER

There may be a change in the traveller only if the person replacing the original traveller fulfils all conditions necessary for participation in a tour. A change can be effected in two ways.

2.1 | ASSIGNMENT OF THE RIGHT TO TRAVEL SERVICE

The obligations of the booking customer under the Travel Contract will survive if they assign any or all claims under that contract to a third party. In this case, the booking customer will bear the resulting extra costs.

2.2 | TRANSFER OF TOUR

Beyond the agent's obligations to provide certain information (on immigration regulations relating to passports, visa, foreign currency, customs, and health regulations), the tour operator shall also provide adequate information on the service provided by them to the customer. The descriptions of services given in the brochure or prospectus applicable on the booking date and the other information contained therein form part of the Travel Contract, unless otherwise agreed during booking. It is recommended to record these agreements in writing and on an imperative basis.

3 | CONTENT OF CONTRACT, INFORMATION, AND OTHER ANCILLARY SERVICES

Beyond the agent's obligations to provide certain information (on immigration regulations relating to passports, visa, foreign currency, customs and health regulations), the tour operator shall also provide adequate information on the service provided by them to the customer. The descriptions of services given in the brochure or prospectus applicable on the booking date and the other information contained therein form part of the Travel Contract, unless otherwise agreed during booking. It is recommended to record these agreements in writing on an imperative basis.

4 | TOURS INVOLVING SPECIAL RISKS

In case of tours involving special risks (e.g., tours with expedition character), the tour operator will not be liable for the consequences arising in connection with the occurrence of risks that arise beyond the tour operator's obligations.

Notwithstanding the above, the tour operator is obligated to carefully prepare a tour and to carefully select the persons and businesses entrusted with providing the individual travel services.

5 | LEGAL BASIS FOR DEFECTIVE PERFORMANCE

5.1 | WARRANTY

If services were provided inadequately or not at all, the customer will be entitled to a warranty. The customer agrees that the tour operator will provide an adequate service or improve the inadequate service within a reasonable period instead of the customer's right to rescission from the contract or a reduction of the price. Remedial action may be taken by eliminating the defect or providing the same or higher-quality service, which is explicitly approved by the customer.

5.2 | COMPENSATION FOR DAMAGE

If the tour operator or their vicarious agents culpably breach the tour operator's obligations under the contractual relationship, the tour operator will be liable vis-à-vis the customer to compensate the resulting damage. Should the tour operator be liable for persons other than their employees, the tour operator shall be liable only if they cannot prove that these persons have neither acted with premeditation nor with gross negligence (except in case of personal injuries).

Except in cases of premeditation and gross negligence, the tour operator is not liable for items that are usually not taken on a trip, unless the tour operator has kept these items and was aware of the circumstances. The customer is therefore advised not to bring items of special value and to properly store any items brought along on a trip.

5.3 | NOTICE OF DEFECTS

The customer is obligated to promptly report to a representative of the tour operator any irregular performance of the contract which the customer notices during the tour, provided that such a representative was disclosed and can be reached on site without significant effort. Failure to notify defects will not affect the customer's warranty claims described in paragraph 5.1, but may qualify as contributory fault and reduce the amount of damages, if any. However, the tour operator must have

informed the customer in writing of this notification duty, either directly or via the agent. At the same time, the customer must also have been informed that failure to give such notice will not affect their warranty claims, but can be deemed to constitute contributory fault.

In the absence of a local representative, customers are advised, where appropriate, to report defects either directly to the relevant service provider (e.g., hotel, airline) or directly to the tour operator and to insist on remedial action.

5.4 | SPECIAL LIABILITY LAWS

In case of air travel, the tour operator is liable, inter alia, according to the Warsaw Convention and its supplementary convention, in case of travel by rail or coach according to the Rail and Passenger Car Liability Act (Eisenbahn- und Kraftfahrzeughaftpflichtgesetz).

6 | ASSERTION OF CLAIMS

To make it easier for the customer to assert claims, the customer is advised to obtain written statements or to secure receipts, evidence, and witnesses who can confirm the failure to provide or the defective provision of services. Consumers may assert warranty claims within 2 years. Claims for compensation for damage will become statute-barred after 3 years. Travellers are advised in their own interest to assert claims directly vis-à-vis the tour operator of the intermediary travel agency immediately upon their return from a trip, since it will be difficult to provide evidence with the passing of time.

7 | WITHDRAWAL FROM THE CONTRACT

7.1 | CUSTOMERS' WITHDRAWAL PRIOR TO TRAVELLING

A | WITHDRAWAL WITHOUT CANCELLING FEE

Besides the rights of withdrawal granted by the law, the customer may withdraw from the contract, and the tour operator may not assert any claims against the customer, if the following events have occurred before the services were provided: Material parts of the contract, including the travel price, were subject to significant changes. In any event, frustration of the purpose or character of the tour and a more than 10 percent increase of the agreed travel price pursuant to paragraph 8.1 constitutes such a change of contract.

The tour operator is obligated to inform the customer, either directly or via the intermediary travel agency, without delay, of that contract change and of the fact that they may either accept the change or withdraw from the contract; the customer shall exercise one of these options without delay. If the tour operator is responsible for the occurrence of the event which entitles the customer to withdraw from the contract, the tour operator shall pay compensation for the damage to the customer.

B | RIGHT TO ALTERNATIVE PERFORMANCE

If the customer does not withdraw from the contract pursuant to paragraph a and the tour operator cancels the tour without the customer's fault, the customer may insist that the contract be performed, rather than cancelled, by the customer participating in another equivalent tour, provided that the tour operator is able to provide the service. Besides being entitled to assert an elective right, the customer may also seek compensation for damage due to non-performance of the contract, unless the cases referred to in paragraph 7.2. apply.

C | WITHDRAWAL WITH CANCELLATION FEE

The cancellation fee is a percentage of the travel price and depends on the date of withdrawal from the contract and the nature of the tour. Travel price or package price means the total price of the contractually agreed service. In all cases not mentioned in paragraph a, the customer may withdraw from the contract against payment of a cancellation fee. An inappropriate cancellation fee may be reduced by a court.

Depending on the nature of the tour, the following cancellation fees are payable:

1. Special flights (Charter), group package tours, regular transport services, group excursions by coach (multi-day trips) 100% of travel price
2. Customized package tours - regular transport services, group excursions by rail (except special trains), 100% of travel price

Hotel accommodation, holiday apartments, cruises, day trips by bus, special trains, and scheduled flights at special rates are subject to special terms and conditions, which must be stated in the detailed itinerary.

Notice of withdrawal:

The customer may withdraw from the contract as follows:

The customer may inform the travel agency where they booked the tour at any time that they want to withdraw from the contract. Customers are advised to withdraw from the contract by registered letter or by calling on the agency personally, simultaneously submitting a written statement.

D | NO-SHOW

No-show means that a customer does not show up for departure because they do not want to travel, or because they miss departure due to negligence attributable to them, or because of any coincidence that happened to them. If it is clear that the customer is no longer able to or no longer wants to use the remaining travel services, they are required to pay 100% of the travel price for travels referred to in paragraph c1. (special flights, etc.) and those referred to in paragraph c2 (customized package tours, etc.). Should the rates referred to above be unreasonable, they can be reduced by a court in a particular case.

7.2 | WITHDRAWAL OF THE TOUR OPERATOR PRIOR TO THE START OF THE TRIP

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The tour operator shall be released from its contractual obligations if a minimum number of participants, specified in advance in the description, is not reached, and the customer has been notified of the cancellation in writing within the time limits specified in the description of the package travel, or as follows:

- Up to the 20th day prior to departure for trips lasting more than 6 days
- Up to the 7th day prior to departure for trips lasting 2 to 6 days
- Up to 48 hours prior to departure for day trips

If the tour operator is responsible for the failure to reach the minimum number of participants to a degree exceeding minor negligence, the customer may claim damages; such damages shall be assessed as a lump sum equal to the cancellation fee. The right to claim damages exceeding this amount shall not be excluded.

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The cancellation shall be effected on the grounds of force majeure, i.e., due to unusual and unforeseeable events beyond the control of the party invoking force majeure, the consequences of which could not have been avoided even if all due care had been exercised. However, overbooking shall not be considered a case of force majeure, whereas government orders, strikes, war or war-like conditions, epidemics, natural disasters, etc. shall be deemed to constitute force majeure.

C |

In the cases referred to in a) and b), the customer shall be entitled to a refund of the amount paid. The right of election pursuant to section 7.1.b., first paragraph, shall remain unaffected.

7.3 | WITHDRAWAL OF THE TOUR OPERATOR AFTER YOU HAVE STARTED YOUR TRIP

The tour operator is not obligated to perform the contract if the customer's grossly improper conduct causes a lasting disruption to the execution of an organized trip, despite a warning.

In this case, the customer is obligated to compensate the damage vis-à-vis the tour operator if the customer is at fault.

8 | AMENDMENT OF CONTRACT

8.1 | PRICE CHANGES

The tour operator reserves the right to increase the travel price confirmed in connection with the booking for reasons beyond the tour operator's control, if the travel date is more than two months after the contract conclusion date. These reasons are exclusively changes in transport costs, such as the cost of fuel, taxes imposed on certain services such as landing fees, embarkation and disembarkation fees in ports, and corresponding fees at airports, or exchange rates applicable to the relevant tour. Any reductions in prices due to these reasons shall be passed on to the traveller. Prices can be increased within this two-month deadline only if the relevant reasons were negotiated in detail during booking and noted on the booking form. Prices may not be changed as of the 20th day prior to departure. Prices may be changed only if a specific calculation of the new price is provided, and if the agreed requirements are met. The customer shall be informed about price changes and the related circumstances without delay. If the travel price changes by more than 10 percent, the customer may withdraw from the contract without a cancellation fee (see paragraph 7.1.a.).

8.2 | CHANGES IN SERVICE AFTER YOU HAVE STARTED YOUR TRIP

- Changes for which the tour operator is responsible shall be governed by the provisions set out in paragraph 5 (legal consequences in case of defective performance).

- If it becomes apparent after departure that a significant portion of the contractually agreed services is or cannot be provided, the tour operator is obligated, without separate compensation, to take adequate precautions to ensure that the tour can be continued. If it is impossible to take such precautions, or if the customer does not accept these with good reason, the tour operator shall arrange for an equivalent option without separate compensation, which provides transport of the customer to the place of departure or to another place agreed with the customer. Furthermore, the tour operator is obligated to fully support the customer to overcome difficulties in case of non-performance or defective performance of the contract.

9 | PROVIDING INFORMATION TO THIRD PARTIES

The names and places of residence of travellers are not disclosed to third parties, not even in cases of urgency, unless a traveller has specifically asked for disclosure of their data. Any costs arising in connection with the communication of urgent messages shall be borne by the customer. Travelers are therefore advised to give their exact holiday address to the members of their family.

10 | GENERAL PROVISIONS

Paragraphs 7.1. (c), formally (b) (Withdrawal), 7.1. (d), formally (c) (No-show) and 8.1. (Price changes) from Section B. are recommendations of a non-binding nature given by the Verband pursuant to 1 Kt 718/91-3 and are now registered as such under 25 Kt 793/96-3 in the Cartel Register. It is assumed that customers are aware that a valid passport is regularly necessary to travel abroad.

The travel agency shall inform the customer of any additional immigration regulations with respect to passports, visa requirements, and health requirements, and, upon request, of foreign currency and customs regulations if such information can be obtained in Austria. Furthermore, it is the customer's responsibility to comply with these provisions. If possible, the travel agency will procure a visa that may be necessary against payment.

Upon request and if possible, the travel agency will inform the customer about special regulations that apply to aliens, stateless persons, and holders of dual citizenship.