



# DÜSSELDORF TOURISMUS GMBH

## TERMS AND CONDITIONS FOR THE SOURCING OF TOURISM SERVICES AND FOR GUIDED TOURS

Dear Client,

Please read the following Terms and Conditions carefully. Complementing the statutory requirements, these Terms and Conditions, insofar as they have been agreed with binding legal effect, form an integral part of the contract concluded between you (hereinafter "the Client") and Düsseldorf Marketing & Tourism (hereinafter "DT"). Section A sets out the terms for the sourcing of third-party services by DT, Section B the terms for guided tours offered by DT itself. Section C sets out general terms relating to choice of law and the applicable place of jurisdiction.

### SECTION A

#### Sourcing of tourism services

#### 1. Scope of application of the terms set out in Sections A and C

**1.1** Insofar as DT acts in compliance with statutory requirements as an agent for tourism services from third parties (hereinafter "Partners"), these agency terms shall apply where they have been agreed with the Client with binding legal effect.

**1.2** These agency terms therefore apply to services that are solely sourced by DT and do not form part of DT's package offerings. Such solely sourced services include:

- 1.2.1 Services from local entrepreneurs and service providers
  - "HopOn HopOff City Tour"
  - "Düsseldorf Safari"
  - "Altbier Safari"
  - "ESPRIT-Arena guided tour"
  - "Photo shoot"
  - "Personal Shopping"
  - "Coffee and Cake, 172 metres up"
- 1.2.2 Transport services by rail, bus and ship and, in particular, Köln-Düsseldorfer Schifffahrtsgesellschaft and other transport companies.

**1.3** DT's services shall be limited to the sourcing of tourism products or services selected by the Client and shall end with transmission of the travel confirmation and any other confirmation documentation necessary for the successful conclusion of the contract with the Partner.

**1.4** The contract for the tourism products and services selected by the Client shall be concluded between the corresponding provider (such as a hotelier, car hire business or travel agency) and the Client. DT is not a contracting party in this contractual relationship. The contractual relationship between the Client and the Partner shall be subject to the given statutory requirements and, where agreed with binding legal effect and if so foreseen on the basis of statutory requirement, by the Partner's Terms and Conditions of Business and Terms and Conditions of Transport.

**1.5** These agency terms shall not apply:

- 1.5.1 if the tourism services specified at Nos. 1.1. and 1.2. provided by DT are integrated with other tourism services into a package. In such cases, packages will be subject to Düsseldorf Tourismus GmbH's Terms and Conditions for Travel Services;
- 1.5.2 if and insofar as mandatory provisions of EU law or international treaties shall contain more favourable terms for the Client;
- 1.5.3 if DT sources accommodation;
- 1.5.4 if DT sources admission tickets.

With regard to No. 1.5.3., where this has been agreed with binding legal effect, the DT's Terms and Conditions for Guest Lodging and Sourcing for Accommodation Services shall apply; in the case of No. 1.5.4., where this has been agreed with binding legal effect, DT's General Terms and Conditions for the Sourcing of Admission Tickets shall apply.

#### 2. Booking, conclusion of contract, contract wording

**2.1** In making a booking enquiry, the Client invites the Partner to enter into a binding contract for tourism services. The basis of such a contract shall be the service descriptions issued by the Partner.

**2.2** The contract between DT and the Client shall be effected as an agency agreement when the Client issues an agency instruction to DT. No special form is required.

**2.3** Where the Client issues the instruction by electronic means (e.g. by telefax, e-mail or Internet) DT will immediately send electronic confirmation of its receipt of that instruction. This confirmation complies with a statutory obligation and does not represent DT's acceptance of the agency instruction.

**2.4** The wording and scope of the agency instruction setting out mutual rights and obligations for the Client and DT shall be based on the given agreements reached between the two parties save where other compelling statutory requirements do not apply. These agency provisions and the statutory provisions of Sections 675 and 631 ff. of the German Federal Civil Code (BGB) shall be complementary. The contract shall be effected with the Client's receipt of the booking confirmation. This does not require any special form so that oral and telephone confirmations shall also be legally binding on the Client. Once a travel contract has been concluded, on conclusion of the contract or immediately thereafter the Client will receive a separate booking confirmation from the tour operator. Where the booking enquiry is made by electronic means, the Client will immediately receive electronic confirmation that this enquiry has been received.

#### 3. Remuneration, debt collection, reimbursement of expenses

**3.1** DT's agency activities are free of charge for the Client save where something else has been expressly agreed. However, DT may demand reimbursement for expenses incurred as a result of its agency activity, provided that this has been agreed or where DT deems that the circumstances warrant such reimbursement.

**3.2** DT is the Partner's authorised debt collector. The total cost of the sourced services is to be paid to DT once the booking confirmation has been issued. Where the sourced service is a package tour, payment shall fall due with the handover of a tour operator bond (Sicherungsschein) by the sourced Partner in compliance with Section 651k of the German Federal Civil Code (BGB).

**3.3** The right to full advance payment is based on DT's independent right to the reimbursement of expenses in accordance with Section 670 of the German Federal Civil Code (BGB) in relation to payments made or to be made to the service provider. Cancellation cost payments made or to be made to the service provider shall also be covered by DT's right to the reimbursement of expenses.

#### 4. Liability of DT with regard to sourcing tourism services and providing information

**4.1** On the basis of the agency agreement, DT shall be responsible for the careful processing and transmission of the Partner's offers and for the transmission of bookings to the Partner.

**4.2** DT shall not be liable for the conclusion of a contract with the Partner, for the details provided by the Partner with regard to the scope and content of the sourced services, for the Partner's price information, for defects in the services provided, or for any personal or material damage resulting from such defects save where DT has expressly agreed with the Client to assume liability for the sourced service. DT's own liability arising out of culpable violation of its agency obligations shall remain unaffected.

**4.3** With regard to the mere provision of advice and information, DT shall be liable within the scope of the law and the contractual provisions for the correct choice of its source of information, and correct transmission to the Client. In accordance with Section 675, paragraph 2 of the German Federal Civil Code (BGB) DT shall not be liable for the correctness of information it provides save where a specific information agreement has been concluded.

**4.4** DT's liability shall be limited to intent and gross negligence save where injury is caused to the life, limb, freedom or health of the Client, or where damage is caused by DT's violation of major contractual obligations.

### SECTION B

#### Guided Tours

#### 5. Scope of application of the terms set out in Sections B and C

**5.1** Where DT offers guided tours itself in accordance with statutory requirements, the terms set out in this and the following section shall apply where they have been agreed with the Client with binding legal effect.

**5.2** With regard to guided tours, DT is the Client's direct contractual partner on the basis of individual agreements relating to guided tours, these Terms and Conditions and, in an ancillary capacity, the statutory provisions of Section 611 ff. of the German Federal Civil Code (BGB) in relation to service agreements save where some other arrangement has been expressly agreed individually.

**5.3** Where the guided tours offered by DT are integrated into a package with other tourism services, these terms shall not apply but rather the "Düsseldorf Tourismus GmbH Terms and Conditions for Travel Services".

#### 6. Prices/payment terms/refunds

**6.1** The prices advertised by DT for the respective guided tour shall apply save where the parties have agreed some other arrangement. Admission fees, catering costs, spa taxes, tourist taxes and transport costs for public and private means of transport, city maps, brochures and museum guidebooks are only included in the agreed price where they are expressly stipulated as forming part of the guided tour services or have been additionally agreed. The same shall apply to costs for guided tours within such places of interest as are visited within the scope of guided tours.

**6.2** The costs of the guided tour inclusive of all additional services shall be payable in advance on receipt of the booking confirmation, by bank transfer to the bank account specified by DT in the booking confirmation save where some other individual arrangement has been expressly agreed.

Payment with vouchers shall only be possible where such vouchers are issued by DT or their issue by some third party has been expressly agreed with DT and the vouchers are valid for the respective guided tour.

**6.3** The Client shall only be entitled to receive the services from DT in accordance with No. 5 of these Terms and Conditions where it has made the advance payment in full or some later payment has been expressly agreed or where it has some statutory or contractual right to retention.

**6.4** The Client shall have no right to any refund of payments already made if, for reasons for which the tour guide or DT are not responsible, it fails to avail or only partially avails of the agreed services although the tour guide is willing and able to provide the service.

**6.5** In the case where the Client delays availing of the service, DT's right to the agreed remuneration shall remain unaffected and the Client shall have no right to take the guided tour at some later date. DT must however allow saved expenses to be offset against the remuneration as well as any remuneration that it has obtained through the alternative use of the agreed services or has maliciously failed to obtain.

#### 7. Services/tour guides/liability of DT

**7.1** The Client is obliged to punctually honour the agreed guided tour times. Should it be delayed, it is obliged to notify DT or the tour guide at latest by the time of the agreed start of the guided tour, and it shall specify its expected time of delayed arrival. The tour guide may, in the name of DT, refuse to start the guided tour at a later time where such postponement is objectively impossible or unreasonable, particularly where subsequent guided tours cannot be conducted on time or the tour guide cannot honour other compelling business or private appointments. Delays of over 30 minutes shall in general give DT – or the tour guide, in the name of DT – the right to cancel the guided tour.

**7.2** Details about the duration of guided tours are approximate.

**7.3** There is no obligation for a specific tour guide to conduct the guided tour save where something else has been expressly agreed. Where it has been agreed that the guided tour will be conducted by a designated individual, in the event that this individual is prevented on compelling grounds from doing so (in particular owing to illness), DT shall have the right to replace that individual with another suitable and qualified tour guide.

**7.4** DT's liability shall be limited to intent and gross negligence save where damage is caused to the life, limb, freedom or health of the Client, or where the damage is caused by DT's violation of major contractual obligations.

### SECTION C

#### General

#### 8. Choice of law and agreement on place of jurisdiction

**8.1** Insofar as the Client has its residence or registered office outside the European Union and/or Switzerland, the entire legal and contractual relationship between the Client and DT shall be solely governed by German law.

**8.2** Where the Client is a merchant, legal person under civil or public law, or has its main residence or usual place of residence abroad, or where its main residence or its usual place of residence are not known at the time an action is brought, it is agreed that the place of jurisdiction for legal proceedings by DT against the Client shall be the place in which DT has its registered office.

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