

On the basis of the enclosed travel terms and conditions for offered package performances and agency terms, DMT acts either as a travel organiser or as a travel agent depending on the type of performance being offered. Please refer to the scope of application of the respective terms (see Travel Terms Clause (1.2) and Agency Terms Clause (1 a-e)) for the contract terms applicable to the performance in question.

TRAVEL AND CONTRACT TERMS AND CONDITIONS FOR OFFERS BY DÜSSELDORF MARKETING UND TOURISMUS GMBH

Dear Visitor,

Please review the following Travel and Contract Terms and Conditions carefully. They are, to the extent effectively agreed on, a component of the contract concluded between you (hereafter 'the customer') and Düsseldorf Marketing & Tourismus GmbH (hereafter 'DMT').

1. Scope and object of these travel terms and conditions

1.1. The present travel terms and conditions regulate, to the extent effectively agreed on, the package offers by DMT for the purpose of the legal requirements of §§ 651a-m Bürgerliches Gesetzbuch (BGB – German Civil Code).

1.2. DMT also offers other services for which DMT is organiser and contract partner of the customer, which are also subject to the consumer-friendly specifications of travel-contract law and handled according to the present terms and conditions. The offers in question are:

- Boat trip to the fireworks display on Japan Day
- Boat trip to the fireworks display at the biggest fun-fair on the Rhine
- Events connected with S-Classic

1.3. These travel terms do not apply to offered performances which are only arranged by DMT insofar that these offered performances are not part of package performances or DMT does not in accordance with the principles of Paragraphs 651a Section 2 BGB appear to be providing the contractual performances as its own. Offered agency performances are accordingly in particular:

a) Performance offered by local travel agencies:

- "The daily guided city tour"
- "Christmas guided tour"
- "Hop on Hop Off City Tour"

b) Performances offered by local businesses and service providers:

- Photo shooting
- Personal shopping
- Düsseldorf Menu
- Coffee and Cake at 172 m

c) Transport performances with buses and boats, in particular by the Köln-Düsseldorf Schifffahrtsgesellschaft, and other transport companies

d) Admission ticket agency performances

1.4. In accordance with the above provisions these terms and conditions apply to individual tourists as well as groups and business travellers.

2. Conclusion of contract

2.1. When the customer books (registers for a travel programme) by word of mouth, by phone, by letter, fax or email or via Internet, he offers DMT the conclusion of a travel contract with binding validity. His offer is based on the travel description, travel terms and conditions and all supplementary information contained in the basis for booking (catalogue, list of hotels, Internet) insofar as they are available to the customer.

2.2. In case of electronic transmission of the request for booking, DMT immediately acknowledges receipt to the customer by electronic means. This acknowledgement of receipt does not yet constitute a confirmation of

booking and does not establish a claim to conclusion of a travel contract according to the customer's request for booking.

2.3. The travel contract is concluded when DMT confirms the booking to the customer. There are no special form requirements. At or immediately after conclusion of the contract the customer will be sent the written booking confirmation. A written booking confirmation can be omitted if the customer's booking has been effected less than seven working days before the travel date.

2.4. If the confirmation of booking by DMT differs from the customer's booking, this constitutes a new offer by DMT that is binding to DMT for ten days from the date of confirmation of booking. The contract is concluded on the basis of this altered offer if the customer accepts this offer by explicit declaration, payment of a deposit or of the balance. The same applies when DMT has made the customer a written package offer.

3. Payment of deposit/balance

3.1. With the conclusion of the contract (receipt of booking confirmation) and upon delivery of a tour operator's bond according to § 651k BGB, a deposit must be paid that will be credited against the tour price. Unless otherwise agreed in individual cases, it amounts to 10% of the tour price.

3.2. Insofar as the tour operator's bond has been delivered and it is definite that the tour can no longer be cancelled on the basis of reasons stated in Clause 7 of these terms and conditions, the balance is due **three weeks** before the travel date, unless, in individual cases, another date of payment has been agreed. If the booking is made less than **three weeks** before the travel date, the whole tour price must be paid immediately.

3.3. If the tour does not last longer than 24 hours, does not include accommodation and if the tour price does not exceed € 75.00, payments of the tour price are due without delivery of an tour operator's bond.

3.4. If, when DMT or the tour guide, carrier or other service providers are ready and able to perform the services as stipulated by contract, the customer does not pay the deposit or balance or not all of it on the due dates, without having a contractual or legal right to withholding payment, DMT has the right, after sending a reminder with a time limit, to withdraw from the contract and to charge the customer cancellation expenses according to Clause 5 of these terms and conditions.

4. Withdrawal by the customer, changes in booking

4.1. Up to the travel date, the customer may cancel the trip any time. **To avoid misunderstandings, it is recommended to do this in writing.** Effective date is the day DMT receives the declaration of cancellation.

4.2. In case of cancellation by the customer, DMT is entitled to reimbursement of expenses incurred for the travel arrangements as fol-

lows, usually taking into account expenses saved and possibly other utilisation of the travel services:

a) Up to the 31st day before the travel date 10% of the tour price

b) From the 30th to the 21st day before the travel date 20% of the tour price

c) From the 20th to the 12th day before the travel date 30% of the tour price

d) From the 11th to the 3rd day before the travel date 70% of the tour price

e) From the 3rd day before the travel date and for non-appearance 90% of the tour price.

4.3. Conclusion of a travel cancellation-expenses insurance policy and a policy for covering the cost of repatriation in case of accident or illness is strongly recommended.

4.4. If after conclusion of the contract the customer requests changes in the travel date, the type of board or lodging or other services (changes in booking), DMT may, without the customer having a right to changes in booking being effected, and only insofar as they are at all possible, charge a fee of € 30,00 for changes in booking up to the 31st day before the travel date. All subsequent changes in booking are only possible by cancelling the travel contract and effect new booking according to the above conditions of cancellation. This does not apply to requests for changes in booking that entail negligible expenses only.

4.5. With regard to cancellation and changes in booking, the cost entailed for the return or change of booked admission tickets will be charged separately and in addition to the fee for changes in booking or the reimbursement for cancellation, insofar as DMT is not able to sell the admission tickets otherwise. The above lump-sum reimbursement for cancellation is in this case calculated from the total price less the value of the admission ticket.

5. Obligations of the traveller/customer (notice of deficiencies, cancellation, preclusion period)

5.1. The traveller is obliged to notify DMT immediately of possible deficiencies in package offers and to demand such deficiencies to be remedied. Notice of deficiency to the service provider, in particular the hotel, is **not** sufficient. **Deficiencies in a guided tour such as a city tour by bus, in transport or any other service must immediately be reported to the guide, carrier or other service provider with a request for remedy.**

In the negative, claims will be invalid unless the traveller has through no fault of his own omitted to give notice of deficiency.

5.2. If the tour is considerably affected by a deficiency or if the traveller cannot be expected to continue the tour because of such a deficiency and for an important reason that is recognisable to DMT, the traveller can terminate the travel contract according to § 651e BGB. Termination of the contract is only acceptable if DMT or their appointed

agents have failed to meet a reasonable deadline, set by the customer, without finding a remedy. A deadline need not be set if remedying the situation is impossible or is refused by **DMT** or their appointed agents or if immediate termination of the contract is justified by a particular interest of the customer. The aforementioned provision applies to guided tours, city tours by bus and other services, on condition that the deadline is set to the city guide, the carrier or other service provider.

5.3. The traveller must assert his claims for indemnification for travel services that are not in agreement with the terms of contract after termination of the trip and within a month after the return date as stated in the contract and address them to **DMT** at the address indicated below. Claims addressed to the service providers, in particular to the hotel, are not considered received within the time limit. **It is strongly recommended to assert all claims in writing.**

6. Liability

6.1. Contractual liability of **DMT** for damages other than bodily injuries is limited to three times the tour price, as far as damage to the traveller has not been caused deliberately or by gross negligence or insofar as **DMT** is liable for any damage incurred by the traveller solely due to default on the part of a service provider.

6.2. **DMT** is not responsible for the content of specifications and faulty performance in connection with services that

a) are not principal services as contracted and are not part of the **DMT** package offer and can be identified by the customer as third-party services and declared as such in the tour description or the confirmation of booking, or **b)** are merely negotiated as third-party services during the stay (such as spa/wellness services, sports events, visits to a theatre, exhibitions, excursions etc.)

7. Cancellation by DMT

7.1. **DMT** has the right to cancel the travel contract **up to three weeks before the travel date** if a minimum number of participants as determined by the tour description or by a public authority has not been reached and if the respective tour description had indicated a minimum number of participants.

7.2. The minimum number of participants must be indicated in the confirmation of booking or reference made to respective specifications in the tour description.

7.3. **DMT** is obliged to inform the customer immediately when the condition for not executing the tour arises and to send him the cancellation without delay.

7.4. If it becomes evident before expiry of the time limit as indicated in Clause 7.1. that the tour cannot be executed, **DMT** is obliged to notify the customer of the cancellation immediately.

7.5. In case of cancellation the customer will immediately be refunded the tour price paid.

8. Services not utilised

8.1. The customer is not entitled to pro rata refund for non-utilisation of particular travel services due to his early departure because of illness or for other reasons that **DMT** is not accountable for.

8.2. However, unless the amounts in question

are very small, **DMT** will try to obtain a refund from the service provider and refund the customer such amounts, as soon and insofar as **DMT** has actually been refunded by the service providers.

9. Time bar

9.1. Contractual claims by the traveller as per §§651c to f BGB for death or injury to body or health including contractual claims to compensation for immaterial damage due to negligent breach of duty by **DMT** or deliberate or negligent breach of duty by a legal representative or agent of **DMT**, are limited to two years. This also applies to claims to refund for other damages due to grossly negligent breach of duty by **DMT** or deliberate or grossly negligent breach of duty by a legal representative or agent of **DMT**.

9.2. All other contractual claims as per §651c to f BGB are limited to one year.

9.3. Expiry of the limitation period as per Clause 9.1. and 9.2. begins on the day on which the tour should have ended according to the contract.

9.4. If negotiations are pending between the traveller and **DMT** concerning the claim or the circumstances that account for the claim, the limitation period is suspended until the traveller or **DMT** refuse to continue negotiations. The limitation period ends three months after the end of the suspension at the earliest.

10. Applicable law and jurisdiction

10.1. German law exclusively governs the whole legal and contractual relationship between the customer and **DMT**.

10.2. Lawsuits against **DMT** must be filed in the courts that hold jurisdiction for its commercial residence.

10.3. For lawsuits filed by **DMT** against the customer, the habitual residence of the customer shall be prevailing. For lawsuits filed against customers who are merchants, legal persons of public or private law whose residence or habitual domicile is in another country or persons whose residence or habitual domicile is not known at the time of filing the lawsuit, the legal venue of **DMT** shall be prevailing.

10.4. The aforesaid provisions do not apply if and insofar as mandatory provisions, applicable to the tour contract, in regulations of international law or EU law contain more favourable regulations for the customer.

10.5. This translation is provided as a courtesy. The original German text will be deemed relevant in the event of any disputes arising out of these provisions.

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TERMS OF BUSINESS FOR GUIDED TOURS AND FOR THE ARRANGEMENT OF TOURISM PERFORMANCES BY DÜSSELDORF TOURISMUS UND MARKETING GMBH

Dear Customer,

The provisions set out below will – insofar as effectively agreed – become the content of the travel agency contract agreed between the Customer and **Düsseldorf Marketing & Tourismus GmbH, "DMT" hereinafter**, as the travel agent. They supplement and fill out the statutory regulations applicable to the travel agency contract. **The term "Customer" as employed below applies to both individual customers as well as groups, companies, associations or institutions as the ordering party.**

1. DMT's status, scope of application for these agency terms

a) Insofar as these agency terms have been agreed with the guest or ordering party in a legally effective manner, these agency terms apply to tourism performances in which **DMT** appears as an agent in accordance with the legal regulations.

b) According to the stipulations of the provisions set out in Clause 1.1, these agency terms apply accordingly in particular to contracts for the following performances:

a) Performances offered by local travel agents as the contract partner to the guest or ordering party.

- "The Daily Guided City Tour"
- "Christmas Guided Tour"
- "Hop On Hop Off City Tour"

b) Performances offered by local businesses and service providers:

- Photo Shooting
- Personal Shopping
- Düsseldorf Menu
- Coffee and Cake at 172 m

c) Transport performances with buses and boats, in particular the Köln-Düsseldorfer Schifffahrtsgesellschaft and other transport companies

d) Admission ticket agency performances

c) Where package performances are concerned, **DMT** will not be the agent but the Responsible Travel Organiser as described in Paragraphs 651 a-m Bürgerliches Gesetzbuch (BGB – German Civil Code) insofar as it has been expressly described as such in the travel description or is to be deemed as a travel organiser in accordance with the principles of Paragraph 651a Section 2 BGB.

d) The contractual relationship between the Customer and the performance provider will be governed by the respectively applicable legal regulations and, insofar as effectively agreed or generally valid as a result of legal regulations (e.g. for public transport companies), their General Terms of Business and Transport.

e) Insofar as offered services and performances by **DMT** that are only arranged as individual performances, particularly the offered services and performances set out above in Clause 1.2, are made available by **DMT** as a uniform service ("package") offered in conjunction with other principal tourism performances, **DMT** will in regard to these performances not be the agent but the travel organiser. In this event, these agency conditions will not apply but the **Travel Terms for Packages by DMT** will instead apply insofar as they have been effectively agreed.

2. Contract conclusion, applicable law, applicable terms of business in regard to the arrangement of accommodation

a) The conclusion of the contract does not require a specific form. With the awarding of the agency order, the travel agency contract will come into effect as an agency contract between **DMT** and the Customer.

b) In the event that the order is placed electronically (email, Internet), **DMT** will immediately confirm the receipt of the order electronically. This confirmation of receipt will not yet constitute confirmation of acceptance of the agency order.

c) The Customer's and **DMT's** mutual rights and duties will result insofar as not in contradiction to mandatory legal regulations from the contractual agreements reached in individual cases (in particular in regard to type and scope of the agency contract), these travel agency terms and the statutory provisions set out in Paragraphs 675, 631 ff BGB regarding agency performances provided against payment.

d) **DMT's Agency and Guest Accommodation Terms** will – insofar as effectively agreed – apply to **accommodation arrangement performances.**

3. Information, notices

a) In regard to the provision of information and notices, **DMT** will be liable within the scope of the law and contractual agreements for the correct choice of the source of information and the correct forwarding of such to the Customer.

b) **DMT** will not be liable for the correctness of the information provided in accordance with Paragraph 676 BGB unless a special information contract was agreed.

c) Within the scope of its agency activities, **DMT** will without express agreement not be obliged to commission the provider offering the desired performance at the lowest cost.

d) **DMT** will not be liable for information provided by the performance provider concerning the content and scope of the performances, prices and other circumstances relating to the performance provider and its performances.

4. Guided tours

a) Insofar as not expressly agreed or stated otherwise in individual cases, **DMT** will be the direct partner to the guest or ordering party in the event of guided tours within the framework based on these contractual terms and alternatively the legal regulations set out in Paragraphs 611 ff. BGB concerning contracts of service.

b) Insofar as **not otherwise expressly agreed**, **DMT does not owe** the provision of guided guest tours **by a specific tour guide.**

c) Even in the event of a specific person being named or expressly agreed as a tour guide, **DMT** reserves the right **in the event of a compelling reason preventing this person from providing the service** (in particular due to illness) **to replace** this person with another suitable and qualified tour guide.

d) **Information about the duration of guided tours is approximate.**

e) **Admission fees, costs for provisions, visitors' taxes and tourism charges as well as costs for transport by public and private carriers, maps, brochures, museum guides, costs of guided tours** within

the framework of guided tours to popular sights will **only then** be included in the agreed price if they have been expressly **listed as guided tour performances or have been additionally agreed.**

f) Insofar as in individual cases, particularly in the event of bookings at short notice, not otherwise stated and noted in the confirmation of booking in regard to type of payment and inability to pay, the total amount of the costs for the guided tour, including all additional performances, becomes due for advance payment subsequent to confirmation of booking by bank transfer to the account specified by **DMT** in the confirmation of booking. **Payment by vouchers** is only possible if **such have been issued by DMT** and are valid for the respective guided tour. Vouchers issued by third parties will only be valid in the event of a **corresponding express agreement with DMT.**

g) If **DMT** is prepared and able to provide the contractual performances and no statutory or contractual right of retention obtains for the Customer, entitlement to the contractual performances will not exist without full payment in advance unless later payment has been expressly agreed.

h) If the Customer does not utilise either part or the entire agreed performances without the tour guide or **DMT** being at fault although the tour guide is prepared and able to provide the performance, **no claim to reimbursement of payments already made may be made.**

i) The **statutory regulation set out in Paragraph 615 P. 1 and 2 BGB** will apply to the agreed payment: The agreed payment **must be paid** without this resulting in any entitlement to the guided tour being provided at a later date. The tour guide must, however, take account of the expenditure saved as well as payment acquired through other use of the agreed service or which he or she maliciously omits to carry out.

j) **Agreed guide times must be adhered to punctually.** Should the guest be late, he or she will be obliged to inform the tour guide at the **latest by the time of the agreed start of the tour** and to inform him or her of the probable time of the delayed arrival. The tour guide may **refuse to start the guided tour at the later time** if postponement is objectively impossible or unreasonable, particularly if such a delay means that subsequent guided tours or the tour guide's other compelling business or private appointments cannot be met. **Delays in excess of 30 minutes generally entitle the tour guide to cancel the guided tour.**

5. Payments, reimbursement of expenses, collection, payments

a) Insofar as not otherwise agreed in individual cases, **DMT's agency work is free of charge** for individual or group customers. However, **DMT** may demand reimbursement of the expenses incurred for its agency insofar as agreed or it deems it necessary in view of the respective circumstances. In the event

of guided tours where DMT is the direct contract partner to the Customer and for which the above payment regulations set out in Clause 4.6 and 4.7 apply, no charges will be incurred beyond the stated prices for guided tours and any additional performances.

b) In the event of arranged performances, the total price for the agreed performances must be paid to **DMT** as the body entitled to collect on behalf of the provider of the arranged performances after the booking has been confirmed. To the extent that the arranged performance is a package trip, the condition for the payment becoming due is that the appointed provider submits a tour operator's bond in accordance with Paragraph 651 k BGB. The claim for full advance payment exists as a separate claim by DMT for reimbursement of expenses in accordance with Paragraph 670 BGB for payments advanced or to be advanced to the performance provider. It is independent of the performance provider's claim for advance payment against the Customer.

c) The claim for reimbursement of expenses by **DMT** also includes cancellation cost payments paid or to be paid by **DMT** to the performance provider.

d) The Customer may not by retention or deduction exercise any claims for expenses to be reimbursed against **DMT** on the basis of Customer claims against the appointed performance provider, particularly due to poor fulfilment of the arranged contract, unless a culpable breach of contractual duties by **DMT** is the cause or part of the cause or **DMT** is for other reasons liable for the counter claims made by the travel customer.

6. DMT's liability

a) Insofar as **DMT** did not assume a corresponding contractual duty by express agreement with the Customer, it will not be liable for the coming into effect of the contracts corresponding to the Customer's booking request with the arranged travel company.

b) Without express agreement or assurance in this regard, **DMT** will not itself be liable for defects in the provision of the performance or injuries to persons or damage to property that the Customer suffers in relation to the arranged travel performance. When several principal tourist performances have been arranged (corresponding to the German legal term of package trip), this will not apply insofar as in accordance with Paragraph 651a Section 2 BGB **DMT** appears to itself be responsible for providing the planned travel performances.

c) Any liability that exists for DMT from the culpable breach of agency duties will remain unaffected by the above provisions.

d) **DMT's** liability will remain limited to intent or gross negligence insofar as any breach of duty by **DMT** does not relate to **DMT's** primary contract duties or claims by the Customer based on injury.

7. Time bar

a) Customer claims arising out of the agency contract due to injury to life, limb or health, including contractual claims for compensation for immaterial damage, that are based on a breach of duty by DMT through negligence or wilful or negligent breach of duty by a legal representative or vicarious agent of DMT will become time-barred in two years. This also

applies to claims for compensation for other damages based on gross negligent breach of duty by DMT or wilful or gross negligent breach of duty by a legal representative or vicarious agent of DMT.

b) All other claims arising out of the agency contract will become time-barred in one year.

c) The time bar in accordance with Clause 7.1 and 7.2 commences with the end of the calendar year in which the claim arose but no earlier than the time at which the Customer became aware of the claim against DMT and DMT as the claim opponent or should have become aware of such without gross negligence.

d) If negotiations are pending between the Customer and DMT for the claim or the circumstances on which the claim is based, the time-bar will be suspended until the Customer or DMT refuses to continue negotiations. The time bar will come back into effect at the earliest three months after the suspension has ended.

8. Choice of law and jurisdiction

a) The entire legal and contractual relationship between the Customer and **DMT** will be governed exclusively by German law. The Customer may only bring action against **DMT** at the location of its registered office.

b) The Customer's place of residence is relevant in the event of DMT taking action against the Customer. Where action is concerned against Customers who are business people, legal entities in private or public law or persons whose place of residence or habitual domicile is in another country or whose place of residence or habitual domicile at the time of action being brought is not known, the location of **DMT's** registered office is agreed as the place of jurisdiction.

c) The above provisions do not apply,

a) if and insofar as something else arises in the Customer's favour from provisions that cannot be contractually modified and that are contained in international contracts that must be applied to the travel agency contract between the Customer and DMT or

b) if and insofar provisions in the EU member state to which the customer belongs that cannot be contractually modified and that must be applied to the travel agency contract are more favourable to the Customer than the above provisions or the corresponding German regulations.

d) This translation is provided as a courtesy. The original German text will be deemed relevant in the event of any disputes arising out of these provisions.

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