

# » Terms and conditions

## for retailer agreements for all services provided

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**SERVICEREISEN** CH GmbH

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## **1. Object of the agreement, status of the Contracting Parties, legal bases, applicability of terms and conditions of business**

1.1. The contractual obligation to provide services of SERVICE-REISEN CH GmbH, hereinafter referred to as SRG CH, consists of the procurement of the contractually agreed travel services (individual travel services or the entirety of travel services, hereinafter referred to as "travel packages") for the customer (hereinafter referred to as "Customer") and/or the participants of its trips or events. This service obligation of SRG CH is based on the contractual agreements and these terms and conditions of agreement.

1.2 SRG CH is the contractual partner directly obligated to provide services to the Customer, unless SRG CH is merely an intermediary for travel services to the Customer in accordance with Section 12.7 of these contractual provisions or in accordance with the individual contractual agreements.

1.3 The entire legal and contractual relationship between SRG CH and the Customer shall be governed first and foremost by the agreements made in the individual case, then by these contractual terms and conditions and alternatively by the provisions of German contract for work and services law, Section 631 ff. BGB (German Civil Code) and otherwise German law shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

1.4. SRG CH is not a package holiday operator. In accordance with Section 651a BGB and the legal justification for the exception of package holiday operators in the new travel law (see justification in the draft bill regarding Section 651a BGB, second-to-last paragraph), the provisions of Sections 651a-y BGB, Sections 250-253 of the Introductory Act to the German Civil Code (Einführungsgesetz zum Bürgerlichen Gesetzbuch – EGBGB) and other legal provisions for package holidays and package holiday operators do not apply directly or indirectly to the legal and contractual relationship between SRG CH and the Customer. The application of such provisions shall herewith be excluded in the form of an explicit choice of law and jurisdiction. The same shall apply to the directives of the European Union on package holidays, package holiday operators and related travel services. The Customer shall therefore not be entitled to name SRG CH as the company instead of the Customer in the form for providing travellers with information in the event of a package holiday in accordance with Section 651d BGB and Section 250 EGBGB.

1.5. The Customer's terms and conditions of business shall not apply. This rule shall also apply if the Customer declares such terms and conditions of business to be applicable and SRG CH fails to explicitly object to such declaration in individual cases or generally.

1.6. These terms and conditions of business shall apply in their respective current version and replace all previous service provision agreements. If no current version is available, this version shall also apply to all future agreements concluded between SRG CH and the Customer, unless explicitly and otherwise agreed on an individual basis.

1.7. These terms and conditions of business shall exclusively apply to agreements with commercial customers which market the contractually agreed travel services in their roles as travel operators within the scope of package holiday agreements or other types of activities as direct contracting partners with their customers. They therefore shall not apply to agreements concluded with individual consumers or consumer groups (consumers within the meaning of Section 13 BGB).

1.8. No contractual relationships shall be concluded between SRG CH and the participants of the Customer.

1.9. The following shall apply to the terms and conditions of business of service providers, particularly airlines, transport companies, ticket sales offices, hotels and foreign agencies:

- a) The agreements concluded between SRG CH and the Customer shall always take precedence over the provisions of such terms and conditions of business.
- b) However, the provisions of such terms and conditions of business shall apply with regard to the obligations of the service recipient, in other words the Customer and/or its participants, specified therein if and insofar as they were agreed as contractual obligations of the Customer between SRG CH and the Customer in accordance with the rules applicable to agreements concluded between business persons.

1.10. Terms and conditions of business, particularly transport conditions and tariff provisions (such as those of Deutsche Bahn AG or local transport companies in the public sector) which apply without requiring special announcement and/or agreement in accordance with the legal provisions in Germany and abroad shall apply to the legal relationship with the customer, even if the customer is not aware of them or SRG CH fails to inform the Customer of their applicability or validity to the contractual relationship and respective travel service.

## **2. Conclusion of the agreement**

2.1. The Customer may notify SRG CH of its interest in booking the travel services provided by SRG CH via phone, e-mail, fax, internet and in writing. This notification of interest shall be non-binding for the Customer and SRG CH and shall not constitute any entitlement for the conclusion of an agreement.

2.2. Based on the notification of interest by the Customer, SRG CH shall initially provide information on the availability of the required travel service and submit proposals on the possible travel services and travel itinerary. Such proposals shall be non-binding for SRG CH and the Customer. They do not constitute any entitlement for the conclusion of a corresponding agreement. The same shall apply to the multiple or repeated submission of such proposals. Unless otherwise agreed in advance, such proposals and information regarding availability shall be free of charge for the Customer.

2.3. In accordance with the agreements in Section 2.2, SEG shall provide the Customer with a binding contractual offer in text form and thus bindingly offer the Customer the conclusion of an agreement on the basis of these terms and conditions of agreement, all information and references in the offer and, if applicable, price lists, documents or additional information explicitly referred to in the offer.

2.4. Unless explicitly stated otherwise in the offer, the offer may only be accepted in text form. SRG CH shall be bound by its offer for a period of five working days. Any deviating acceptance period stated in the offer shall apply. The offer shall only be binding for SRG CH until the expiry of the applicable period and may only be accepted by the customer during this period upon receipt of the declaration of acceptance by SRG CH during ordinary business hours. SRG CH may, but is not obliged to, accept declarations of acceptance which are received late. In such case, SRG CH shall notify the Customer of the late receipt of the declaration of acceptance and if it shall be accepted despite its late receipt.

2.5. Unless otherwise agreed between the Customer and SRG CH, all employees of the Customer shall be deemed to be entitled to accept the offer in a legally binding manner for the Customer.

2.6. The agreement shall be concluded in a legally binding manner upon receipt of the customer's declaration of acceptance by SRG CH without a declaration of receipt or booking confirmation being required. However, SRG CH shall usually send conformation of receipt of the declaration of acceptance to the Customer in text form and at the same time, or at a later date, send the corresponding invoice for agreed prepayments and/or payment of the remainder.

2.7. In the event of the Customer's declaration of acceptance containing additions, limitations or other changes, the agreement shall only be concluded if SRG CH sends a corresponding confirmation which includes such additions, limitations or changes. The agreement shall not be concluded otherwise. The same shall apply if the Customer includes conditions regarding the travel services or travel itinerary in the declaration of acceptance which were not included in SRG CH's offer. These include, in particular, conditions regarding specific flight times, flight routes, hotels, certain travel guides or routings.

2.8. The Customer shall therefore be obliged to clarify any required additions, limitations or addendums of the offer received immediately with SRG CH and request for SRG CH to submit a correspondingly amended offer, if SRG CH is able and willing to do so.

2.9. If SRG CH offers travel services or package holidays for direct booking without prior written offer, the agreement shall be concluded – contrary to the provisions above – by the Customer sending a binding booking declaration to SRG CH by text (if provided, using a corresponding SRG CH booking form) and SRG CH confirming the booking to the Customer in text form. In such case, the Customer shall be bound to its contractual offer for a period of five working days from receipt of booking by SRG CH. If in such case SRG CH's booking confirmation deviates from the Customer's booking, this shall constitute a new offer submitted by SRG CH. The agreement shall be concluded on the basis of this new offer if the Customer accepts the changed offer by way of explicit declaration or conclusive behaviour, particularly by paying the advance or remainder.



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2.10. The following shall apply to options:

- a) Within the meaning of this provisions, options are reservations of individual travel services or entire package holidays to the benefit of the Customer prior to concluding the agreement or, in the event of the agreement having been previously concluded, prior to a legally binding agreement on additional travel services.
- b) Options are always fixed, unless otherwise agreed. This means that the Customer shall be obliged to purchase the reserved travel services or package holidays upon expiry of the option period, unless the Customer declares that they do not wish to purchase the reserved travel services or package holidays within the option period.
- c) The corresponding declaration must be received by SRG CH in text form within the period and during ordinary business hours, unless explicitly agreed that the declaration may also be sent in another format.

d) In the exceptional event of an expiry option being agreed, this means that the reservation made for the Customer shall expire without the Customer entering into a payment obligation if the Customer fails to explicitly declare its intention to purchase the travel service or package holiday within the agreed period. The above provision on the type and date of the declaration shall apply accordingly.

2.11. Any amendments, addendums, additions, assurances and additional agreements after the conclusion of the agreement shall be placed in writing to become effective. In the event of these being agreed verbally or over the phone, the text form shall be deemed to have been complied with in accordance with the principles of commercial confirmation letters, if SRG CH confirms such agreements to the Customer in text form and the Customer fails to immediately object to such confirmation.

### **3. Services and changes to services, third-party brochures, information and assurances**

3.1. In agreements concluded on the basis of a written offer by SRG CH, the service obligation of SRG CH is determined by the information on price and services contained in the written offer in accordance with all of the references and explanations included in the written offer or additionally sent documents.

3.2. In agreements concluded on the basis of the text in a brochure or online advertising by the Customer booking directly and SRG CH sending a corresponding booking confirmation (see section 2.9), the service obligation of SRG CH is determined by the text in the brochure and/or information provided online in connection with the booking confirmation by SRG CH relating to this text.

3.3. In accordance with the above provisions, SRG CH shall generally only be obliged to provide the services within a specifically agreed scope and type. In particular, no Customer entitlements to services or performance features may be derived from the total price, price of individual services, classification and category information, unless these have been specifically and explicitly agreed. This shall apply, in particular, regarding the furnishings of accommodation (such as the inclusion of mini bars, air conditioning systems, lifts, pools and ancillary costs).

3.4. In the event of special requests placed by the customer being called non-binding in the offer, booking confirmation, additional agreements or other contractual bases, SRG CH's obligation shall be exclusively limited to forwarding such special requests to the service providers involved. Special requests shall only become a binding part of the agreement upon explicit confirmation in text form. Confirmations by service providers shall be non-binding for SRG CH.

3.5. Non-stop and direct flights shall only be owed if explicitly agreed. In all other cases, flight services may generally be provided in the form of connecting flights, open jaw flights and hub flights. Trips on specific types of trains (e.g. ICE/TGV) shall only be owed if explicitly agreed.

3.6. Field representatives, trade fair personnel, travel agents (such as travel shops) and service providers (such as hotels and transport companies) have not been authorised by SRG CH to enter into agreements nor provide information or assurances which change the agreed content of the agreement, exceed the services agreed by SRG CH or contradict the service description or specifications and information of SRG CH.

3.7. SRG CH shall not be obliged, in particular, to provide the Customer with all information required by the Customer on the contractually agreed services with regard to the pre-contractual obligation of the Customer to provide information in accordance with Section 250 paragraph 3 EGBGB to its travel participants, prior to the conclusion of the agreement. SRG CH shall forward any information it has available to the Customer once the travel services have been confirmed.

3.8. In accordance with the provisions of the Monopoly of Legal Advice Act (Rechtsberatungsgesetz), SRG CH is not entitled to issue the Customer with advice on the legal design of its travel information, pre-contractual information, form, booking form (travel registration), booking confirmation and booking process. SRG CH therefore does not owe any consulting and advisory services in this respect.

3.9. Insurance policies to the benefit of the Customer are generally not included in SRG CH's services. The Customer is urgently advised to conclude personal and professional liability insurance for travel operators or for its other types of activities. Such insurance should contain cover for liability as a contractual freight forwarder if flight travel services are being offered.

3.10. Any local and hotel brochures, brochures or information and documents of other service providers and corresponding online advertising texts which have not been made into the basis of the contractual service obligation of SRG CH through explicit agreements with the Customer shall not form an integral part of the agreement nor constitute a contractual service obligation for SRG CH. The same shall also apply if such documents were provided to the Customer by SRG CH together with the offer or at a later date for information purposes.

3.11. SRG CH shall generally be entitled to change its services if the Customer's participants are obliged by law and the relevant legislation to accept such changes without any entitlement to a significant reduction of the travel price or the right to withdraw from the agreement. This shall apply, in particular, for immaterial changes to the travel itinerary, changes to flight times on the contractually agreed date of arrival and departure, flight route and type of plane. For sightseeing tours, this shall also apply, in particular, to amendments and changes to programmes and the replacement of programme points and sightseeing places.

3.12. For flights, the dates of arrival and departure shall serve the purpose of transportation, and not rest and recreation or the programme, unless explicitly agreed otherwise. Changes to flight times are generally to be expected. The Customer shall design its own programme components and its own transport services and times, particularly its use of buses and personnel, to account for this fact and advertise its trips accordingly. The Customer shall legally reserve such changes when dealing with its participants.

3.13. In addition, SRG CH may change material travel service features from the agreed content of the package travel agreement if they become necessary after the conclusion of the agreement and if they have not been caused by SRG CH in an act that is not of good faith, prior to the start of the trip if such deviations are immaterial and do not impair the overall design of the trip.

3.14. This shall not affect any warranty claims of the Customer if the changed services are defective.

3.15. SRG CH shall inform the Customer of material changes to services as soon as the reason for such changes is known.

3.16. In the event of a material travel service being changed significantly, the Customer may withdraw from the agreement free of charge if and insofar as its travel participants enforce their right to withdrawal against the Customer on the grounds of such changes as soon as the Customer has notified them of it. The Customer shall exercise its own right of withdrawal immediately if its participants have declared a corresponding withdrawal. The Customer shall agree a corresponding legitimate regulation on such reservation of the right to implement changes with its customers, particularly within the scope of its terms and conditions of travel.

3.17. Special regulations in connection with pandemics/epidemics (in particular, but not exclusively, Covid-19)

a) The Parties agree that the agreed travel services shall always be provided by SRG CH in compliance with and in accordance with the official requirements and conditions applicable at the respective time of performance.

b) The parties expressly agree that, within the scope of this agreement, a right of termination due to extraordinary unavoidable circumstances, force majeure or due to significant, possibly also unreasonable changes in performance due to official requirements for the performance of travel is excluded, provided that essentially the services can be objectively provided.



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c) The Customer agrees that the Participants must observe reasonable usage regulations or restrictions of the service providers when using services. All participants are to be instructed by the Customer to inform the Customer without delay in the event of typical symptoms of illness occurring; the Customer will inform SRG CH without delay if it becomes aware of participants who have fallen ill.

#### **4. Prices, price increases**

4.1. The prices individually agreed between SRG CH and the Customer shall apply. If such prices, particularly for additional services and individual services, have not been agreed, the prices stated in SRG CH's advertising and booking documentation, which the Customer evidently held or had access to when concluding the agreement or which have otherwise been declared as applicable or referred to by SRG CH, shall apply. Alternatively, the standard or taxable compensation in accordance with Section 632 BGB shall be payable. Unless explicitly and otherwise stated in the offer, entrance fees shall not be included in the prices stated.

4.2. SRG CH may request price increases that have been agreed on an individual basis. This shall apply, in particular, for price agreements where the agreed price depends on the number of participants, type and/or scope of services actually used or the date on which travel services or participant numbers have been finalised or determined. The same shall apply to agreed price increases within the scope of the reduction or increase of participant numbers, services or quotas.

4.3. Regardless of price increases according to the above provisions and if necessary in addition to price increases permissible in this respect, SRG CH reserves the right to increase the contractually agreed prices if

- a) the prices for transporting persons need to be increased due to increased prices for fuel or other types of energy,
- b) taxes and other levies for agreed travel services, such as tourist taxes, harbour and airport fees, increase,
- c) a change in the exchange rate applicable to the respective trip has a direct effect on the contractually agreed prices, or
- d) a change in the cost of energy sources.

4.4. SRG CH shall notify the Customer of the reasons and at the same time provide a calculation of the price increase.

4.5. The price increase is calculated as follows:

a) If the prices for the transportation of people in accordance with section 4.3a) increase, SRG CH may increase the travel price in line with the following calculation:

- SRG CH may request the increased price from the Customer if the increase relates to individual seats.

- In all other cases, the additional transportation costs requested from the transport company per type of transport shall be divided by the number of seats on the agreed type of transport. SRG CH may request the resulting increased price for individual seats from the Customer.

b) If taxes and other levies in accordance with section 4.3b) increase, the travel price may be increased by the corresponding pro-rata amount.

c) If the exchange rate increases in accordance with section 4.3c), the travel price may be increased within the scope of the resulting increase in costs for SRG CH.

d) If the costs of energy sources in accordance with 4.3d) increase, the travel price may be increased within the scope of the resulting increase in costs for SRG CH.

4.6. In the event of the prices being changed subsequently, SRG CH shall notify the Customer as soon as it obtains knowledge of the reason for the change. Price increases shall only be permissible if received by the Customer no later than 25 days prior to the start of the trip. If prices are increased by more than 16%, the Customer may withdraw from the agreement without having to pay a cancellation fee. The Customer shall enforce its right to withdraw against SRG CH if the corresponding conditions are met and immediately upon receipt of notification of the price increase from SRG CH.

4.7. In the event of an increase in the VAT on prices for contractually agreed travel services, SRG CH may request a corresponding price increase from the Customer if SRG CH can prove that it is obliged to pay the increased VAT rate.

4.8. The entitlement to increase prices in accordance with the individual agreements entered into, the above provisions and legal provisions does not depend on if and to which extent the Customer is physically and legally able to transfer such price increases to its customers or its obligation to reduce prices. The Customer shall be obliged to create its own options for transferring such price increases by concluding corresponding legitimate agreements with its customers.

4.9. SRG CH prices are stated as net prices. They refer to a calculation basis of 16 paying participants, unless otherwise agreed. The complimentary room regulation offered on trips relates to the number of fully paid up travel participants and shall be exclusively offered in the same room category as booked.

4.10. Basis of the free seat arrangement is the number of travel guests after the free seat has been subtracted. The number of free seats is not taken into consideration between the fully paying travel guests. For example: "1st free seat after 18 PAX and the 2nd free seat after 35 PAX" means that 19 travel guests equal 1 free seat and with more than 35 travel guests there will be two free seats available. Free seat arrangements are only available in the hotel category that has been booked for the overall group.

#### **5. Payment, payment default, place of fulfilment for payments, payment reminders, default charges, provision of securities**

5.1. Upon conclusion of the agreement, SRG CH may request advance payments in accordance with the provisions below:

a) All advance payments shall only be payable upon conclusion of the agreement.

b) The amount, time and due date of advance payments do not depend on if and to what extent the Customer is able to request advance payments from its own customers.

c) The amount, time and due date of the advance payments result from the individual contractual agreements entered into.

d) If no explicit agreements have been entered into regarding the amount of the advance payments, they shall be EUR 125.00 per trip booked.

e) If the total price increases due to additional services, quotas or participant numbers or due to other circumstances or contractual agreements resulting in a price increase, the difference between the original advance payment and the advance payment calculated from the increased total price shall fall due immediately as from the date of corresponding legally binding agreements and/or the occurrence of the conditions for a price increase.

5.2. Additional instalments after the advance payment and before the due date for the remainder shall fall due in accordance with corresponding contractual agreements.

5.3. The remainder shall fall due as contractually agreed. If no special agreement has been entered into, the remainder shall fall due no later than 18 days prior to the start of the trip.

5.4. Payments shall always be made using the explicitly agreed payment types. If no explicit payment type agreements have been entered into, payments shall be exclusively made via bank transfer.

5.5. The place of fulfilment for all payments shall be the location of the bank stated by SRG CH under the condition that the payment obligation has only been properly fulfilled if the amount due has been credited to the stated bank account on time.

5.6. Payments, particularly from abroad, shall be made so that they do not incur any fees and charges. Payments denominated in foreign currency shall generally be excluded, unless explicitly agreed otherwise on an individual basis.

5.7. Payment default occurs if an amount remains unpaid after a payment reminder has been sent, either verbally or in electronic text form. Without a payment reminder, default occurs if the Customer fails to make payment within 30 days from the due date and receipt of an invoice or similar payment schedule. If the date of the receipt of an invoice or payment schedule is uncertain, the Customer shall default no later than 30 days from the due date and receipt of consideration.

5.8. In the case of a default, the Customer shall pay default charges on amounts due at nine percentage points above the base rate. SRG CH reserves the right to enforce further-reaching damages arising from default.



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5.9. The following shall apply if SRG CH is able and willing to provide the contractual services and the Customer does not have any contractual or legal right of retention:

a) Without full payment of the total price being made within the due dates agreed, the Customer shall not be entitled to receive the contractual services and/or travel documents.

b) If the Customer fails to pay advance payments, instalments or remainders due by the agreed due dates, SRG CH may, after sending a payment reminder including a payment due date, withdraw from the agreement and request from the Customer to pay cancellation fees within the contractually agreed scope, particularly in accordance with these terms and conditions of agreement or legal bases.

5.10. The Customer shall be contractually excluded from offsetting receivables against SRG CH. In the event of the Customer enforcing the right of retention for payment requests due against SRG CH and in the event of SRG CH failing to acknowledge this, SRG CH may request for the Customer to provide securities in the amount of the payment due in the form of irrevocable, unconditional and indefinite bank guarantees issued by a swiss or german business bank or deposit the corresponding amount with the responsible district court in accordance with the law.

5.11. In the event of payment default, SRG CH may request a fixed fee of up to EUR 40.00 per payment reminder and the reimbursement of any bank charges incurred for disputed bank transfers or direct debits.

## **6. Contractual obligations of the Customer, travel advertising texts, pre-contractual information**

6.1. The Customer shall be responsible for compliance with all legal provisions and legislation regarding the types of activities and marketing which apply to the contractual services. The same shall also apply to package holidays, particularly to all provisions of the law and legislation for package holiday operators.

6.2. The Customer shall never name SRG CH as a travel operator or co-travel operator when dealing with its participants and in none of its documents or, in the case of marketing activities that do not constitute package holidays, name SRG CH as service provider, event operator or co-operator. In particular, the Customer shall not mention or name SRG CH as the responsible company in its forms. The Customer shall only refer to the agreement concluded with SRG CH and the provision of services by SRG CH in the form explicitly agreed with SRG CH in a previous agreement.

6.3. The Customer shall prepare its travel advertising texts exclusively in compliance with the agreements entered into with SRG CH on the contractual services and refrain from publishing, confirming to customers, or assuring them of, performance features regarding the services to be provided by SRG CH or provide corresponding information on travel services which contradicts or exceeds the services agreed with SRG CH. This obligation of the Customer shall not affect the right and free decision of the Customer to organise its own transport services and other services, to offer them and make them into the object of its contractual services and package holiday offers to its participants.

6.4. SRG CH may request for the Customer to provide SRG CH with its travel advertising texts, insofar as they pertain to travel services contractually agreed with SRG CH, for review prior to publication, particularly prior to a corresponding travel catalogue or other printed advertising medium going to print or corresponding online publication. This obligation to provide documents shall be limited to the travel advertising texts only. The Customer shall not be obliged to disclose its prices or calculations. SRG CH may request corrections to the travel advertising texts if SRG CH can prove that they contain apparent errors or omissions, violate mandatory requirements under competition or travel law or may otherwise give reason for third-party claims, particularly by the Customer's customers against SRG CH.

6.5. Regardless of any legal or contractual obligation to give notice of defects of its customers to the Customer, the latter shall be obliged to report any defects immediately to the instance named by SRG CH, without explicit corresponding statement by the local agency or service provider, and request rectification. If the instance refuses to provide rectification or cannot be reached, the Customer shall send a corresponding notice of defects, including request to provide rectification, to SRG CH immediately.

6.6. The Customer shall contribute to preventing and rectifying disruptions to the travel itinerary, travel defects or other barriers to the proper provisions of the travel services and the proper travel itinerary. For group enquiries / bookings, SRG CH shall assume that the participants are adult travellers and that the purpose of the trip or individual travel services is not professional, unless explicitly stated otherwise in the enquiry. The Customer shall carry all risks or additional costs (such as fee surcharges) resulting from failure to provide other information on the actual composition of the group. If possible, the Customer shall discuss corresponding measures in advance with SRG CH. In compliance with these obligations, the Customer shall also be obliged to pay corresponding expenses in advance if they serve to prevent or rectify disruptions to the travel itinerary, travel defects or other barriers which would cause SRG CH to incur expenses or claims that are significantly higher compared to those of the Customer. This shall not affect the Customer's general statutory obligation to reduce damages.

6.7. Should the Customer fail to fulfil individual or several of the above obligations, the Customer's warranty and damages claims shall be forfeited insofar as SRG CH would have been able and willing to provide rectification or damages that have occurred would have been excluded or lessened.

## **7. Passports, visas and customs regulations, information on insurance**

7.1. Without any explicit contractual agreement in this respect, SRG CH shall not be obliged to provide information on passports, visas and customs regulations and/or the procurement of documents required for the Customer's participants to enter the contractually agreed countries. This rule shall apply, in particular, to the procurement of visas.

7.2. If SRG CH has agreed to procure visas or other documents necessary for the Customer's participants' entry in a country by way of an explicit contractual agreement, SRG CH shall not assume any liability for the timely issuance to, and receipt of such documents by the Customer. The Customer shall carry the dispatch risk, regardless of documents being dispatched directly by the respective diplomatic representation, the other issuers of corresponding documents and certifications or SRG CH.

7.3. In accordance with the law, the Customer, in its role as package holiday operator as well as any other function by law, shall be obliged to provide its own information, clarification and references on passport, visa and health regulations. The Customer shall therefore be contractually obliged to SRG CH to obtain independent and additional information to the information provided by SRG CH regarding such regulations and necessary documents and if necessary ensure compliance with them by its participants.

7.4. Should the information provided and documents transferred by SRG CH contain omissions or contradictions compared with the information obtained by the Customer, the Customer shall notify SRG CH immediately of such fact and initiate a reconciliation with SRG CH.

7.5. All disadvantages incurred by the Customer or its participants due to non-compliance with the Customer's obligations stated above, particularly any cancellation fees incurred as a result, shall be carried by the Customer. This shall only not apply if and insofar as the disadvantages and costs incurred result, or partially result, from a culpable violation of related contractual or legal obligations of SRG CH.

## **8. Cancellation, withdrawal, termination, replacement participants, changes to bookings**

8.1. Unless explicitly and contractually agreed otherwise on an individual basis, the Customer shall not be entitled to recall, terminate or withdraw from the agreement or individual contractual agreements. Any rights to withdrawal customary in business, particularly for contractual agreements on accommodation quotas, shall be explicitly excluded. The right to termination in accordance with Section 649 BGB shall also be excluded. This shall not affect the following provisions on termination for good cause on the grounds of defective contractual services provided by SRG CH and/or unavoidable, extraordinary circumstances.

8.2. Within the meaning of the provisions below, "cancellation" refers to the exercising of a contractually agreed right to withdrawal as well as any other declaration of the Customer on the non-acceptance of individual contractual services or all of the contractual services.

8.3. All contractually agreed rights to cancellation shall generally be exercised in text form, unless explicitly agreed otherwise on an individual basis.



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8.4. The timely receipt notices of cancellation is based on their receipt by SRG CH during ordinary business hours. For cancellation announcements over the phone, this is the receipt of the notice of cancellation (cancellation confirmation) in text form. Service providers, field representatives or other third parties shall not be authorised to accept notices of cancellation.

8.5. In the event of a cancellation or non-acceptance without a corresponding notice sent by the Customer, SRG CH shall be entitled to receive the contractually agreed fixed or specific compensation.

8.6. If no such fixed or specific compensation has been agreed on an individual basis, SRG CH shall be entitled to the following compensation whose calculation accounts for the usual expenses saved and the usual potential other use of the travel services. The compensation is calculated as follows after the receipt of the Customer's notice of withdrawal:

**Travel by coach and rail up to the agreed cancellation date the amount of advance payment in accordance with section 5.1 is due.**

From the agreed cancellation date to 22 days prior to the start of the trip, 25% of the overall tour price

From 21 to 15 days prior to the start of the trip, 60% of the overall tour price

From 14 to 7 days prior to the start of the trip, 75% of the overall tour price

From 6 days prior to the trip start, 90% of the overall tour price

**River cruises**

From 120 days prior to the start of the trip, 10% of the overall tour price

From 119 to 90 days prior to the start of the trip, 20% of the overall tour price

From 89 to 30 days prior to the start of the trip, 40% of the overall tour price

From 29 to 15 days prior to the start of the trip, 60% of the overall tour price

From 14 to 1 days prior to the start of the trip, 80% of the overall tour price

On the day of arrival and in case of no-show 90% of the overall tour price.

**Sea cruises**

From 90 days prior to the start of the trip, 20% of the overall tour price

From 89 to 30 days prior to the start of the trip, 40% of the overall tour price

From 29 to 15 days prior to the start of the trip, 60% of the overall tour price

From 14 to 1 days prior to the start of the trip, 85% of the overall tour price

On the day of arrival and in case of no-show 95% of the overall tour price.

However, the cancellation fee is at least € 50 per person.

**Travel by plane and combined plane / coach travel up to the agreed cancellation date the amount of advance payment in accordance with section 5.1 is due.**

From 64 days prior to the start of the trip, 15% of the overall tour price

From 63 to 34 days prior to the start of the trip, 35% of the overall tour price

From 33 to 15 days prior to the start of the trip, 75% of the overall tour price

From 14 to 7 days prior to the start of the trip, 85% of the overall tour price

From 6 days prior to the trip start, 90% of the overall tour price

8.7. In any case, the customer reserves the right to prove that SRG CH has not incurred any or much lower damages than the fixed fee requested for all calculations of the fixed cancellation costs charged by SRG CH as agreed on an individual basis or those stated above.

8.8. SRG CH reserves the right to request higher, specific damages instead of the above fixed fees if SRG CH can prove that the expenses incurred by SRG CH are significantly higher than the respective applicable fixed fee. In such case, SRG CH shall be obliged to specifically state and prove the compensation requested, taking into consideration the expenses saved and any other use of the travel services.

8.9. The following rules apply to replacement participants:

a) Unless otherwise agreed on an individual basis, the Customer may replace the names of certain travel participants with other travel participants at any time.

b) If such replacement is performed after the expiry of the agreed reporting period for participants or room lists, SRG CH may request an administration fee for doing so in the agreed amount of EUR 75.00 per participant without an explicit agreement.

c) Any additional costs incurred due to a change in participants, particularly for writing tickets into new names by the service provider, shall be carried by the Customer.

d) SRG CH may object to changes to participants if replacement participants do not meet the special requirements for the utilisation of the corresponding travel service (particularly also in terms of health) or the trip as such (particularly entry or health regulations of certain countries) or the participation of the replacement participant is prevented by law or official ordinances or if organisational measures that would be mandatory to facilitate the participation of the replacement participant would be objectively impossible or unreasonable for SRG CH.

e) should the change of participants have an effect on the allocation of accommodation and seats on means of transport or in any other form on the travel itinerary, the resulting consequences and costs shall be carried by the Customer.

8.10. The Customer shall not have an entitlement to change the travel date, destination, place of the start of the trip or type of transport or other circumstances of the travel services and travel itinerary (changes to bookings) after the agreement has already been concluded, unless explicitly and contractually agreed. In the event of a change being implemented nevertheless to an existing booking by request of the Customer, SRG CH may charge a reasonable transfer fee per transfer process.

**9. Quota reduction and minimum number of participants**

9.1. Participant numbers, services and quotas (particularly also regarding the scope of catering services, number of chargeable sightseeing trips and visits and other additional services) may only be reduced or limited free of charge upon explicit agreement between the Customer and SRG CH. In all other cases, the above provisions on chargeable cancellation shall apply accordingly.

9.2. If the Customer and SRG CH have agreed a minimum number of participants, the following shall apply:

a) If it has been agreed that the Customer shall be entitled to withdraw from the agreement with SRG CH if the minimum number of participants stated by the



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Customer has not been reached, the Customer shall notify SRG CH continuously of the current number of participants, on a monthly basis up to three months prior to the planned start of the trip and weekly thereafter. An extension of the deadline for the free-of-charge withdrawal must have been explicitly agreed. SRG CH shall be notified immediately if it is confirmed that the minimum number of participants has been reached.

b) If the previously achieved minimum number of participants falls below the minimum again once the agreed period for the free-of-charge withdrawal of the Customer from the agreement with SRG CH has expired due to the exercising of the ordinary legal right to withdrawal of participants under package holiday agreements in accordance with Section 651h BGB, this shall not entitle the Customer to subsequently exercise the free-of-charge right to withdrawal. Instead, the travel services may only be cancelled, individually or as a whole, in this case in accordance with the cancellation regulations agreed on an individual basis or in line with these terms and conditions.

c) If the previously achieved minimum number of participants falls below the minimum again once the agreed period for the free-of-charge withdrawal of the Customer has expired due to the withdrawal of participants of a package holiday resulting from unavoidable, extraordinary circumstances at the destination or its close proximity in accordance with Section 651h BGB, the following provisions regarding termination on the grounds of unavoidable, extraordinary circumstances shall apply accordingly.

9.3. Unless otherwise agreed on an individual basis, the above provisions shall also apply in meaning to agreements on participant numbers with an effect on the price or free spaces or other conditions, particularly also participant-based graduated prices.

## **10. Obligations of the Customer in the event of notices of defect issued by travellers, termination on the grounds of defects or unavoidable, extraordinary circumstances**

10.1. Notices of defect and request for rectification issued by travellers to the Customer within the meaning of Section 651o BGB which relate to services provided by SRG CH shall be directed to the instance named by SRG CH immediately whilst utilising all means of communication reasonably available in the place of travel. If a local service provider or agency is named as the responsible instance in this respect and if they cannot be reached or refuse to provide rectification, the Customer shall send a notice of defect and request for rectification to SRG CH immediately through the communication data of SRG CH stated in the travel documents.

10.2. The Customer shall also suitably document all notices of defect and requests for rectification issued by travel participants during the trip which relate fully or partially to services provided by SRG CH and send them, including the Customer's statement on the circumstances at hand, to SRG CH within three weeks from the end of the travel services. The statement shall contain information on the reasons for the complaint, any measures initiated and suitable proof (offers of proof) for the rejection of travellers' claims after the trip. The Customer shall be excluded from enforcing contractual claims against SRG CH insofar as the defence of travellers' claims fully or partially fails due to missing, incorrect or incomplete documentation.

10.3. The customer may only terminate the agreement before or during its term and/or the start of the trip or travel service on the grounds of defective travel services if the Customer notifies SRG CH of the defect and has granted a reasonable period of grace for the rectification of such defect, unless it is objectively impossible to rectify such defect or SRG CH has refused to rectify such defect.

10.4. The following shall apply if the provision of the contractual services becomes considerably more difficult, endangered or impaired due to unavoidable, extraordinary circumstances:

a) In such case, the Customer may terminate the agreement in accordance with the provisions below. Notice of termination shall be given in text form and include the reasons which the terminating Contracting Party believes to justify the termination. In the event of the Customer terminating the agreement without stating such unavoidable, extraordinary circumstances as a reason, the Customer's notice shall be treated as a standard, chargeable cancellation. The Customer may not subsequently call on the right to termination on the grounds of unavoidable, extraordinary circumstances. Only circumstances with a direct effect on the provision of the services by SRG CH shall justify a termination on the grounds of unavoidable, extraordinary circumstances. If the performance of the trip or provision of travel service is made more difficult, endangered or impaired by circumstances which fall within the Customer's scope of control, this shall not justify a termination on the grounds of unavoidable, extraordinary circumstances. This rule shall apply to transport organised by the Customer for its participants, particularly with regard to road closures or air space closures, the breakdown of means of transport or other disruptions to the Customer's operations. In the event of a justified termination on the grounds of unavoidable, extraordinary circumstances, SRG CH may invoice the Customer for costs amounting to half of the amount which would have been incurred for a chargeable cancellation at the time the termination is received by SRG CH. SRG CH reserves the right to enforce half of specific costs which are to be stated and evidenced. SRG CH will attempt to achieve a reduction of cancellation costs but will not be obligated to achieve such a reduction by extrajuridical or juridical means.

In all cases, the Customer reserves the right to provide proof that SRG CH has not incurred any or significantly lower costs than those used as the basis for the receivable.

b) If the contractual services of SRG CH comprise the transport of the Customer's participants, additional costs for the return journeys of participants due to unavoidable, extraordinary circumstances during the trip or event shall be carried in full by the Customer.

c) All other additional costs caused by unavoidable, extraordinary circumstances during the trip or event, particularly additional personnel costs of the Customer and costs for the extension of the stay of the Customer's participants past the trip / contractual period at the event / trip destination shall be carried by the customer.

## **11. Obligations of the Customer regarding personal injury and material damage during the trip, treatment of complaints, legal disputes with customers, travel documents**

11.1. The Customer shall notify SRG CH immediately of any personal injuries or material damages caused during the trip or event if there is a possibility that SRG CH may have to pay compensation for such events to the customer or its participants. The Customer shall notify its travel guides or other representatives of any emergency number provided by SRG CH for this purpose.

11.2. Should such event occur, the Customer shall secure all evidence, particularly the names and addresses of potential witnesses. The Customer shall initiate for the police to record the event and the securing of the data and documents of corresponding investigating authorities.

11.3. The Customer shall implement all measures which may exclude or reduce the damages.

11.4. The Customer shall be obliged to transfer the address of the suspected culprits to the service provider for the purpose of investigating justified damages.

11.5. The Customer shall be obliged to ensure that the above obligations are implemented by issuing corresponding instructions to travel guides, employees or other representatives.

11.6. Should the Customer plan to enforce claims against SRG CH on the grounds that participants of its trips have issued corresponding claims against the Customer, the latter shall notify SRG CH immediately of such fact by sending all information and documents, particularly the notices of complaint. This obligation to provide information shall also include the information provided by the Customer to SRG CH if and to which extent the Customer has liability insurance to cover the claims raised against the Customer, if the Customer has reported this event and, if applicable, the notification of the communication data and claim number of such liability insurance.

11.7. The Customer shall reconcile its activities with SRG CH prior to regulating any claims asserted by its participants insofar as the Customer plans to assert claims against SRG CH in this respect. Failure to reconcile these activities shall result in the Customer only being able to assert claims against SRG CH by way of compensation or reduction in the amount which the customers would have been entitled to by law.



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11.8. The Customer shall be obliged, upon SRG CH's request, to commence a legal dispute with the customer and to announce a dispute with SRG CH during such proceedings if SRG CH or its liability insurance rejects such claims on the grounds of their reason or amount. The Customer shall do this in all cases of personal injury and if claims for material damages against the Customer asserted by customers exceed EUR 2,000.00.

11.9. The Customer shall be obliged to check travel documents and other documents for their accuracy, completeness and compliance with the contractual agreements and notify SRG CH immediately about any incorrect contents or missing documents. Failure to do so despite the error being apparent to the Customer shall result in the Customer carrying all of the consequences as SRG CH would have been able to rectify the error had it been notified immediately.

11.10. Travel documents, particularly flight tickets, admission tickets, vouchers and other documents shall be sent at the risk of the Customer. SRG CH shall not assume any liability for the loss of such documents during dispatch, unless such loss is caused by acts of malicious intent or gross negligence of SRG CH or its vicarious agents. The Customer shall carry any costs for procuring replacement documents and/or replacement dispatches.

## 12. Limitation of liability

12.1. SRG CH shall not assume any liability for services and service components of any kind which are offered, organised, implemented and/or provided to the Customer's customers in addition to the services of SRG CH, with or without SRG CH's knowledge thereof. These include, in particular:

- a) Outward and return journeys to and from the travel destination agreed with SRG CH organised by the Customer as well as transport during the trip,
- b) Events not included in SRG CH's scope of services before and after the trip and at the travel destination, journeys, excursions, meetings, etc.,
- c) Services merely brokered by SRG CH upon the Customer's request.

12.2. SRG CH shall not assume any liability, in particular, for the consequences and costs incurred, especially impairments of the contractual services owed by SRG CH and travel itinerary overall, which are caused by the course, processing and particularly potential disruptions and breakdowns of the travel services, sightseeing trips, events, meetings or other circumstances organised and implemented by the Customer directly.

12.3. SRG CH shall not assume any liability for measures and failures to act by the Customer and/or its representatives, travel guides, coach drivers or travel guides merely brokered by SRG CH before, during and after the trip, and particularly not for

- a) changes to the contractual services,
- b) instructions to local guides, service providers and agencies,
- c) special agreements with the various service providers, and
- d) information and assurances to the Customer's customers which were not reconciled with SRG CH.

12.4. Insofar as the warranty and liability of SRG CH to the Customer is based on the travel price, the service price agreed between the Customer and SRG CH shall apply exclusively, without taking into consideration the margin, surcharges or premiums of any kind which the Customer factors into the price or charges in addition to the price.

12.5. Insofar as the warranty and liability of SRG CH is not based on claims raised by the Customer's participants against the Customer on the grounds of injury to life, limb and health or if SRG CH is not guilty of gross negligence or malicious intent with regard to other claims, liability for subsequent damages shall generally be excluded. This shall also apply, in particular, to compensation payments made by the Customer to its participants on the grounds of wasted holiday time and with regard to the failure to make subsequent bookings by affected participants or participant groups of the Customer.

12.6. For the provision of flight services, SRG CH shall act as contractual air freight forwarder within the meaning of national, international and European air traffic regulations exclusively within its relationship to the Customer, and not within a relationship to the Customer's participants. SRG CH is not the performing air freight forwarder under any circumstances.

12.7. SRG CH shall not assume liability for information on prices and services nor for personal injury or material damages regarding services of any kind which are brokered exclusively to the Customer in accordance with the corresponding references in the brochure description, the offer, booking confirmation or other documents. This shall not affect any potential liability of SRG CH arising from the violation of its obligations as an agent.

12.8. Any service providers, accompanying persons and travel guides brokered upon the Customer's request and in accordance with corresponding contractual agreements shall not be classed as vicarious agents or agents of SRG CH. SRG CH shall not assume any liability for their services, measures, omissions and potential violations of contractual or legal obligations, particularly travel defects, impairments of the travel itinerary, breakdown of services as well as personal injury and material damages caused by them, unless SRG CH could have been held responsible for corresponding damages or the creation of corresponding claims due to its own violation of obligations, particularly on the grounds of acts of malicious intent or gross negligence committed by SRG CH.

## 13. Terms and conditions of use for image and text material

Image and text material provided by SRG CH as part of the cooperation or which otherwise comes into contact with the Customer is protected by copyright. SRG CH shall only grant the Customer or its end customers user rights in the image and text material on the basis of a separate agreement in text form. It is being pointed out, in particular, that any use of image and text material without explicit consent from SRG CH is illegal and may result in the enforcement of injunctions, provision of information and compensation payments.

## 14. Statutes of limitation of claims

14.1. The following shall apply to the enforcement of the Customer's claims against SRG CH arising from the overall contractual and legal relationship:

14.2. Contractual claims of the Customer based on injury to life, limb and health of the owner, managing director, employees or participants of the Customer caused by a malicious or grossly negligent violation of obligations by SRG CH or a legal representative or vicarious agent of SRG CH shall expire by limitation after three years. This rule shall also apply to claims for compensation for other damages caused by a malicious or grossly negligent violation of obligation by SRG CH or one of its legal representatives or vicarious agents.

14.3. All other contractual claims shall expire by limitation after two years.

14.4. The statutes of limitation of claims in accordance with the above provisions shall start at the end of the year in which the claim was incurred and the Customer obtained knowledge of the facts which justify the claim against SRG CH and also obtained knowledge of SRG CH as the defendant of the claim or should have obtained such knowledge without acting in gross negligence.

14.5. Provisions regarding longer or shorter statutes of limitation in international regulations and treaties as well as directives of the European Union which are applicable to the legal or contractual relationships between SRG CH and the Customer shall remain unaffected as long as the longer statutes of limitation contained therein apply in favour of the Customer if such longer statutes of limitation can also not be effectively waived in agreements between companies and/or business persons.

14.6. Should the Customer and SRG CH be engaged in pending proceedings regarding the claim or the circumstances justifying the claim, the statutes of limitation shall not expire until the Customer or SRG CH have refused the continuation of proceedings. The statutes of limitation shall expire at the earliest three months after the end of the inhibiting events.



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## **15. Assignment ban, place of jurisdiction**

15.1. Without explicit prior agreement with SRG CH, the Customer may not assign its claim for the provision of the contractual travel services to third parties, particularly other travel companies, or provide such companies with access to the services or make them available to them in any other manner. The same shall apply to the assignment of the entire agreement. This rule shall also apply in the event of the Customer renaming its company, discontinuing its operations, entering into legal succession of any kind or becoming insolvent.

15.2. The assignment of any warranty and compensation claims of the Customer against SRG CH to third parties, particularly customers, shall be excluded. The enforcement of such claims by third parties in their own name on the grounds of a corresponding authorisation issued by the customer shall also be excluded. This shall not affect any legal assignments of receivables to employers, social insurance companies and other parties.

15.3 The sole place of jurisdiction for all legal disputes between SRG CH and the Customer shall be the place of the registered office of SRG CH. Notwithstanding the foregoing, the parties mutually agree that the place of jurisdiction for AG with its registered office within the EU shall be 35394 Giessen, Germany. The above provisions shall not apply if German legal provisions, international provisions and treaties as well as directives of the European Union contain provisions that are applicable to the legal and contractual relationship regarding the place of jurisdiction and choice of jurisdiction which cannot be effectively amended in or omitted from agreements between companies..

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