

# GENERAL TERMS AND CONDITIONS OF BUSINESS

## § 1 SCOPE OF APPLICATION

(1) überland Reisen Berlin GmbH (hereinafter referred to as: überland Reisen) purchases tourist services in Germany and in the area of the European Union and resells them as a wholesaler in the form of packages or individual services to tour operators in Germany and abroad.

(2) The following General Terms and Conditions of Business (T&C) govern, subject to supplementary additional agreements, the contractual relations between überland Reisen and the tour operator as defined in paragraph 1 (hereinafter: Customer). Any deviating terms and conditions of the Customer are hereby expressly rejected.

(3) The offers made by überland Reisen are exclusively addressed to entrepreneurs. An entrepreneur means a natural or legal person or a partnership with legal personality who or which, when entering into a legal transaction, acts in exercise of his or its trade, business or profession (Section 14 of the German Civil Code [BGB]). überland Reisen does not itself act as a tour operator within the meaning of Sections 651 a ff BGB.

## § 2 CONCLUSION OF THE CONTRACT

(1) By booking the service offered by überland Reisen, the Customer makes a binding offer to überland Reisen to conclude a contract. The Customer may make the booking in writing, by fax, by e-mail or by telephone. The basis of the Customer's contractual offer are the service and price catalogues provided by überland Reisen or the individual packages or individual services prepared by überland Reisen on request.

(2) Acceptance of the Customer's contractual offer is effected by transmission of the booking confirmation by überland Reisen in text form. If the content of the booking confirmation differs from the content of the booking, this constitutes a new offer by überland Reisen. The contract is entered into on the basis of this new offer if the Customer declares acceptance, which may also be effected by making a payment.

## § 3 SERVICES

(1) The type and scope of the contractually owed services are based on the service description of überland Reisen as it has become the basis of the contract. Special requests cannot be promised with binding effect.

(2) The tourist classification of the accommodation given by überland Reisen in the service description refers to the typical classification of the country, unless überland Reisen has given a different classification.

(3) The scope of the services to be rendered under the contract results in principle from the binding and confirmed booking. There are no verbal agreements. Changes or additions concerning the scope of services require confirmation in text form in order to be effective, unless they have been demonstrably negotiated between the parties. überland Reisen is not liable for such services which the Customer agrees directly with the accommodation or other service providers.

(3) In the context of hotel bookings, it is not possible to assume that the hotels are equipped for disabled persons without express reference to this fact. The booking of rooms suitable for disabled persons is only made on request and requires confirmation by überland Reisen in text form.

(4) The consideration of special room, equipment and bed requests which deviate from the service descriptions of überland Reisen is exclusively subject to the power of disposal and provision of the hotels and cannot be guaranteed by überland Reisen.

## § 4 TERMS OF PAYMENT AND DEFAULT IN PAYMENT

(1) The contractually agreed fee will be invoiced to the Customer by überland Reisen. The invoice amounts are in euros unless otherwise stated and include, if necessary, the statutory value added tax at the rate applicable on the day the tax is incurred. Payment shall be made in accordance with the details on the invoice. The costs of the money transfer shall be borne by the Customer. If the invoice does not contain a term of payment, the amount receivable stated therein is due immediately.

(2) überland Reisen is entitled to issue advance and/or partial invoices at its reasonable discretion. These will be deducted from the total price. If überland Reisen is only prepared to render the service against full or partial payment in advance, it will inform the Customer of this before conclusion of the contract.

(3) Reminder costs incurred due to the exceeding of payment terms will be charged at a fee of 5.00 euros per reminder. The Customer is at liberty to prove that no or less damage has been incurred by überland Reisen.

(4) If deposits or the total or remaining amount are not paid by the Customer according to the agreed payment due dates, überland Reisen is entitled to refuse the service and to withdraw from the contract after setting a reasonable period of grace, provided that the service has not yet been rendered. In this case, überland Reisen may charge the Customer the corresponding cancellation costs according to § 6.

## § 5 CHANGES IN SERVICES AND PRICES

(1) überland Reisen is entitled to make changes to contractually agreed services insofar as there are serious grounds for the change after conclusion of the contract which make a change in services absolutely necessary. Changes or deviations which considerably impair the overall performance of the service or the service package or which are unreasonable for the Customer in consideration of the mutual interests or which disadvantage the Customer contrary to good faith are not permitted. Warranty claims remain unaffected if the changed services are defective.

(2) überland Reisen is entitled to adjust the agreed price after conclusion of the contract, taking into account the interests of the Customer, if such an adjustment is absolutely necessary due to verifiable price changes of its service providers and the circumstances leading to the increase had not yet occurred before conclusion of the contract and were not foreseeable for überland Reisen at the time of conclusion of the contract. The declaration of increase is only effective if it is made in writing and specifies the relevant cost items, the reference dates decisive for the calculation of the cost increase, the apportionment to be applied to the individual cost items and the calculation method linked thereto. A price increase shall be asserted at the latest by the 20th day before the start of performance.

(3) In the event of a subsequent change in the price or a change in an essential service, the Customer shall be informed immediately upon becoming aware thereof. In case of price increases of more than 10% or in case of a considerable change of an essential service, the Customer is entitled to withdraw from the contract without any costs or to demand the service in an equivalent scope if überland Reisen is able to offer such a service from the range of services offered by überland Reisen without any additional costs for the Customer. The Customer must assert these rights in writing to überland Reisen immediately after überland Reisen has announced the changes in prices or services.

## § 6 WITHDRAWAL OF THE CUSTOMER BEFORE THE START OF PERFORMANCE, CANCELLATION COSTS

(1) The Customer may withdraw from the contract at any time before the start of performance. The withdrawal must be declared to überland Reisen in text form.

(2) If the Customer withdraws before the start of performance or does not accept the service, überland Reisen will lose the claim to the agreed fee. Instead, insofar as überland Reisen is not responsible for the withdrawal or in case of force majeure, überland Reisen is entitled to claim an adequate compensation for the arrangements and expenses made until the withdrawal depending on the respective total price.

(3) überland Reisen has staggered this claim for compensation, i.e. taking into account the proximity of the time of cancellation to the contractually agreed start of performance, in a percentage ratio to the agreed price, and when calculating the compensation has taken into account the expenses usually saved and other uses of the services that are usually possible. The exact cancellation fees and deadlines may vary depending on the service or service package and will be communicated to the Customer individually in the service description and in the booking confirmation. Unless otherwise contractually agreed, the following cancellation fees shall apply:

up to 12 months before arrival 25% of the total price;

up to 6 months before arrival 50% of the total price;

up to 3 months before arrival 75% of the total price;

thereafter 100% of the total price.

(4) Instead of the above-mentioned fees, überland Reisen reserves the right to claim a higher specific compensation if überland Reisen can prove that it has incurred considerably higher expenses than the applicable fee. In this case, überland Reisen is obliged to quantify and prove the requested compensation in specific terms, taking into account the saved expenses and any other use of the services.

(5) Costs for admission tickets will be charged separately and in full despite cancellation if überland Reisen is not able to return the tickets and receive a refund of the admission fee by the respective organiser or to otherwise use them.

(6) In the case of partial cancellations, the parties will fix the new price again, taking into account the interests of both parties and the respective possibilities. If no agreement is reached, the cancellation shall be deemed to be a full cancellation, in which case the cancellation fees shall be applied in accordance with paragraph 3.

(7) The Customer is at liberty to prove that überland Reisen has not suffered any damage or that the damage is significantly lower than the fees included in the service description and booking confirmation in accordance with paragraph 3.

## § 7 REBOOKING

(1) After receipt of the booking confirmation, the Customer has no claim to changes regarding the date of the service, the scope of the service, the place of the service, the accommodation or the mode of transport (rebooking). Should the Customer nevertheless wish to make a rebooking at the Customer's expense, the Customer must contact überland Reisen in good time. überland Reisen will endeavour to comply with the Customer's request in consultation with the Customer.

(2) Rebooking requests made by the Customer within the last four weeks before the start of performance can only be carried out by withdrawing from the contract in accordance with § 6 and simultaneously making a new booking, if this is possible at all. This does not apply to rebooking requests that only cause minor costs.

## § 8 SUBSTITUTE TRAVELLERS

The Customer is free to change names and persons up to the start of the tour, provided that the substitute travellers meet the special requirements of the tour and the participation of the substitute traveller(s) does not conflict with legal regulations or official orders. Additional costs incurred as a result are to be borne by the Customer and can be charged at a flat rate of 30 euros per person,

unless [User] can prove higher costs. The Customer is at liberty to prove that überland Reisen did not incur additional expenses or that they were significantly lower.

## § 9 CANCELLATION DUE TO FAILURE TO REACH THE MINIMUM NUMBER OF PARTICIPANTS

(1) In the case of services to be rendered in the framework of group tours, überland Reisen is entitled to withdraw from the contract due to non-achievement of an envisaged minimum number of participants if it

a) has specifically stated the minimum number of participants in the respective service description and the date by which the Customer must have received the cancellation notice before the contractually agreed start of performance at the latest; and

b) clearly states the minimum number of participants and the latest cancellation date in the booking confirmation or refers to the corresponding information in the travel brochure.

(2) In this case, the withdrawal must be declared without delay, but must be received by the Customer no later than the time specified in accordance with paragraph 1 a). The amount paid by the Customer shall be refunded without delay.

(3) Paragraphs 1 and 2 do not apply if überland Reisen has guaranteed the performance of the service (performance guarantee). In this case, überland Reisen is permitted to adjust the agreed services to the actual group size at its reasonable discretion. § 5 paragraphs 1 and 4 apply accordingly.

## § 10 SERVICES NOT USED

If the Customer or his travel participants do not make use of individual services that have been duly offered to him or them for reasons for which he or they are responsible, there is no entitlement to a pro rata refund of the price due for these services. überland Reisen will endeavour to obtain reimbursement of the expenses saved by the service providers. However, this obligation does not apply if the services are completely insignificant or if a refund is opposed by legal or official regulations.

## § 11 RIGHT OF TERMINATION BY ÜBERLAND REISEN

(1) überland Reisen is entitled to terminate the contract without notice if individual tour participants, notwithstanding a warning by überland Reisen, persistently disrupt the performance of the tour or if they behave in a manner contrary to the contract to such an extent that the immediate cancellation of the contract is justified. If überland Reisen terminates the contract, überland Reisen will retain its claim to the price; however, überland Reisen will have to take into account the value of the saved expenses as well as those advantages which überland Reisen gains from an alternative use of the service not used, including the amounts credited to it by the service providers.

## § 12 OBLIGATIONS OF THE CUSTOMER TO NOTIFY AND COOPERATE

(1) The Customer must inform überland Reisen if he does not receive the required travel documents (e.g. tickets, hotel vouchers) within the period of time communicated by überland Reisen. The Customer is obliged to check the travel documents sent to him for correctness and completeness, in particular for conformity with the booking. The Customer is also obliged to inform überland Reisen immediately of any discrepancies, missing documents or other discrepancies. If the Customer culpably fails to comply with this obligation, he is jointly responsible for any resulting damage (Section 254 BGB).

(2) It is the Customer's responsibility to notify überland Reisen of any defects that have occurred. If he culpably fails to do so, the price will not be reduced. The notification of defects can be made informally, but it is recommended to make it in writing. The notification of defects is not necessary if a notification is obviously futile or unreasonable for other reasons or if überland Reisen could not have been unaware of the defect.

(3) The Customer will be provided with an emergency telephone number or other details for immediate contact with überland Reisen before the start of performance. The Customer is obliged to pass on the contact details to all his travel participants.

(4) The Customer must inform his tour participants that extra services not included in the service description of überland Reisen, such as visitor's tax, other local taxes, costs for pay TV, Wi-Fi, minibar or underground garages have to be paid by the tour participant on site. überland Reisen will not bear these costs.

(5) The Customer will also inform his tour participants that local service providers may insist on the provision of credit card guarantees or cash deposits. The Customer will be informed about this by überland Reisen in good time.

(6) It is the sole responsibility of the Customer to inform the tour participants about the provisions of passport, visa and health regulations as well as about any changes to these in good time before the start of the tour.

## § 13 EXCLUSION OF CLAIMS, LIMITATION PERIOD

(1) Claims due to defective services must be asserted by the Customer against überland Reisen within one month after the contractual end of the service. After the expiry of this period, claims can only be asserted if überland Reisen was not able to meet the mentioned deadline through no fault of its own.

(2) Claims of the Customer are subject to a limitation period of one year, subject to other mandatory legal provisions. The shortened limitation period does not apply to claims for damages due to gross negligence as well as physical injury and damage to health.

## § 14 LIMITATION OF LIABILITY

(1) Claims for damages by the Customer against überland Reisen are excluded unless otherwise stipulated below.

(2) In accordance with the statutory provisions, überland Reisen is liable for damages to life, body and health which are based on an intentional or negligent breach of duty by überland Reisen or its legal representatives or vicarious agents. For damages which are not covered by sentence 1 and which are based on an intentional or grossly negligent breach of duty by überland Reisen, its legal representatives or vicarious agents, überland Reisen is also liable according to the statutory provisions.

(3) überland Reisen is also liable for damages caused by negligence, as far as the damages resulting from this are based on the violation of rights which are to be granted to the Customer according to the content and purpose of the contract in particular and/or on the violation of obligations the fulfilment of which enable the proper performance of the contract in the first place and on the observance of which the Customer regularly relies and may rely (cardinal obligations). Liability for property damage and financial loss under this paragraph is limited to the foreseeable damage typical for the contract.

(4) In all other respects, liability for damage to property and resulting further pecuniary loss, with the exception of such loss as is referred to in paragraph 1, shall be limited to an amount of 1 million euros per damage event, even if it involves a breach of material contractual obligations.

(5) The above exclusions and limitations of liability apply to the same extent in favour of the statutory organs, legal representatives, employees and other vicarious agents of überland Reisen.

## § 15 OTHER PROVISIONS

(1) The entire contractual relationship between überland Reisen and the Customer is governed by German law, subject to individual agreements to the contrary.

(2) If the Customer is a merchant, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all claims arising from or on the basis of this contract will be the registered office of überland Reisen. The same applies to persons who do not have a general place of jurisdiction in Germany or persons who have moved their place of residence or habitual abode outside Germany after conclusion of the contract or whose place of residence or habitual abode is unknown at the time the action is brought.

(3) The Customer is only entitled to set-off rights if his counterclaims have been legally established, are undisputed or are acknowledged by überland Reisen or are in a close synallagmatic relationship to the claim of überland Reisen. The Customer is only entitled to exercise a right of retention if his counterclaim is based on the same contractual relationship.

(4) The Customer is not entitled to assign his claims against überland Reisen arising from the contract without the latter's consent.

(5) The invalidity of individual provisions of the contract does not result in the invalidity of the entire contract.