



## **GENERAL TERMS AND CONDITIONS OF TRAVEL (ARB 1992)**

This is a translation. Only the German original text is legally binding. Source: ARB 1992 ([www.reisebueros.at/arb.htm](http://www.reisebueros.at/arb.htm)).

### **Adaptation to the amendment to the Austrian Consumer Protection Act [Konsumentenschutzgesetz], Federal Law Gazette No. 247/93 and to the Austrian Warranty Law Reform Act [Gewährleistungsrechts-Änderungsgesetz], Federal Law Gazette I No. 48/2001**

Jointly discussed in the consumer policy advisory council of the Federal Ministry for Health, Sports and Consumer Protection in accordance with § 73 subsection 1 of the Austrian Trade Regulation Act [Gewerbeordnung] 1994 and § 8 of the regulation issued by the Federal Minister of Economic Affairs (1994 version) on the Provisions to Exercise the Function of a Travel Agent [Ausübungsvorschriften für das Reisebürogewerbe] (henceforth § 6, Federal Law Gazette II No. 401/98).

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The travel agency may act as agent (Section A) and/or as tour operator (Section B).

An agent assumes the obligation to answer a demand for services to be performed by others (operator, transport carrier, hotelier etc.).

An operator is a company which either offers various tourist services for a package price (package tour/organised tour) or promises to provide individual tourist services itself and, to do so, generally makes available its own brochures, advertisements, etc.

A company which acts as a tour operator may also act as an agent if third-party services are arranged (e.g. optional excursion at the place of holiday) in as far as it indicates this agent function.

The following terms and conditions constitute the contractual text which travel agencies, acting either as an agent (Section A) or as an operator (Section B), usually use to conclude contracts with their customers/travellers (as defined by the Austrian Consumer Protection Act).

Any specific terms and conditions

- of the arranged tour operators,
- of the arranged transport carriers (e.g. rail, bus, plane and ship) and
- of the other arranged service providers shall have priority.

## **A. THE TRAVEL AGENCY AS AGENT**

The following terms and conditions form the basis for the agreement (Agency Contract) which customers conclude with an agent.

### **1. Booking/Conclusion of Contract**

Bookings can be effected in writing, per telephone or verbally. Verbal bookings or bookings made per telephone should be confirmed by the travel agency in writing without delay.

Travel agencies shall use booking forms which show all the important details of the customer's order, with reference to the advertisement(s) which formed the basis for the booking (catalogue, brochure etc.).

With regard to the agent's own services and to the services of any operator arranged by the agent, the agent shall, in accordance with § 6 of the Provisions to Exercise the Function of a Travel Agent, point out these GENERAL TERMS AND CONDITIONS OF TRAVEL, demonstrably draw attention to any divergent terms and conditions and, in such a case, make these available before contract conclusion.

In so far as services by foreign companies (suppliers, tour operators) are arranged, foreign law may also become applicable.

Whoever completes a booking for himself or for a third party shall be regarded as the ordering party and, in the absence of a declaration stating otherwise, shall accept the obligations vis-à-vis the travel agency (payments, contract cancellation, etc.) arising from order placement.

In the booking, the travel agency is entitled to demand a processing fee and a (minimum) deposit. Both the remaining balance as well as the reimbursement of cash expenses (telephone and fax costs, etc.) become due at the travel agency upon handover of the travel documents (these do not include personal documents) of the respective operator or service provider.

Travel companies accepting bookings are obliged to give the traveller, upon or immediately following contract conclusion, confirmation of the travel contract (travel confirmation).

## **2. Information and Other Additional Services**

### **2.1. Information concerning passport, visa, currency, customs and health regulations**

It is assumed to be known that a valid passport is generally required for journeys abroad.

The travel agency shall inform the customer of any additional relevant foreign passport, visa and health entry requirements and, upon request, of foreign currency and customs regulations if information in this regard can be obtained in Austria. The customer is responsible himself for compliance with these regulations. If possible, the travel agency will, against compensation, secure the provision of any necessary visa(s).

Upon request, the travel agency will, if possible, give information concerning special regulations for foreigners, stateless persons as well as persons holding dual citizenship.

### **2.2. Information concerning the travel services**

The travel agency is obliged to represent the services of the tour operator or service providers to be arranged to the best of his knowledge taking into account the special features of the arranged contract and the specific conditions in the country or resort of destination.

## **3. Legal Status and Liability**

The travel agency's liability covers

- the careful selection of the operator and/or service provider as well as the careful evaluation of past experience;
- the due provision of services, including providing appropriate information for the customer and delivery of the travel documents;
- the demonstrable delivery of notification, declarations of will and payments between the customer and the companies whose services the travel agency arranges and vice versa (e.g. alterations to the agreed services and the agreed price, declarations of withdrawal, complaints).

The travel agency is not liable for the provision of the services it procures or arranges.

With delivery of the travel confirmation, the travel company shall advise the customer of the company name (product name) and address of the tour operator and, if applicable, of an insurer if this information is not already contained in the brochure, catalogue or other detailed advertising document. Failure to do so will result in the agent being liable towards the customer as operator and/or service provider.

#### **4. Impairment of Performance**

If the travel agency violates the obligations arising from the contractual relationship, it shall be liable to compensate the customer for any resulting damages unless it can furnish proof that it cannot be blamed for any intent or gross negligence.

For any breach of contract due to minor negligence, the travel agency is liable to compensate the customer for any resulting damage up to the amount of the commission of the arranged transaction.

#### **B. THE TRAVEL AGENCY AS OPERATOR**

The following terms and conditions form the basis for the agreement, hereinafter called the Travel Contract, which persons making a booking conclude with an operator either directly or through the utilisation of an agent. For direct bookings, the operator shall be subject to the agent's obligations by analogy.

The operator principally acknowledges the present GENERAL TERMS AND CONDITIONS OF TRAVEL. Deviations are to be clearly shown in all of his detailed advertising material in accordance with § 6 of the Provisions to Exercise the Function of a Travel Agent.

##### **1. Booking/Conclusion of Contract**

The Travel Contract is concluded between the person making a booking and the operator when agreement exists with regard to the essential contract components (price, services and relevant dates and deadlines). As a consequence, rights and duties ensue for the customer.

##### **2. Substitution of the Person Travelling**

A substitution of the person travelling is possible if the substitute person fulfils all the conditions for participation. Substitution may take place in two ways.

###### **2.1. Cession of claim to travel services**

The obligations of the person making a booking arising from the Travel Contract remain binding if he cedes any or all claims from this contract to a third party. In this case, the person making the booking bears the extra costs which result.

###### **2.2. Transfer of organised tour**

If a customer is prevented from embarking on an organised tour, he may transfer the contractual relationship to another person. The operator must be advised of this transfer either directly or through the agent within an appropriate period of time prior to the departure date. The tour operator may make known a specific period of notice in advance. The transferor and transferee shall be jointly liable for any unsettled payment and for additional costs, if any, which may arise as a result.

##### **3. Contract Content, Information and Other Additional Services**

Apart from the duties to inform which also apply to agents (specifically information concerning passport, visa, foreign exchange, customs and health regulations), the operator must sufficiently inform the customer of the services offered by him. The services described in the catalogue and/or brochure valid at the time of the booking, as well as all further information contained therein, form part of the Travel Contract unless other agreements were made at the time of booking. It is absolutely recommended, however, that such agreements are recorded in writing.

##### **4. Travel Involving Special Risk**

For tours involving special risks (e.g. those with expedition character), the operator is not liable for the consequences caused by the onset of risks if this occurs outside of his scope of duty.

The obligation of the tour operator to carefully plan the tour and select with due care the persons and companies charged with providing the individual travel-related services shall not be affected.

##### **5. Legal Basis for Impairment of Performance**

###### **5.1. Warranty**

In the event of non-performance or impairment of performance, the customer shall have a warranty claim.

The customer consents to allow the operator, in substitution of his claim to contract cancellation or price reduction, to provide services which are free of fault or to improve the inadequate services within an appropriate period of time.

As a corrective measure, a fault may be remedied or a substitute service of equal or higher value may be provided if it meets with the explicit consent of the customer.

## **5.2. Compensation for damages**

If the operator or his assistants violate the obligations incumbent upon the operator under the contractual relationship, either intentionally or by negligence, the tour operator is obliged to compensate the customer for the resulting damage.

In so far as the operator is answerable for persons other than his employees, he shall be liable, with the exception of cases of personal injury, only if he is unable to furnish proof that they cannot be held to blame for any intent or gross negligence.

With the exception of intent and gross negligence, the tour operator shall not be liable for items which are not usually taken along unless he takes them into his safekeeping under knowledge of the circumstances.

The customer is therefore advised not to carry along objects of special value. Moreover, it is recommended to properly keep the objects that have been brought along.

## **5.3. Notification of complaints**

The customer shall without delay notify a representative of the operator of any default in performance of the contract that he notes during the trip. This assumes that the customer was informed of the existence of a representative and that the latter is available on site and may be located without considerable effort. Failure to make such notification of complaint shall not affect the customer's warranty claim as described under Section 5.1. However, it may be counted against him as contributory negligence and thus diminish any claims to damages on his part. The operator must nevertheless have advised the customer in writing, either directly or through the agent, of his duty to notify. Likewise, the customer must have been informed that any failure to notify shall not affect his warranty claims but may be counted against him as contributory negligence.

In the absence of a local representative, it is recommended to either notify the particular service provider (e.g. hotel, air carrier) or the operator directly of any defects and to demand remedy be taken.

## **5.4. Special liability laws**

The operator's liability in connection with air travel is governed, among other things, by the Warsaw Convention and its supplementary agreement. Rail and bus travel shall be governed by the Austrian Law on Rail and Motor Vehicle Liability [Eisenbahn- und Kraftfahrzeughaftpflichtgesetz].

## **6. Asserting Claims**

In order to facilitate the assertion of claims, customers are advised to obtain written confirmation of any non-performance or impairment of performance of services or to obtain documents, evidence, witnesses in this regard.

Consumer warranty claims can be asserted within 2 years.

Claims for damages will expire after 3 years.

In the interest of the traveller, it is recommended that claims be asserted immediately upon return from the trip directly with the operator or through the relevant travel agent as every delay increases the difficulties concerning proof of evidence.

## **7. Withdrawal from Contract**

### **7.1. Withdrawal by customer prior to departure**

#### **a) Withdrawal without cancellation fee**

Apart from the legally granted rights of withdrawal from a contract, the customer may, without the operator having any claims against him, withdraw from the contract if the following cases occur before the beginning of the service:

If essential parts of the contract, including the travel price, are substantially modified.

In any case, the frustration of the stipulated purpose or nature of the organised tour, as well as an increase of the agreed travel price by more than 10% pursuant to Section 8.1., shall be deemed to constitute such a modification of the travel contract.

The operator is obliged to notify, either directly or through the travel agency, the customer of contract modification without delay and to simultaneously instruct him regarding the existing option of either accepting the contract modification or of withdrawing from the contract. The customer must exercise his option without delay.

In so far as the operator is to blame for the occurrence of the events which entitle the customer to withdraw from the contract, the operator is obliged to compensate the customer for any resulting damages.

#### **b) Claim to substitute services**

In the event that a customer does not exercise his right to withdraw from the contract pursuant to a) above, and if services are cancelled by the operator through no fault of the customer, the customer may, instead of having all contractual transactions reversed, request performance of the contract by participating in a different tour of equal value provided the operator is in a position to provide this service.

Apart from his right to exercise an option, the customer is also entitled to compensation for damages on the grounds of non-performance of the contract unless the cases under Section 7.2. can be applied.



### **c) Withdrawal with cancellation fee**

The cancellation fee is calculated as a percentage of the travel price and, with regard to its amount, depends on the time of the notice of withdrawal and the respective type of tour. The travel price and/or package price is understood as the total price of the contractually agreed service.

The customer is entitled to withdraw from the contract in all cases not contained in a) above against payment of a cancellation fee. In cases where the cancellation fee is deemed inappropriate, this can be moderated by a court of law.

Depending on the kind of tour, the following cancellation rates apply per person:

#### **1. Special flights (charter), group IT (group package tours using regular transport service), group coach excursions (trips lasting several days)**

until 30th day prior to departure	10%
29th to 20th day prior to departure	25%
19th to 10th day prior to departure	50%
9th to 4th day prior to departure	65%
from 3rd day (72 hours) prior to departure	85%

of the travel price.

#### **2. Individual IT (individual package tours using regular transport service), group rail excursions (except for special trains)**

until 30th day prior to departure	10%
29th to 20th day prior to departure	15%
19th to 10th day prior to departure	20%
9th to 4th day prior to departure	30%
as of 3rd day (72 hours) prior to departure	45%

of the travel price.

Special conditions apply for hotel accommodation, holiday flats, travel by ship, one-day bus trips, special trains and scheduled air services at special rates. These must be listed in the detailed programme.

### **Declaration of withdrawal**

When withdrawing from the contract, the following must be noted: the customer (person making the booking) may at any time inform the travel agency where the tour was booked that he is withdrawing from the contract. When cancelling, it is recommended that this is done

- by means of a registered letter or
- in person, with a simultaneous written declaration.

### **d) No-show**

“No-show” is given when the customer fails to depart on the trip because he decided not to travel or when he misses departure due to negligence on his own part or to some coincidence beyond his control. If it has been clarified that the customer cannot or does not want to make use of the remaining travel service, he must pay 85% of the travel price for cases as in c) 1. above (Special flights, etc.) or 45% of the travel price for cases as in c) 2. above (Individual IT, etc.)

In cases where these fees are deemed inappropriate, they can be moderated by a court of law.

### **7.2. Withdrawal by operator prior to departure**

**a)** The operator shall be exempt from contract performance if a minimum number of participants as specified in advance in the offering is not reached and the customer is given written notification of the cancellation within the period of notification indicated in the description of the organised tour or within the following:

- up to 20th day prior to departure for trips longer than 6 days,
- up to 7th day prior to departure for 2- to 6-day trips,
- up to 48 hours prior to departure for 1-day trips.

If the operator is to blame, beyond minor negligence, for the failure to reach the minimum number of participants, the customer may make a claim for damage compensation. The amount of compensation shall be a round sum corresponding to the cancellation fee. Assertion of damage claims in excess of this amount shall not be ruled out.

**b)** Cancellation is made on the grounds of force majeure, i.e. due to exceptional and unanticipated events that are beyond the control of the party pleading force majeure and the consequences of which could not have been averted even if due care had been exercised. With the exception of overbooking, this shall include government directives, strikes, war or warlike conditions, epidemics, natural disasters etc.

**c)** In those cases as specified in a) and b) above, the customer shall be refunded the amount paid. He shall be entitled to exercise his right of option pursuant to Section 7.1.b) paragraph 1.

### **7.3. Withdrawal by operator after departure**

The operator shall be exempt from contract performance when the customer on a group tour persistently disturbs the conduction of the trip through grossly improper behaviour despite having been warned to desist from such action. In such a case, the customer shall, if deemed to be at fault, be liable for damages vis-à-vis the operator.

## **8. Amendments to Contract**

### **8.1. Price changes**

The operator reserves the right to raise the travel price confirmed by the booking voucher for reasons which are outside the operator's control if the scheduled date of departure is later than two months after contract conclusion. Such reasons shall be exclusively applicable to changes in the transportation costs, e.g. fuel costs, in the fees for particular services such as landing fees, embarking and disembarking fees in ports of call, and corresponding fees at airports or in the foreign exchange rates applicable to the particular organised tour.

In the event that prices are reduced for the above-stated reasons, the price reduction shall be passed on to the traveller. Prices may not be increased within the two-month period prior to departure unless the respective reasons were agreed in detail at the booking and noted in the booking form.

No price changes shall be possible from the 20th day prior to departure.

A change in price shall be permissible only if, given the existence of the conditions agreed upon, an exact calculation of the new price is given. The customer shall be advised of price changes and of their circumstances without delay.

In the event that the travel price is changed by more than 10%, the customer may withdraw from the contract without incurring a cancellation fee (see Section 7.1.a).

### **8.2. Change in services after departure**

- In the event of changes owing to the operator's responsibility, the regulations as specified under Section 5 (Legal Basis for Impairment of Performance) shall apply.
- If, after embarking on a trip, it becomes evident that a substantial part of the contractually agreed services is not or cannot be provided, the operator shall, at no extra charge, take appropriate measures to ensure a continuation of the trip. If such measures cannot be taken, or are not accepted by the customer for good reasons, the operator shall, if necessary, provide a comparable alternative to transport the customer at no extra charge to the departure point or some other place to be agreed upon with the customer. In general, the operator agrees in the event of non-performance or impairment of performance of the contract to use his best efforts to assist the customer in overcoming any difficulties.

## **9. Passing on of Information to Third Parties**

Information relating to the names of tour participants and the travel destinations of travellers shall not be passed on to third parties, even in urgent cases, unless given the express consent by travellers to have such information released. All costs arising from the communication of urgent messages shall be borne by the customer. Tour participants are therefore advised to leave their full holiday address with their relatives.

## **10. General**

Sections 7.1. c, formerly b (Withdrawal), 7.1. d, formerly c (No-show), as well as 8.1. (Price changes) listed under Section B are non-binding trade association recommendations under 1 Kt 718/91-3 and as such are now registered under 25 Kt 793/96-3 in the Cartel Register [Kartellregister].



## **C. SUPPLEMENTARY PROVISIONS TO THE ARB 1992 FOR VIENNA INTERNATIONAL TRAVEL MANAGEMENT (VI TRAVEL) AS TOUR OPERATOR**

In addition to the General Terms and Conditions of Travel of the Austrian Federal Economic Chamber, we would like to point out to our customers the following special terms and conditions for events and tours organised by VI Travel itself. These terms and conditions are accepted by the customer upon booking.

### **1. Supplement to Section B.7. – Withdrawal from Contract by Customer, Rebooking, Name Change**

#### **1.1. Withdrawal by customer involving individual hotel reservations only**

until 30th day prior to departure	10%
29th to 20th day prior to departure	25%
19th to 10th day prior to departure	50%
9th to 4th day prior to departure	65%
3rd to 1st working day (Mon–Fri until 12:00 noon) prior to departure	85%
1 day prior to arrival, on day of arrival or in case of no-show but at least EUR 20 per person/cancellation	100%

**We recommend taking out cancellation insurance**

#### **1.2. Withdrawal by customer involving individual hotel packages**

Please note that tickets for opera, theatre, shows, musicals, sports events, theme parks, etc. Which are included in the hotel package offers are non-refundable. In case of cancellation of a hotel package offer, you will be charged for 100% of the cost of the tickets as well as any proportionate hotel cancellation costs as stated in C.1.1.

#### **1.3. Withdrawal by customer involving individual package using regularly scheduled flights at special rates**

When putting together package tours using regularly scheduled flights, we generally use scheduled flights at special rates which are subject to special conditions. In these cases, we will point out the special cancellation conditions in the offering as well as on the invoice/confirmation.

#### **1.4. Rebooking, name change**

As rebookings and name changes involve a significant amount of extra work, the customer will be charged a rebooking or name change fee of € 10 plus any additional fees of the service provider(s). Please note that name changes are generally not allowed with regularly scheduled flights. In these cases, the only possibility is a cancellation and new booking.

#### **1.5. Other terms and conditions and other agreements**

The terms and conditions listed under 1.1.–1.4. apply in so far as special agreements were not made in the individual travel contracts.

### **2. Terms and Conditions of Payment, Travel Documents**

#### **2.1. Payments in Austria**

- Payment per invoice/payment form (with bookings up to max. 21 days before departure)
- Payment in cash or per online banking (with bookings up to 14 days before departure)  
Please send us **confirmation of the execution** of the transaction from your bank per fax without delay (Fax: 01 / 333 73 73 67). Note that the **order confirmation** to make a transfer will NOT be accepted as proof of the transaction.
- Payment per credit card is possible at all times. Bookings made less than 14 days before departure are only possible per credit card. Please note that with credit card payments the entire travel price is charged on the day of booking, when bookings made less than 14 days before departure.

##### **2.1.1. Payment date**

- A prepayment of at least 10% is due upon receipt of the booking confirmation/invoice. Payment of the remaining balance must be received in our bank account at the latest 10 days before departure. For this reason, please allow a period of up to 7 days for the bank transfer when making your payment.
- Please note that the travel documents can only be sent to you after full payment of the travel price has been received.

### **2.1.1. Travel documents**

Given full payment of the travel price within the specified period of time, you will receive your travel documents in the mail approx. 10 to 7 days before departure.

With last-minute bookings in which delivery by mail is no longer possible for reasons of time, we will gladly send you the travel documents per courier service at your cost. Hotel and service vouchers can also be sent per e-mail.

### **2.2. Payment from abroad, payment date**

Payments from abroad are only possible per credit card. Please note that with credit card payments the entire travel price is charged on the day of booking, regardless of the actual departure date.

#### **2.2.1. Sending travel documents abroad**

You will receive your travel documents per e-mail in as far as this is possible (hotel and service vouchers). Please note that we must send original tickets for opera, theatre, concerts, etc. per mail. For documents sent abroad by mail, we charge a fee of EUR 7 per shipment.

### **3. Customer Payment Safeguards as per EU Package Travel Directive**

Vienna International Travel Management is a brand of Vienna International Hotelmanagement AG, which is registered under the number 2007/0026 in the event organiser register [Veranstalterverzeichnis] of the Austrian Federal Ministry for Economy and Labour. The payment safeguards are in place via a bank guarantee. The official receiver in accordance with §3 Clause 2 of the Austrian Travel Agency Safeguards Regulation [Reisebüro-Sicherungs-Verordnung] is Europäische Reiseversicherungs AG, Auggasse 5-7, 1090 Wien, Tel. 01 / 317 25 00, Fax: 01 / 319 93 67. In case of insolvency, all claims must be reported to the receiver within 8 weeks of onset of insolvency, else the entitlement to claim is void.