

## MEDIATION AND CONTRACT PROVISIONS FOR GUIDED TOURS OF THE TOURIST INFORMATION SPEYER

Dear Guests of Tourist Information Speyer,

The following contract provisions govern, on the one hand, the legal relationship between the Tourist Information Speyer (**hereafter abbreviated "TIS"**) and yourself (**hereafter "the guest"**) or the contracting authority for the guided city tour and tour guide for groups (**hereafter abbreviated "guided tour"**) as it relates to the mediation activities of the TIS and on the other hand, the legal relationship between you and the tour guide sent to you by the TIS. They will form, to the extent it is legally effective, the content of the service contract that comes into existence, in the event of your booking, between yourself or the contracting authority and the tour guide. So please read these provisions carefully before you booking.

### 1. Status of the TIS and of the tour guides; applicable laws

- 1.1. As an independent service provider, the tour guide delivers the written contractual services as an actual contractual partner of the guest/contracting authority. The TIS serves **exclusively as the mediator** of the contract between the guest/contracting authority for the tour and the performing tour guide.
- 1.2. Thus, the **TIS is not liable for services**, service deficiencies, personal and material damages related to the tour. This does not apply to the extent that the guided tour is a contractually agreed-upon service of a fixed-price trip or a different offer for which the TIS is the actual contractual partner of the guest or the contracting authority. Potential liabilities of the TIS resulting from the mediation relationship is unaffected.
- 1.3. As for the legal relationship **between the tour guide and the guest/contracting authority** of the tour, the most important are the agreements struck with the tour guide or the TIS as its representative, in addition to these mediation and contract provisions, supported by the legal provisions on the service contract, **§§ 611 ff. German Civil Code application**. As for the mediation relationship with the TIS, most important are the agreements met with the TIS, then the provisions on the mediation activity of the TIS in the current contract provisions and alternatively, the legal provisions of the § 675 German Civil Code on the business procurement for valuable consideration application.
- 1.4. To the extent that in compulsory international or European provisions that are to be applied to the contractual relationship with the tour guide or to the mediation activity of the TIS, nothing else is specified in favor of the the guest/contracting authority, **German law applies exclusively** to the entire legal and contractual relationship with the tour guide and the TIS.

### 2. Conclusion of contract, status of the contracting authority for a group

- 2.1. The following applies to **all methods of booking listed below**:
- 2.2. If the booking takes place through a third party designated in these provisions as a "contracting authority", in other words an institution or undertaking (private group, adult education center, school class, club, tour operator, incentive or event agency, travel agency), then, **as sole contractual authority, it becomes contractual partner of the TIS** with regard to the mediation contract or of the tour guide with regard to the service contract to the extent he does not act expressly as contractual representative of the later participants, according to the affected agreements. **In this case, the contracting authority is responsible for the entire duty to pay with regard to the agreed-upon remuneration or other contractual payment demands.**
- 2.3. The TIS points out that according to the legal regulations (§ 312g para 2 Satz 1 Item 9 of the German Civil Code) on contracts for services connected with guided tours as contracts for services in connection with leisure activities that were concluded at a distance (letters, catalogs, phone calls, telecopies, e-mails, reports sent via mobile communication services (SMS) as well as radio and television media), there is no right of revocation; only the legal regulations about non-utilization of services (§ 611 ff., 615 German Civil Code) apply (also see Items 6 and 7 of this contract provision in this regard). However, a right of revocation does exist if the contract was concluded not at a distance but outside the business offices unless the oral negotiations on which the conclusion of the contract rests, were carried out on a prior request of the users; in the latter case, there is likewise no right of revocation
- 2.4. The person doing the booking is as responsible for all contractual obligation of the other participants in the tour for whom they are undertaking the booking as their representative as for their own contractual obligation, provided they have taken over such obligation through express and separate declaration.
- 2.5. For **bookings that take place orally, telephonically, in writing, by fax or e-mail**, the following applies:

With his/her **booking**, the guest or contracting authority offers the particular tour guide, represented by the TIS as its contractual representative, the **conclusion of a service contract** on the basis of the service description for the particular tour and these contract provisions as well in **binding** fashion while at the same time, issuing the corresponding mediation contract to the TIS.

  - a) The service contract for the guided tour comes into existence through the **booking confirmation** which the TIS undertakes as representative of the tour guide. **It need take no particular form**. As a rule, the TIS will, except for very near-term bookings, transmit to the guest or contracting authority a **written counterpart of the booking confirmation**. For binding telephonic bookings over the telephone, the validity of the contract is **independent** of the receipt of the written counterpart of the booking confirmation and a possibly agreed-upon advance payment.
- 2.6. For bookings **made without individual communication about an online booking procedure (contract in the electronic booking procedure)**, the following provisions apply to the conclusion of the contract:
  - a) The procedure for the online booking will be explained to the guest in the appropriate internet portal. The guest has available a **corresponding procedure for correcting his entries, for deleting or resetting the entire online booking form**; its use will be explained.
  - b) The **contract languages** available for carrying out an online booking are given. To the extent that the **contract text** will be **saved** in the online booking system, the guest or contracting authority will be instructed about such saving and instructed on the later reopening of the contract text.
  - c) By activating the **"Book with obligation to pay"** button (on the interface), the guest is offering the tour guide binding conclusion of a service contract for the tour and at the same time, issuing a mediation contract to the TIS. The

- d) The transmission of the contractual offer by activating the "Book with obligation to pay" **does not establish any claim by the guest or contracting authority on the creation of a service contract with the tour guide corresponding to his booking entries**. The tour guide or, as the case may be, the TIS as his/her representative are in fact free to make their own decision as to whether to accept the offer of a contract by the guest or the contracting authority or not.
- e) The TIS, by accepting the mediation contract, **does not take on any guarantee or risk of procurement** to the effect that in fact, a contract with a tour guide corresponding to the booking of the guest or contracting authority can be conveyed.
- f) The contract comes into existence through **access** by the guest or contracting authority to the **booking confirmation** which the TIS as mediator and representative of the tour guide carries out. The booking confirmation need not take any particular form.
- g) The booking confirmation takes place either immediately the guest or contracting authority carries out the booking by activating the "Book with obligation to pay" button, **through a corresponding display on the display screen (booking in real time)** or through an appropriate electronic acknowledgment of receipt of the guest's or contracting authority's booking or through submission of the booking in the stated or agreed-upon form in writing, either by e-mail or fax.
- h) In the event of an immediate booking confirmation on the display screen in real time, the contracting authority will be offered the possibility of saving and printing the booking confirmation. The obligation of the tour guide to the service contract or the TIS to the mediation order is, however, not dependent on the fact that the guest or contracting authority utilizes the opportunity to save or print it.
- i) As a rule, the TIS will send the guest or contracting authority an additional copy of the booking confirmation by e-mail, as e-mail attachment, by postal mail or by fax in addition to the booking confirmation that appears on the display screen. Access to such an additional copy of the booking confirmation is, however, similarly not a prerequisite for the legal force of the service contract with the tour guide.

### 3. Services, replacement proviso; differing arrangements; significant change in services; duration of tours; weather conditions

- 3.1. The service owed by the tour guide consists of carrying out the guided tour in accordance with the performance description and the additionally specified arrangements.
- 3.2. As long as nothing different has **been expressly arranged, a specific tour guide is not obligated** to conduct the tour. Instead, the selection of the tour guide in each case is incumbent upon the TIS in accordance with the qualifications required.
- 3.3. Also in the case of naming or making an express arrangement with a specific tour guide, the right is reserved to replace the tour guide **under compelling conditions** (especially because of illness) with another suitable and qualified one.
- 3.4. The scope of the services owed emerges from the service description and the additionally specified arrangements. Information and assurances of third parties and arrangements with them (especially travel agents, accommodation services, restaurants, museums and other sightseeing sites) for coverage of contracted services that contradict the service description of the arrangements made with the TIS and/or the tour guide are binding neither on the TIS nor on the tour guide.
- 3.5. **Changes or expansions of the services written in the contract** require express arrangement with the TIS or the tour guide, for which the text form is strongly recommended for reasons of verification.
- 3.6. **Changes in significant services**, that deviate from the agreed-upon content of the contract, that become necessary after conclusion of the contract (also especially changes in the scheduling of the tour) and not brought about through the bad faith of the tour guide, **are permitted**, as long as the changes are not substantial and do not affect the overall character of the tour. Possible warranty claims by the guests or contracting authority in the case of such changes in significant services remain unaffected.
- 3.7. **Statements about the duration of tours are approximations.**
- 3.8. The following applies to weather conditions and their impacts on agreed-upon tours:
  - a) To the extent that nothing different has been expressly agreed in individual cases, **the tours that have been agreed upon will take place under all weather conditions.**
  - b) Weather-related reasons do not justify the guest or contracting authority to a free withdrawal or cancellation of the contract with the tour guide. This does not apply only if, because of weather conditions, the body, health or property of the guest or the contracting authority's participants in the tour is so significantly affected that the tour's execution is objectively unreasonable for the guest or the contracting authority and his participants.
  - c) If such conditions exist upon the start of the tour or are to be expected when viewed objectively at the agreed-upon time for the start of the tour, the guest or the contracting authority and the tour guide or the TIS, as their representative, reserve the right to terminate the contract in orderly or extraordinary fashion.
  - d) In the case of such termination by the tour guide or the TIS as his/her

representative, neither the guest nor the contracting authority have any claim to refund of costs, travel and overnight expenses in particular, unless contractual or legal claims of the guest or the contracting authority related to this are based on recovery of damages or reimbursement of expenses.

#### 4. Prices and payment; Maximum and minimum number of participants

4.1. The prices agreed upon include the execution of the guided tour and additional written or agreed-upon services.

4.2. **Entry fees, meal expenses as well as transportation costs with public and private transportation, city maps, brochures, museum guides, costs of tours within** the tourist attractions visited in the course of the guided tour are only included in the agreed-upon price if they are expressly **listed** among the services of the guided tour or **additionally agree upon**.

To the extent nothing else has been agreed upon, especially with regard to a deposit, the agreed-upon payment is payable **in cash at the start of the guided tour**. Checks and credit cards are not accepted. **Payment with vouchers (authorization coupons)** is only possible when these are **issued by the TIS** and are valid for the particular tour. Vouchers issued by third parties are only **valid in the case of an appropriately express arrangement** with the **TIS**. To the extent this has been expressly agreed upon by the **TIS** or the tour guide in an individual case, payment can take place upon issuance of a bill after the guided tour has taken place. In this case, the invoice amount is due immediately and in full and should be paid to the tour guide.

4.3. If the tour guide is ready and in position to deliver the contracted services and if no legal or contractual offset right or right of retention on the part of the guest or contracting authority toward the tour guide or the TIS, the tour guide or the TIS as his/her representative, to the extent that agreed-upon payments despite warning with appropriate setting of deadlines have not been paid by the agreed-upon settlement date, are entitled to withdraw from the service contract for the guided tour or the mediation contract and to charge the guest or the contracting authority with cancellation fees in accordance with item 7 of these provisions.

4.4. **The maximum number of participants per tour guide consists of 25 persons for guided city tours.** For tour guides, one tour guide per bus will be assigned (maximum of 50 occupants). If the number of participants who appear for the tour exceeds this number, **the tour guide is entitled to call in an additional tour guide**. This additional tour guide is to be paid the entire applicable payment rate, independent of by how many persons the agreed-upon number of participants was exceeded.

4.5. The tour guide or the **TIS** as his/her representative can, if the description of the tour in question cites a minimum number of participants, withdraw from the contract if the written minimum number of participants has not been reached by 8 days prior to the date of the tour. The guest will immediately be informed after the occurrence of the requirement for the non-performance of the tour by sending him/her the withdrawal justification immediately. In the event of a withdrawal, the guest will have any advance payments refunded immediately in full.

#### 5. Rebookings; Changes in billing account

5.1. The guest or contracting authority is **not entitled to changes with regard to the date of the tour, time of day of the tour, the departure or return point and the destination of the tour (rebooking)**. If nevertheless a rebooking is undertaken upon request of the guest or contracting authority, the **TIS** can charge a rebooking fee up to 6 workdays before the start of the tour. To the extent that nothing else was agreed prior to undertaking the rebooking, the rebooking fee comes to **€ 5.- per rebooking event**. The guest or contracting authority retains the right to prove to the **TIS** that costs that occurred by undertaking the rebooking are significantly lower than the agreed-upon rebooking fee. In this case, the guest or contracting authority need only pay the lower costs.

5.2. Rebooking requests of the contracting authority that take place later than 6 days before the start of a tour, to the extent that their execution is even possible, can only be carried out by withdrawing from the service contract with the tour guide in accordance with item 7 of these provisions and simultaneously carrying out a new booking.

5.3. The regulations above do not apply to rebooking wishes that only involve negligible costs.

5.4. The provisions above apply similarly to a change in the billing account; a processing fee € 5.- will be charged for every change.

#### 6. Non-utilization of services

6.1. If the guest or the contracting authority do not utilize, in whole or in part, the services that have been agreed upon without notifying the tour guide or TIS, **especially as a result of not arriving or not showing up for a tour without cancelling the contract**, even though the tour guide was ready and in a position to conduct the tour, **no claim exists for refund of already provided payments**.

6.2. **A statutory regulation (§ 615 S. 1 und 2 German Civil Code)** applies to the remuneration that has been agreed upon as follows.

- The agreed-upon remuneration must be paid without there being a claim for rescheduling the guided tour
- However, the tour guide has to take into account refunds of expenditures that are thereby saved as well as remuneration received as a result of a use of the agreed-upon service in some other way or remuneration s/he willfully neglects to request.

#### 7. Cancellation and withdrawal by the guest or contracting authority

7.1. The guest or contracting authority can cancel the contract with the tour guide after concluding it **until the 6th day before the agreed-upon initiation of the service free-of-charge**. However, written cancellation is highly recommended.

7.2. For a **cancellation by the guest or contracting authority that takes place between the 5th and 2nd workday before the start of the tour**, a processing fee in the amount of 50% of the agreed-upon total price of the tour will be charged. This also discharges

corresponding claims of the tour guide in connection with the cancellation of the service contract. The guest and the contracting authority retain the right to prove to the tour guide and the TIS that the aforementioned sustained no or significantly lower losses. In this case, the guest or the contracting authority need only compensate for the lower expenditures or costs in each case.

7.3. For a **cancellation later than 2 workdays before the start of a tour and on the day of the tour itself, the full agreed-upon remuneration becomes payable**. However, the tour guide has to recognize or forbear to demand maliciously expenses that he succeeds in saving as well as payments for services that s/he is able to use in other ways. Saved expenses with regard to auxiliary services on the tour, especially the cost of a bus trip, meals, beverages, admission tickets, etc. are to be refunded by the the tour guide and the **TIS** to the guest or the contracting authority only to the extent a statutory or contractual claim for refund or, as the case may be, an actual refund from these service providers exists and can indeed be claimed by him/her.

7.4. For the above deadlines, the **access to the guest's or contracting authority's cancellation declaration for the TIS as to their published and/or communicated business hours** is essential. Cancellation declarations should be directed **exclusively to the TIS** as representative of the tour guide.

7.5. The above cancellation regulations do not affect the statutory or contractual cancellation rights of the guest or contracting authority in the event of defects in the tour guide's services or the mediation services of the **TIS** as well as other statutory warranty claims.

#### 8. Liability of the tour guides and the TIS; insurance policies

8.1. **For the liability of the TIS, reference should be made to item 1.2 of these provisions.**

8.2. A **liability on the part of the tour guide** for damages that do not result in injury to the life, body or health of the guest or contracting authority, is **precluded** to the extent that damage was not caused by the tour guide deliberately or through gross negligence.

8.3. **The tour guide is not liable** for services, measures or omissions of meal providers, facilities, sponsors of points of interest or other offers that are visited in the course of the tour unless a culpable dereliction of duty by the tour guide was responsible or partly responsible for the occurrence of the problem.

8.4. The agreed-upon contractual services incorporate insurance policies for the benefit of the guest or contracting authority only **if this is expressly agreed upon**. **The conclusion of a trip cancellation cost insurance policy is strongly recommended to the guest or contracting authority.**

#### 9. Tour hours, responsibilities of the guest or contracting authority

9.1. Der guest or the contracting authority are required to provide a **mobile phone number**, during the booking or in timely fashion before the agreed-upon date of the tour, at which contact can be made in the event of unusual circumstances. The **TIS** will likewise, as a rule, provide the guest or a named person an appropriate **mobile phone number of the tour guide carrying out the tour**.

9.2. **Agreed-upon tour hours must be met on-time**. Should the guest be delayed, he is obligated to inform the tour guide of this delay **no later than the time at which the tour is to begin** and to name an expected time of the belated arrival. The tour guide can **decline a delayed start of the tour** if the delay is objectively impossible or unreasonable, especially if, as a result of it, later tours or otherwise important business or private appointments of the tour guide will not be able to be met. **Delays of more than 15 minutes entitle the tour guide in general to call off the tour. In this case, the rule in item 6 of these provisions applies to the remuneration claim of the tour guide.**

9.3. The guest, or the designee of the group contracting authority are **obligated to report possible shortcomings of the tour and demand remedy immediately from the tour guide**. Possible claims emerging from shortcomings or incomplete services of the tour guide and the agreed-upon services are not dropped only if these complaints remain involuntarily undone.

9.4. The guest or contracting authority are only entitled to **break off or cancel a tour after it begins** if the service of the tour guide is significantly deficient and these defects are not corrected despite appropriate demands to that effect. **In the case of an unjustified termination or cancellation, there is no claim for a refund**. Warranty claims by the guest or contracting authority in the event of a defective execution of the guided tour remain unaffected by this.

#### 10. Settlement of a user dispute; place of jurisdiction

10.1. The **TIS** points out that, with regard to the law on consumer dispute resolution, neither it itself nor the tour guide participate in voluntary consumer dispute resolution, to the extent that in print media and in the online presence of the **TIS** or the tour guide nothing different has been stated. To the extent that participation in an establishment for consumer dispute resolution become mandatory for the **TIS** or for the tour guide after publication of these contract and mediation provisions, the **TIS** or the tour guide will inform the guest about this in suitable form. For all contracts that are concluded in electronic legal dealings, the **TIS** refers to the European online dispute resolution platform, <http://ec.europa.eu/consumers/odr/>.

10.2. To the extent that a full **on-site payment** to the tour guide or the **TIS** is agreed upon, the **place of performance and of jurisdiction are the location of the guided tour**.

10.3. The guest or the contracting authority can raise complaints against the tour guide or the **TIS only at their general place of jurisdiction**.

10.4. For complaints of the tour guide or the **TIS** against the guest or the contracting authority, the general place of jurisdiction of the guest or the contracting authority is decisive. If the contracting authority is a merchant or a corporate body under public or private law or if the guest or contracting authority have no general place of jurisdiction domestically, then the **sole court of jurisdiction for complaints** of the tour guide or the **TIS** is their domicile or place of business.

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