

## **CONTRACT AND AGENCY TERMS AND CONDITIONS OF STADTMARKETING-GESELLSCHAFT DESSAU-ROSSLAU MBH FOR CONTRACTED GUIDED TOURS**

Stadtmarketinggesellschaft Dessau-Roßlau mbH, having its place of business at Kavalierstraße 37-39 06844 Dessau- Roßlau, Germany (hereinafter referred to as "SMG") arranges guided tours (sightseeing tours and city walks) for individual tourists and tourist groups as principals (hereinafter also referred to as "contracted guided tours"). The following terms and conditions shall exclusively apply to SMG's activities for arranging contracted guided tours if and to the extent these terms and conditions have been effectively included in the respective contract. In addition, SMG's terms and conditions for arranging travel services shall apply; they can be found at <https://visitdessau.com/agb/>.

Please read these terms and conditions carefully before booking because booking a contracted guided tour shall be deemed an acknowledgement of these terms and conditions. SMG shall only recognise conflicting, deviating, or additional terms and conditions of the customer/principal if SMG has expressly agreed to their validity in writing in advance.

SMG's terms and conditions for public guided tours (available at <https://visitdessau.com/agb/>) shall apply to public guided tours organised by SMG as regular events with a fixed programme.

### **1. Subject of the terms and conditions for booking guided tours**

1.1 SMG organises city tours (sightseeing tours or city walks) for individual tourists and tourist groups at the customer's request. To this end, SMG arranges for self-employed tour guides who can be booked for specific, previously arranged city tours.

### **2. Status of SMG and the tour guides; status of groups (principals); third-party services**

2.1 SMG acts exclusively as an agent who arranges the contract between the customer and/or the principal who commissioned the contracted guided tour (e.g., travel organiser, travel agency, or private group) and the tour guide. The tour guide is the direct contractual partner of the customer and/or principal for the arranged tours and provides the advertised contractual services as a self-employed service provider.

2.2 The direct legal relationship between the customer and/or the principal and the tour guide is governed in particular by the agreements made with the tour guide and his or her general terms and conditions of business (if they have been effectively included in the contract); this legal relationship shall be supplemented by these terms and conditions.

2.3 If a third party referred to in these terms and conditions as "principal", including companies and legal entities (e.g., travel organisers, travel agencies, private groups), makes a booking, the principal shall be the sole contractual partner of SMG under the agency contract and/or the tour guide. This shall not apply if the principal expressly acts as the legal representative of the persons who are to take part in the tour.

### **3. Conclusion of contract**

3.1 Contracted guided tours can be booked in writing, by e-mail, and/or at the SMG sales office. Booking a tour is a binding declaration of intent made by the customer. By booking a tour, the customer offers the respective tour guide, represented by SMG as his or her legal representative, the conclusion of a binding contract based on the service description for the respective tour; simultaneously, the customer gives SMG an agency order to arrange the tour.

3.2 However, a contract with SMG is only concluded when SMG confirms the customer's booking request in writing or by e-mail ("order confirmation").

3.3 According to the statutory provisions (section 312 lit. g para. 2 sentence 1 no. 9 of the German Commercial Code [BGB]), there is no right of withdrawal (*Widerrufsrecht*) for any contracts for guided tours concluded at a distance (e.g., by letter, catalogue, telephone call, telecopy, e-mail, mobile phone message [SMS], broadcasting and telemedia) if these contracts provide for a specific date or period for the provision of the contractual services; however, the statutory provisions on the non-utilisation of services under section 611 et seq., and section 615 of the German Commercial Code (BGB) shall apply. However, there is a right of withdrawal if the contract was not concluded at a distance but outside business premises.

### **4. Travel package; changes in the travel package**

4.1 All information and representations given or made by SMG in catalogues, brochures, on the Internet, etc., regarding city tours are only exemplary descriptions of services that can typically be offered. The descriptions provided by SMG are not a guarantee of any particular content of the city tours. SMG shall owe only the scope of services expressly reflected in the order confirmation.

4.2 SMG reserves the right to make changes or deviations from the agreed content of the booked services, provided that the changes or deviations are reasonable for the customer, taking into account the interests of SMG. This is the case if the changes or deviations are not significant and do not significantly affect the overall nature of the booked guided tour or if circumstances occur that are out of SMG's control and responsibility (e.g., closure of institutions, illness of the tour guide shortly before the planned tour should have started).

4.3 SMG will immediately inform the customer and/or the principal of any changes or deviations from the agreed content of the booked services. If necessary, SMG will offer the customer and/or the principal the possibility to change the booking free of charge. If the changes or deviations are unreasonable for the customer, taking into account the interests of both parties, the customer/principal can revoke the contract.

### **5. Selection of tour guides; right to replace the tour guide; conducting guided tours; waiting periods; number of participants**

5.1 The selection of the tour guide is at the discretion of SMG and depends on the qualifications required for the city tour. The customer and/or principal are not entitled to

request the selection of a specific tour guide.

5.2 Even if a specific tour guide is named, SMG reserves the right to replace him or her with another suitable and qualified tour guide if the tour guide originally selected cannot provide his or her services for a compelling reason (including illness).

5.3 The contact details of the tour guide will be provided with the order confirmation.

5.4 If entrance fees of specific institutions (e.g., the Bauhaus Dessau Foundation) are incurred in connection with a city tour, these fees are to be paid separately by the customer and/or principal. For institutions, the generally valid box office prices shall apply. The tour guides selected by SMG will never advance money for entrance tickets, catering, or other costs.

5.5 The agreed times for the guided tours must always be observed. The tour guide will wait at the agreed meeting point for 15 minutes. Any delay of a customer or tourist group of more than 15 minutes is considered a failure to attend. If the customer or group is late, there is no right to extend the tour or reduce the price. An extension of the city tour is at the discretion of the tour guide. If the tour guide is willing to extend the tour, the extra charge for the extension is €25 per hour or part thereof.

5.6 If the guide or a substitute does not arrive at the meeting point at the latest 15 minutes after the agreed start of the guided tour, SMG will make every effort to find another guide during the opening hours of the tourist information office.

5.7 Unless expressly agreed otherwise, guided tours shall take place in all weathers.

5.8 Certain city tours are subject to a maximum number of participants per tour guide. SMG will inform the customer/principal about any limitation of the number of participants, if any. If the desired group size exceeds the maximum number of participants specified by SMG, SMG will offer the customer an additional tour guide, if necessary; in this case, the group will be divided.

## **6. Payment terms**

6.1 The specific payment terms are reflected in the offer and the order confirmation.

6.2 Payments for group tours arranged by SMG are handled directly between the customer and/or principal and the respective tour guide. The price for guided tours is usually payable in cash to the tour guide at the end of the tour against a receipt. If the customer wishes to receive an invoice, an additional amount of €2.50 will be charged.

6.3 When arranging third-party tours for individual guests, tickets can be purchased in individual cases for specific prearranged city tours at SMG's tourist information office. Tickets can be paid for in cash, by credit card, or by debit card. In this case, SMG will act as the collecting agent of the selected tour guide.

## **7. Cancellation by the customer/principal; non-utilisation of services**

7.1 The following shall apply for the arrangement of group tours:

7.1.1 The tour can be cancelled free of charge until 7 working days before the start of the guided tour at the latest. The date of receipt by SMG of the cancellation notice is decisive for the effectiveness of the cancellation. The cancellation notice does not require any specific form. SMG recommends using the text form for the cancellation notice.

7.1.2 If the guided tour is cancelled between 6 to 4 working days before the start, a handling fee of €30 will be charged for the arrangement of group tours.

7.1.3 If the guided tour is cancelled 3 working days or less before the start, the agreed remuneration will have to be paid in full.

7.1.4 The agreed remuneration must also be paid in full if the customer and/or principal does not use the agreed services, whether in whole or in part (in particular by failing to appear at the tour without terminating the contract), without the tour guide or SMG being responsible for this failure and although the tour guide is willing and able to provide the service.

7.1.5 However, within the scope of clauses 7.1.3 and 7.1.4, the tour guide must deduct from the remuneration to be paid by the customer and/or principal any saved expenses and any remuneration that he or she obtains (or maliciously refrains from obtaining) through any other deployment of the agreed services. In any case, the customer may prove that the cancellation or non-appearance has not caused any damage or has caused significantly less damage than stated by the tour guide.

7.2 The following shall apply for the arrangement of third-party tours for individual tourists:

7.2.1 If individual tourists have purchased tickets at the tourist information for specific prearranged city tours, rights of termination and revocation are generally excluded to the extent this is legally possible. The provisions of clause 8 of these terms and conditions shall apply accordingly.

7.3 The preceding provisions shall neither affect any statutory or contractual rights of the customer and/or the principal in the event of defects in the tour guide's services or the services arranged by SMG nor any other statutory warranty claims.

## **8. Rebooking services**

8.1 Customers and/or the principals have no legal or contractual right to rebook any services under a contract for guided tours, including changes dates, agreed times, and destinations.

8.2 However, if it is possible, by way of exception, to rebook a guided tour, SMG may charge a handling fee to be agreed upon on a case-by-case basis if rebooking occurs 7 working days before the tour starts. If the customer and/or principal wishes to make extensive changes to any services (tour guide) that have been bindingly booked, SMG may charge processing fees of up to €30.00 depending on the amount of work involved to implement the change.

8.3 After the deadline specified in clause 8.2 has expired, no services may be rebooked anymore. If the client and/or principal wishes to rebook any service, the service contract with the tour guide must be cancelled/terminated as provided for in clause 7 of these terms and conditions; simultaneously, the customer and/or principal must make a new booking request.

## **9. Liability**

9.1 Except for bodily injuries, SMG's liability for damages shall be limited to damages caused intentionally or by gross negligence or damages resulting from the violation of essential contractual obligations (cardinal obligations). In the event of a negligent breach of cardinal obligations, SMG's liability shall be limited to typical and foreseeable damages, and in any case, to 3 times the value of the service offered. This limitation of liability shall also apply to SMG's vicarious agents. SMG shall be liable for the correct fulfilment of its agency obligations unless SMG has assumed any further contractual obligation by express agreement with the customer.

9.2 SMG shall not be liable for services, defects, personal injury, or property damage in connection with the guided tour unless the guided tour is to be considered a contractually agreed service of a travel package or another offer for which SMG is the direct contractual partner of the customer and/or the principal. Any liability of SMG arising from the agency relationship under clause 9.1 of these terms and conditions shall remain unaffected by the preceding provision.

## **10. Special provisions concerning pandemics (in particular COVID-19)**

10.1 The agreed services shall always be provided by the respective tour guide in compliance with the official requirements and conditions applicable when the respective service is provided.

10.2 The customer and/or principal agrees to observe appropriate behavioural and hygienic concepts when using any services and shall inform the tour guide immediately if he or she shows any typical symptoms.

10.3 If the agreed service cannot be performed due to official measures, the statutory provisions shall apply.

## **11. Choice of law and venue**

The contract shall exclusively be governed by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG). If the customer/principal is a merchant, a legal entity under public law or a special fund under public law, or if the customer/principal has no general place of jurisdiction in the Federal Republic of Germany, the exclusive (including international) place of jurisdiction for all disputes arising from the business relationship between SMG and the customer shall be the registered place of business of SMG.