

# Template for General Terms and Conditions for Travel Agents

## 1. Scope

1.1. The travel agent brokers travel contracts for individual travel services (such as e.g. flight, hotel etc.), for package travel (as defined in Art. 2 Para. 2 Package Travel Act (PTA)) as well as for linked travel arrangements (as defined in Art. 2 Para. 5 Package Travel Act (PTA)) between the tour operator or service provider on the one hand and the traveller on the other hand. The travel agent provides their services in accordance with the legal regulations, in particular the Package Travel Act (PTA), and the Package Travel Ordinance (PTO) with the diligence of a prudent contractor.

Hereinafter, the company OÖ. *Touristik GmbH* is defined as travel agent.

1.2. The General Terms and Conditions shall be deemed to have been agreed, if they have been made available before the traveller is bound to a contract by a declaration of contract or if the traveller was able to view their contents. They constitute the foundation of the contract of agency which exists between the travel agent and the traveller.

1.3. The present General Terms and Conditions shall apply to the contract of agency (see item 1.2). For contractual relationships between the traveller and the brokered tour operator, the brokered transport companies (e.g. train, bus, plane and ship etc.) and other brokered service providers, the respective general terms and conditions apply.

## 2. Role of the Travel Agent

2.1. In accordance with the information supplied by the traveller, the travel agent compiles travel proposals for the traveller. These are non-binding and as such do not constitute offers in the sense of Art. 4 PTA. If it is not possible to compile travel proposals on the basis of the information provided by the traveller, then the travel agent shall notify the traveller of this.

The travel proposals are based on the information provided by the traveller, which is why incorrect and/or incomplete information supplied by the traveller - in the absence of clarification from the traveller - may form the basis of the travel proposals. When compiling travel proposals, it is possible, for example, to use the price, the expertise of the tour operator/service provider, discounts, the best price principle and other factors, if applicable, as parameters (without any claim to completeness).

2.2. If the traveller expresses a concrete interest in one of the travel proposals submitted to them by the travel agent, the travel agent shall prepare a travel offer on the basis of the travel proposal in accordance with the provisions of Art. 4 PTA, insofar as these are relevant for the tour. The travel offer, prepared by the travel agent, commits the tour operator or, in the case of linked travel arrangements or individual travel services, the service provider. A contract between the tour operator and the traveller or, in the case of linked travel arrangements or individual travel services, between the service provider and the traveller is concluded when the travel offer is accepted by the traveller (= declaration of contract of the traveller, see 1.3).

- 2.3. The travel agent advises and informs the traveller based on the information which the traveller submits to the travel agent. The travel agent represents to the best of their knowledge the package travel of the tour operator brokered according to the traveller's information or, in the case of linked travel arrangements or individual travel services, the service of the service provider taking into account the customary conditions in the country of destination as well as taking into account any particularities associated with the tour (e.g. expedition tours). There is no obligation to provide information on generally known circumstances (e.g. topography, climate, flora and fauna of the destination requested by the traveller), provided, depending on the type of trip, there are no circumstances which require separate clarification or clarification of the circumstances is not necessary for the provision and the course or performance of the service. In principle, it must be noted that the traveller consciously chooses a different environment and that the quality, facilities, food (seasoning in particular) and hygiene levels are related to the regional standards/criteria customary for the country/place of destination. In addition, the traveller has the opportunity to obtain more detailed information on the customary local conditions, in particular with regard to the location, place and standard (customary in the country) of the services to be provided, from the catalogue or on the website of the respective tour operator.
- 2.4. The travel agent shall inform the traveller in accordance with Art. 4 PTA before the traveller is bound to a package travel contract by a declaration of contract:
- 2.4.1. Of the existence of a package tour by means of a standard information sheet pursuant to Art. 4 Para. 1 PTA.
- 2.4.2. Of the information listed in Art. 4 Para. 1 PTA, insofar as it is relevant so that the package tour may be arranged and it is necessary for the execution and provision of services (e.g. in the case of an exclusively beach holiday, no references to sightseeing tours as in the case of study trips etc. are necessary, insofar as these are not part of the agreed services).
- 2.4.3. Of whether the package holiday to be brokered for the traveller is generally suitable for persons with reduced mobility, provided that this information is relevant to the package tour in question (Art. 4 Para. 1 No.1(h) PTA). A person with reduced mobility is a person with a physical disability (sensory or motor, permanent or temporary), in accordance with Art. 2 (a) VO 1107/2006 (Rights of disabled persons and persons with reduced mobility), who limits the use of components of the package (e.g. use of certain means of transport, accommodation) and as such necessitates the services to be adapted to the special needs of this person.
- 2.4.4. General passport and visa requirements of the country of destination, including approximate time limits for obtaining visas and for completing health care formalities (Art. 4 Para. 1 No. 6 PTA), provided that this information is relevant to the package in question. Upon request, the travel agent will provide information on foreign currency and customs regulations. General information on passport and visa requirements, health care formalities as well as foreign currency and customs regulations for travellers with Austrian citizenship can moreover be obtained by selecting the desired country of destination under <https://www.bmeia.gv.at/reise-aufenthalt/reiseinformation/laender/>. EU citizens can request this information from their relevant representative authorities. It is assumed that a valid passport (which e.g. is not expired, not reported stolen or lost, etc.) is generally required for travel abroad, and the traveller is responsible for its validity. The traveller is responsible for complying with the health care formalities of which they have been notified. The traveller is responsible for obtaining the necessary visa, unless the travel agent has agreed to process the procurement of such a visa.

- 2.5. In accordance with Art. 15 Para. 1 PTA in the case of linked travel arrangements, the travel agent shall inform the traveller, before the traveller is bound by a declaration of contract, that the traveller cannot make use of any rights which apply exclusively to package travel, that each service provider is only liable for the contractual provision of their service and that the traveller benefits from insolvency protection in accordance with the package travel ordinance. In accordance with Art. 15 Para. 2 PTA, the travel agent is deemed compliant with this duty of information if they provide the relevant standard information sheet in accordance with Appendix II, PTA, provided that the type of linked travel arrangement is covered by one of these standard information sheets.
- 2.6. Special requests by travellers which are akin to customer preferences (e.g. sea view) are fundamentally non-binding and do not result in a legal claim, provided these requests have not been confirmed by the tour operator as a requirement of the traveller in accordance with Art. 6 Para. 2 No. 1 PTA or for linked travel arrangements or individual travel services said request has not been confirmed by the service provider as a requirement of the traveller. If a confirmation is issued, a binding service agreement exists. The travel agent's declarations represent a commitment to forward the traveller's requests to the tour operator/relevant service provider and do not constitute a legally binding agreement as long as they have not been confirmed by the tour operator or, in the case of linked travel arrangements or individual travel services, by the service provider.

### **3. Obligation of the Traveller to Provide Information and Cooperate**

- 3.1. The traveller is to provide the travel agent with all personal (e.g. date of birth, citizenship etc.) and factual (e.g. planned carriage/importing of medication, prostheses, animals, etc.) information, which is relevant to the trip in a timely, complete and truthful manner. The traveller must notify the travel agent of any issues relating to its person or its fellow travellers (e.g. allergies, food intolerance, no travel experience, etc.), and of its and their special needs, in particular with regards to any limited mobility or health-related issues and other restrictions which may be relevant for either the preparation of travel proposals/travel offers or for the execution of the tour and provision of travel services (e.g. for hiking trips etc.), if necessary by submitting a complete qualified certificate (e.g. medical certificate).
- 3.2. In the instance of reduced mobility or other limitations or special needs in accordance with item 3.1 (e.g. requirement of special medication, regular medical treatment, etc.), which would possibly affect the execution of the trip, the traveller is advised to consult a doctor prior to booking as to whether the traveller in question is able to travel.
- 3.3. If the mobility of the traveller only becomes reduced in the period between contract conclusion and trip commencement or if other restrictions within the meaning of item 3.1 arise during said period, then the traveller must inform the travel agent immediately - for reasons of proof it is recommended to do so in writing - so that the travel agent can inform the tour operator or, in the case of linked travel agreements or individual travel services, the service provider accordingly.
- 3.4. The traveller, who has had a booking made for themselves or a third party by the travel agent, is considered to be the client and thus assumes the obligations of the contract of agency vis-a-vis the travel agent (e.g. payment of costs etc.) in accordance with Art. 7 Para. 2 PTA, unless another agreement applies.
- 3.5. The traveller is obliged to check all contractual documents (e.g. package travel contract, booking confirmation, vouchers) provided by the travel agent for factual correctness of their

details / data and for any deviations (spelling mistakes; e.g. names, date of birth) as well as for incompleteness and, in the event of inaccuracies / deviations / incompleteness, to inform the tour operator immediately for correction - whereby the written form is recommended for reasons of proof.

- 3.6. In order to ensure that travellers with reduced mobility (in accordance with Art. 2(a) of Regulation (EC) No 1107/2006 on the rights of disabled persons and persons with reduced mobility when travelling by air) and their co-travellers, pregnant travellers, unaccompanied travelling minors and travellers in need of special medical care, are not subject to the tour operator's limited obligation to bear the costs of the accommodation which is necessary as a result of impossible return transport due to unavoidable and exceptional circumstances, the travellers concerned must inform the tour operator or travel agent of their special needs at least 48 hours before the start of their journey.
- 3.7. In accordance with Art. 11 Para. 2 PTA, the traveller is obligated to immediately and comprehensively report any perceived deviation from the agreed travel services, including the concrete description of the deviation/issue, in acknowledgement of the respective circumstances, so that the tour operator is able to remedy the deviation - insofar as this is possible or feasible, depending on the individual case - taking into account the respective circumstances (e.g. time difference, impossibility of contacting the expedition, existence of an alternative or an exchange/upgrade option, etc.) and the associated costs (e.g. cleaning the replacement room, finding a replacement hotel). If a violation of contract occurs during the normal business hours of the travel agent through whom the package was booked, the traveller is obligated to report the violation to the travel agent. The traveller is advised to notify the agent in writing, for reasons of proof in particular. Outside normal business hours, the traveller must immediately notify the tour operator's representative of any violation of contract or, if such a representative does not exist and/or is not contractually owed, directly to the tour operator via the emergency number specified in the package travel contract. Failure to report a violation of contract shall have an effect on any warranty claims of the traveller if remedial action could have been taken on site and if such reporting could have been reasonably expected. In accordance with Art. 12 Para. 2 PTA, failure to report a deviation can also be considered as contributory negligence in relation to claims for damages (Art. 1304 ABGB (Austrian civil code)). Reporting a violation of contract does not immediately guarantee services from the tour operator.
- 3.8. The traveller is obligated to pay the fees agreed within the framework of the contract in full and on time in accordance with the terms of payment. The traveller shall indemnify the travel agent for any losses incurred by the travel agent in the event of non-payment (advance payments by the travel agent).
- 3.9. In the event of claims for compensation or price reductions and the receipt of payments for compensation or price reductions in accordance with Art. 12 Para. 5 PTA (e.g. compensation in accordance with Art. 7 of the Passenger Rights Ordinance) or in the event of the receipt of other payments and services from service providers or third parties that are to offset the claims for compensation or price reductions of the traveller against the tour operator (e.g. payments by the hotel), the traveller shall inform the travel agent or tour operator of this situation completely and truthfully.

#### 4. Insurance

- 4.1. When travelling on holiday, it is important to note that valuable objects, important documents etc. should fundamentally not be taken on the trip. In the case of important documents, it is recommended that copies be made and used, provided copies are accepted.

It is not possible to exclude the possibility of theft of valuables and therefore the travellers must take responsibility for this risk themselves.

- 4.2. Organising insurance cover (trip cancellation insurance, trip interruption insurance, luggage insurance, travel liability insurance, health insurance for travel abroad, protection against delays, personal protection, etc.), which guarantees sufficient coverage from the date of the package travel contract until the end of the package tour, is recommended. Additional information on insurance can be found in the tour operator's catalogue.

## 5. Package Travel Contract

- 5.1. The traveller shall receive a copy of the contract document or a confirmation of the contract on a permanent data carrier (e.g. paper, email) upon conclusion of a package travel contract or immediately thereafter. If the package travel contract is concluded in the simultaneous presence of the contracting parties, the traveller is entitled to a paper version. In the case of contracts concluded outside business premises in accordance with Art. 3 No. 1 FAGG, the traveller agrees to receive the copy or confirmation of the package travel contract on an alternate permanent data carrier (e.g. e-mail).
- 5.2. Unless otherwise agreed, the traveller shall be issued with booking receipts, vouchers, tickets and admission passes, information on planned departure times and, if applicable, scheduled intermediate stops, connections and arrival times at the last delivery/contact address provided by the traveller in good time before the start of the package tour. Should the aforementioned documents include any inaccuracies/deviations/incomplete information in accordance with 3.5, the traveller must contact the travel agent or tour operator (see 3.5).

## 6. Price Changes before Departure

- 6.1. The travel agent shall inform the traveller clearly, comprehensibly and explicitly via a permanent data carrier (e.g. paper, e-mail) of price changes in accordance with Art. 8 PTA, as reserved by the tour operator in the package travel contract, no less than 20 days before the start of the package tour, stating the reasons for the price change. This information shall be sent to the last address provided by the traveller.

## 7. Changes to the Service Prior to Commencement of Travel

- 7.1. The travel agent shall inform the traveller clearly, comprehensibly and explicitly via a permanent data carrier (e.g. paper, e-mail) of insignificant changes to the contents of the package travel contract, as reserved by the tour operator in the package travel contract, and which the tour operator unilaterally carries out in accordance with Art. 9 Para. 1 PTA.
- 7.2. Insignificant changes are defined as (whereby this is to be judged in each individual case) minor, objectively justified changes which do not significantly change the nature and/or the duration and/or the service content and/or the quality of the booked package travel.
- 7.3. Significant changes may result in a significant reduction in the quality or value of the travel services which the tour operator is obliged to provide, if the changes affect essential features of the travel services and/or influence the package travel and/or travel execution. Whether a change or reduction in the quality or value of travel services is to be defined as significant or not, must be assessed on a case-by-case basis, taking into account the nature, duration, purpose and price of the package tour as well as the intensity, duration and cause of the change and, where appropriate, whether any party can be made responsible for the circumstances that led to the change.

- 7.4. If, in accordance with Art. 9 Para. 2 PTA, the tour operator is moved to make such aforementioned significant changes to the central features of the travel services which define the nature and purpose of the package travel (see 4 Para. 1 No. 1 PTA) or if the tour operator is unable to fulfil the requirements of the client, which were expressly confirmed by the tour operator, or if the tour operator increases the total price of the package by more than 8% in accordance with the provisions of Art. 8 PTA, the traveller may
- agree to the suggested changes within a reasonable certain period, as defined by the tour operator, or
  - agree to participate in an alternative tour, provided this is offered by the tour operator, or
  - withdraw from the contract without paying a cancellation fee.

For this reason, the travel agent shall, in the aforementioned cases, inform the traveller at the address last provided by the traveller of the following in a clear, comprehensible and explicit manner on a permanent data carrier (e.g. paper, e-mail):

- changes in the travel services and, where appropriate, their impact on the price of the package
- the reasonable period within which the traveller must inform the tour operator of their decision and the legal effect of failing to notify the operator of said decision within the reasonable period,
- where appropriate, the replacement package tour offered and its price.

The traveller is advised to submit their decision in writing. If the traveller does not submit a decision within said period, this shall be understood as agreement to these changes.

## 8. Liability

- 8.1. In accordance with Art. 17 PTA, the travel agent is liable for booking errors (e.g. spelling mistakes) provided these are not based on an erroneous or incorrect or incomplete submission of the traveller or due to unavoidable and extraordinary circumstances in accordance with Art. 2 Para. 12 PTA.
- 8.2. The travel agent is not liable for property damage and financial losses of the traveller in connection with the booking, if they are due to unavoidable and extraordinary circumstances in accordance with Art. 2 Para. 12 PTA.
- 8.3. The travel agent shall not be liable for the provision of the service they have brokered or for the provision of a service which they have not brokered or promised to broker to the traveller or for additional services booked by the traveller themselves after commencement of the journey.  
If the travel agent does not fulfil their duties to provide information or to protect against insolvency in accordance with Art. 15 Para. 2 PTA when brokering linked travel arrangements, they shall be liable in accordance with the provisions of Art. 7 and 10 as well as the 4th paragraph of the PTA which are otherwise only applicable to package tours.
- 8.4. If the travel agent brokers a package tour of a tour operator based outside the EEA, the travel agent must prove that the tour operator complies with the requirements specified in paragraph 4 of the PTA (Provision of the agreed services, warranty, compensation, duty to

assist). If this is not the case, the travel agent is liable for compliance with the aforementioned requirements in accordance with Art. 16 PTA.

## 9. Travel Agent Fees:

The travel agent shall be entitled to reasonable remuneration for their services.

- 9.1. Consulting fee: If the travel agent creates a travel offer for the tour operator, which is in line with the requirements of the traveller (see 2.2.), and if - upon checking the offer - no booking is made, then the fee per travel offer and per interested party for the consulting time, the creation of the travel offer and related research, as well as the communication shall amount to: Euro 0,-
- 9.2. Booking fee: If services are booked (e.g. package tour, flight or hotel) with the respective tour operator or service provider through the travel agent based on the arranged travel offer, the fee per booking and per traveller is as follows: Euro 0,-
- 9.3. As soon as a contract has been concluded between the traveller and the arranging travel agent (e.g. for package tours) or service providers (e.g. for individual travel services such as flight-only bookings), then this concludes the travel agent's arranging services, which are remunerated by way of the booking fee.

If the traveller makes use of further services of the travel agent, which go beyond the scope of the aforementioned arranging services, then the following fees will apply depending on the instruction and scope:

- 9.4. Rebooking fee: If the traveller instructs the travel agent to have arranged services changed (e.g. rebooking to a different flight), which do not relate to erroneous or incomplete traveller information (see processing fee under no. 9.7.), then the travel agent is entitled to charge a fee of Euro 50,- per transaction and per traveller.
- 9.5. Cancellation processing fee: If the traveller instructs the travel agent to have arranged services cancelled, which do not relate to erroneous or incomplete traveller information (see processing fee under no. 9.7.), then the travel agent is entitled to charge a fee of Euro 50,- per cancellation.
- 9.6. Processing fee for transferring the package travel contract: If the traveller wishes to transfer the package travel contract to another person in accordance with Art. 7 PTA, the travel agent is entitled to the actual and not disproportionate costs of the transfer, but in any case a processing fee of Euro 50,-.
- 9.7. Processing fee for erroneous/incomplete traveller information: For changes (e.g. rebooking, name change), which are necessary due to incorrect or incomplete information provided by the traveller, which the traveller is responsible for, the travel agent is entitled to the actual and not disproportionate costs, in accordance with Art. 7 Para. 2 PTA, in any case Euro 50,- (see 3.5.).
- 9.8. Processing fee for assistance in remedying service discrepancies in the case of arranged individual travel services or 'service discrepancies' in the case of intermediate service providers: If there are discrepancies between the arranged individual travel services and

the agreed content of the original contract (e.g. flight cancellation, change of departure location), the intermediate service provider is fundamentally obligated to offer remedial action (e.g. if the Air Passenger Rights Regulation applies, the airline must offer the passenger alternative transport in the event of a cancellation).

If the intermediary does not or only insufficiently fulfils its legal obligations and the traveller instructs the travel agent to carry out the remedial action (e.g. by searching for and subsequently arranging suitable alternative flights), the travel agent shall be entitled to the following fees per transaction and per traveller for this additional activity and effort, which goes beyond the original arrangement: Euro 50,-

## 10. Delivery - Electronic Correspondence

- 10.1. The delivery/contact address of the traveller is the last address given to the travel agent (e.g. email address). The traveller shall notify the travel agent of changes, immediately. The traveller is advised to notify the agent in writing.