**SAMPLE T&Cs for tour-guides/tour-managers**

**Attention:** The following T&Cs constitute a **recommendation** for the design of the General Terms and Conditions that can be used by tour guides and tour managers. These T&Cs may be adopted or amended, but in particular, the guide’s own needs and specific circumstances should be taken into account and included in the T&Cs accordingly. Please note that T&Cs may be regularly reviewed on the basis of the current legal developments. It should be noted that, despite careful processing, all information is provided without guarantee and any liability on the part of the author of these T&Cs or of the Austrian Economic Chamber, the Austrian Professional Association of Leisure and Sport Enterprises and the Specialist Groups of Leisure and Sports Businesses in the Austrian Economic Chambers is excluded. **In order for the T&Cs to be valid, they must be agreed upon with the clients. For this, clients must be able to familiarise themselves with the content of the T&Cs before concluding the contract.**

1. **Validity**
   1. These T&Cs apply to all legal transactions between the tour guide (hereinafter: TG) or travel assistant (hereinafter: TA) (hereinafter together referred to as: contractors) and the client.
   2. These T&Cs apply without restriction to clients who are entrepreneurs. If the client is a consumer within the meaning of § 1 Para. 1 of the Consumer Protection Act, the T&Cs apply unless otherwise stipulated by this Act.
   3. If the client books the services of the contractor not for itself but for third parties (hereinafter “participants”), the client undertakes to instruct the participants to observe the rights and obligations regulated in Point 6 of the T&Cs.
2. **Conclusion of contract**
   1. A booking inquiry to the contractor may be made by email, web form, phone or post.
   2. After receipt of the booking inquiry, the client shall receive a written offer within a period of […] days, showing the agreed services and the fee to be charged. This must be signed by the client and sent back to the contractor in PDF format. If the client is an entrepreneur, the signature must be made by the company. The contract is concluded as a result of this. The contractor is not obliged to accept a booking inquiry and may reject such an inquiry without providing reasons.
3. **Specification of services/limitation of the service**
   1. Services provided by the TG:
      1. The TG offers guided tours of various kinds with the aim of showing and explaining to the client and other participants Austria’s historical wealth and artistic and cultural heritage, the points of interest, the societal, social and political situation in the national and international cohesion, as well as other cultural, sporting and social events.
      2. The start and end of the guided tour as well as the exact meeting point, the contact details of the TG and the content of the services owed are set out in the written offer sent or handed over to the client by the TG.
      3. In the absence of such an express agreement, the TG shall be responsible for agreeing on the content of the guided tour with the client, an authorised representative of the client or the participants on site.
      4. If no specific services have been agreed upon, the TG shall organise the content of the services at its own discretion within an agreed time and location framework.
      5. Insofar as the TG presents (copyright) protected works or uses titles within the scope of its services, the client undertakes not to infringe the rights resulting therefrom.
      6. The TG is entitled to exclude the client or individual participants from its services, to cancel or interrupt the tour if the provision of services is unreasonable for the TG due to the behaviour of the client or of another participant or due to excessive alcohol or drug consumption by such a person.
      7. Due to force majeure or weather conditions (e.g. black ice, heat, flooding, storm or weather warnings), the TG may restrict, modify or completely cancel the services at its own discretion.
   2. Services provided by the TA:
      1. The TA is responsible for the administrative support of the client and the other participants as well as for observance of the travel programme, and is also entitled to provide brief remarks regarding points of interest.
      2. The TA is available to the client and the other participants for administrative matters throughout the trip. The TA will strive to carefully address the concerns of the client and the participants; the TA owes no success.
      3. The start and end of the travel assistance as well as the exact meeting point, the contact details of the TA and the content of the services owed are set out in the written offer sent or handed over to the client by the TA.
      4. If the travel programme is changed, the services of the TA will also change.
      5. Insofar as the TA presents (copyright) protected works or uses titles within the scope of its services, the client undertakes not to infringe the rights resulting therefrom.
      6. The TA is entitled to exclude the client and individual participants from specific services (evening events) if the provision of services is unreasonable for the TA due to the behaviour of the client or a participant or due to excessive alcohol or drug consumption by such a person.
      7. Due to force majeure or weather conditions (e.g. black ice, heat, flooding, storm or weather warnings), the TA may restrict, modify or completely cancel the services at its own discretion.
4. **Fee**
   1. The fee owed for the provision of the services is set out in the contractor's written offer.
   2. If no explicit fee arrangement has been made, an appropriate fee shall be deemed to have been agreed. An hourly rate of EUR […] shall be deemed an appropriate fee.
   3. Unless otherwise agreed on a case-by-case basis, the fee is due at the latest after the service has been provided. If the due date for payment has been agreed prior to the provision of services, the contractor is entitled to exclude the client and other participants from the provision of services if the invoice has not yet been paid prior to the commencement of services.
   4. If the contractor is subject to VAT, the client must pay the agreed fee plus VAT, unless otherwise regulated by intra-Community exemptions.
   5. If the contractor is a small business within the meaning of § 6 Para. 1 Item 27 of the Value Added Tax Act, it must inform the client thereof in the course of the order confirmation.
   6. If the service is cancelled in whole or in part due to reasons included under 3.1.6., 3.1.7. or 7.1. through 7.2., this shall not affect the amount of the agreed fee. In these cases, any fee already paid is non-refundable.
5. **Cancellation conditions**
   1. As a general principle, the client and the participants are bound to the services booked. However, the contractor grants the client a limited right of cancellation.
   2. The right of cancellation to which a consumer is entitled under the FAGG (Act on Distance Contracts and Off-Premises Contracts) remains unaffected.
   3. The client is not required to pay a cancellation fee to the TG if the contractor receives written notification of cancellation no later than 14 days before the agreed date of performance. In the event ofcancellation at such short notice, the TG can only accept an alternative order – if at all – with considerable effort. No cancellation fee is payable to the TA if the TA receives written notification of cancellation no later than 4 weeks before the agreed start of the travel assistance. Due to the longer duration of travel assistance (several days, weeks), an alternative assignment can only be accepted in this short time – if at all – with considerable effort.
   4. If the client cancels a guided tour between 3 and 14 days i.e. travel assistance between 3 days and 4 weeks before the agreed date, half of the agreed fee is payable as a cancellation fee.
   5. If the client cancels less than 3 days before the agreed date of the guided tour or the start of the tour assistance, the agreed fee must be paid in full. In these cases, it is almost impossible to accept another order. Furthermore, at this point in time, the contractor has already invested considerable effort into the preparation of the service. The preparation effort is individual for the booked services and cannot be used for another order.
   6. The day of cancellation and the agreed day of performance are included in the calculation of the deadline. The date of receipt of the cancellation by the contractor is always decisive for the calculation of the deadline.
   7. The cancellation fees are flat-rate penalties that must be paid regardless of fault or actual damage incurred.
   8. The cancellation fee must be paid separately for each individual cancellation and per participant.
6. **Obligations of the client** 
   1. The client is subject to the following obligations of cooperation and notification:
      1. The written offer must be read carefully by the client with regard to the fitness required and assumed for the booked service.
      2. The TG will explain the content, duration and procedure of the tour before it begins. Should the client or a participant in the tour have concerns that they cannot or only want to participate in the guided tour or parts of it to a limited extent, for example due to personal restrictions, they must inform the TG thereof immediately. The assessment as to whether the client or the participants in a guided tour are fit to participate on the basis of their own (physical) condition is the responsibility of each client and participant themselves. The TG assumes that the client and the participants are able to manage the planned route for the guided tour on their own and without physical assistance from the TG. If the client or a participant does not feel able to do so or if such concerns arise during a guided tour, the client and the respective participant are obliged to inform the TG. The same applies to the client’s personal fears.
      3. The contractor's instructions regarding safety precautions, keeping the group together and the behaviour of the client and other participants must be followed.
   2. The client is responsible for ensuring that the other participants also fulfil their notification obligations to the contractor.
   3. Personal sensitivities of the client and other participants shall be taken into account by the contractor. There is no entitlement to a refund due to only partial or no utilisation of the service on the basis of one’s own state of fitness or personal fears.
7. **Adherence to schedule**
   1. If the client or a participant is not expected to be able to arrive on time for the agreed start of the guided tour, the client or its authorised representative is obliged to inform the TG by phone of the expected duration of the delay immediately after becoming aware of the reason for the delay.
   2. The TG will wait at least 15 minutes after the agreed start of the tour. In the cases included in Point 7.1., the TG’s waiting time shall be included in the agreed tour duration.
   3. If no information is provided to the TG within 15 minutes of the agreed start of the tour in accordance with Point 7.1, the TG is not obliged to wait any longer. In this case, the TG is released from his obligation to perform and his claim to remuneration exists in full.
   4. If the TG is delayed, he will inform the client of the delay, provided that the client has provided him with a contact telephone number. For their part, if the TG is late, the client and the participants are obliged to wait at least 15 minutes for the TG. The client or its authorised representative is obliged to inform the participants of this waiting obligation.
   5. The client or its authorised representative will instruct the participants to comply with the time requirements of the guided tour (return times) and the organisational requirements of the TG (setting aside dangerous objects, keeping the group together, compliance with public order and house rules, carrying ID cards, avoiding dangerous locations) of the TG.
8. **Representation and authorisation**
   1. In the event that the contractor is prevented from providing the agreed services, it is entitled to call on or arrange for a professionally suitable and authorised replacement. The client and the other participants will be informed of this and of the name of the replacement in advance.
   2. The contractor is authorised to pass on parts of the tour to other persons in museums, churches, other places of worship, gardens or zoos. To this end, the client authorises the contractor to arrange and book admissions, trips, catering, presentations, performances or other events on behalf of and for the account of the client.
9. **Liability**
   1. The contractor is not a sports instructor. If the guided tour or travel assistance is carried out with the aid of vehicles and transportation or sports equipment, the client and the participants will be briefly instructed on their usage before they use them. The client and the participants are obliged to follow the instructions and strictly observe the operating instructions. Liability in the event of non-compliance with instructions and operating manuals is excluded.
   2. Liability on the part of the contractor for damages to the client or participants resulting from the consumption of food or beverages or from participation in tastings during the guided tour or travel assistance is excluded.
   3. The contractor is not liable for any (partial) unfeasibility or unplanned interruption or delay of the tour or travel if the reason for this is not within its sphere of responsibility. The TG is entitled to interrupt or cancel the guided tour if he considers that it is not possible to safely carry out or complete the tour.
   4. The risk that any onward journey not organised by the contractor is delayed after the tour or after the travel assistance lies exclusively with the client and the participants. Liability on the part of the contractor for any resulting disadvantages is excluded, unless the contractor is at fault for the delay.
   5. The contractor does not conclude any travel organisation contracts and is not a tour operator.
   6. The client and the participants will observe the provisions of copyright law during the guided tours. Targeted film and sound recordings of the client during guided tours or travel assistance are prohibited without the consent of the contractor.
10. **Final provisions**
    1. The place of fulfilment of the contract is the place where the guided tour is to be carried out.
    2. The place of jurisdiction for disputes arising from or in connection with this contract is the registered office of the contractor, unless § 14 KSchG (Consumer Protection Act) is applicable.
    3. It is agreed that Austrian law shall apply.