

# **General Terms and Conditions**

Heidelberg  
Marketing GmbH

# General Terms and Conditions

## Heidelberg Marketing GmbH, Special Activities

Dear guests,

As far as they are effectively agreed, the following provisions shall become the terms of the service contract concluded between the customer and Heidelberg Marketing GmbH (hereinafter: "HDM") for provision of Special Activities. They shall supplement the statutory provisions of sections 611 et seq. German Civil Code and detail these. **Therefore, please read these Terms and Conditions with care before booking!**

### 1. Position of HDM; Area of Application of these Terms and Conditions; Applicable Legal Provisions

**1.1** These terms and conditions for Special Activities shall apply to guided tours for visitors, tours and boat rides that are offered in the catalog "Special Activities" of HDM and that take less than 24 hours according to section 651a para. 5 no. 2 German Civil Code, and do not include any overnight stay (day trips) and the travel price of which does not exceed 500 Euro. These day trips are hereinafter referred to as "Special Activities".

**1.2** HDM shall render the offered Special Activity services as a service provider and direct contracting partner of the customer or the client.

**1.3** The legal relationship between HDM and the customer or the client shall be primarily subject to the agreements reached with HDM, and these terms and conditions as a supplement, with the statutory provisions on contracts for services section 611 et seqq. German Civil Code applying alternatively.

**1.4** As far as mandatory provisions under international or European law that are to apply to the contractual relationship with HDM do not stipulate anything else to the customer's or client's benefit, the entire legal and contractual relationship with HDM shall be subject to German law exclusively.

**1.5** The following provisions shall only apply to Special Activities of HDM. Travel agreements and multi-day trips that include accommodation services are subject to the travel conditions of HDM.

### 2. Conclusion of the Contract; Groups; Provision of a Group Client

**2.1** The following shall apply to all bookings of Special Activities:

**a)** Bookings are accepted as bookings in person, by phone, by fax or by email.

**b)** The basis of the offer from HDM and the customer's booking shall be the description of the special activity and the supplementary information in the booking basis, as far as these are available to the customer when booking.

**c)** If the content of the booking confirmation deviates from the content of the booking, this constitutes a new offer by HDM. The contract shall be concluded based on this new offer when the customer declares acceptance by express declaration, deposit or payment of a remaining amount or by using the services.

**d)** The customer who places the booking shall be liable for the contractual obligations of other participants for whom he places the booking as if for his own, as far as he has assumed the corresponding obligation by express and separate declaration. The same shall apply respectively to group clients or persons responsible for the group with regard to the participants of special activities as registered by the group client or person responsible for the group.

**2.2** The following provisions shall apply as supplements for Special Activities to closed groups. Special Activities to closed groups within the meaning of these provisions shall only be group trips that are organized by HDM as the responsible provider and booked and / or processed via a person responsible for the group or a group client who acts as authorized person for a certain group of participants and takes over the role as only customer vis-à-vis HDM.

**2.3** HDM and the respective group client can agree in respect of such a group trip that the group client as authorized representative of the group trip participants is granted special rights.

**2.4** HDM shall not be liable for any services or service aspects of any kind that – with or without knowledge of HDM – are offered, organized, performed and / or provided to the customers by the group client or person responsible for the group in addition to the services of HDM. This shall specifically include the travel to and from departure and return locations contractually agreed with HDM that is organized by the group client or the person responsible for the group, any events not contained in the service scope of HDM before and after the Special Activity and along the way (transport, excursions, meetings, etc.) and any tour guides deployed by the group client or person responsible for the group who are not contractually owed by HDM.

**2.5** HDM shall not be liable for any measures and omissions of the group client or person responsible for the group or any tour guide deployed by the group client or person responsible for the group before, during and after the tour, in particular not for any changes to contractual services that are not coordinated with HDM, instructions to local guides, special agreements with the different service providers, information and representations towards the customers.

**2.6** As far as this is not expressly agreed, the group client or the person responsible for the group or any tour guides deployed by him shall not have the right or the authorization to receive any reports on defects from the group tour participants. They also shall not have the right to accept any customer complaints or payment claims in the name of HDM for HDM during or after the Special Activity.

**2.7** Bookings of Special Activities shall be directly binding upon the customer and shall lead to conclusion of the binding contract on the Special Activity by HDM's confirmation by phone or orally. The contract shall therefore be concluded by receipt of the booking confirmation (acceptance declaration) by HDM, which shall not require any specific form, with the consequence that oral confirmations and confirmations by phone shall be legally binding upon the customer.

**2.8** HDM notes that there is no right to withdraw according to the statutory provisions (section 312g paragraph 2 sentence 1 no. 9 German Civil Code), even if the service contract was concluded by way of distance selling. The other statutory rescission and termination rights of the customer shall not be affected by this.

**2.9** For bookings made through the website of HDM, the following shall apply to conclusion of the contract:

**a)** By clicking the button "Book subject to payment", the customer bindingly offers conclusion of the contract for the Special Activity to HDM. Receipt of the customer's booking will be confirmed to him without delay electronically.

**b)** The submission of the contract offer by clicking the button "Book subject to payment" shall not found any claim of the customer or client to conclusion of a contract with HDM according to his booking information. Instead, HDM shall be free in its decision to accept or reject the customer's or client's contract offer.

**c)** The contract shall be concluded by receipt of the booking confirmation of HDM by the customer or client.

### 3. Services, Reservation of Replacement; Deviating Agreements; Changes to Essential Services; Duration of Services; Weather

**3.1** The service owed by HDM shall comprise rendering of the respective service according to the service description and the additionally concluded agreements.

**3.2** If a certain group size must not be undercut or exceeded for a service, this must be indicated in the service description.

**3.3** Insofar as nothing else was explicitly agreed, special activities do not need to be offered by a specific person (f. ex. one specific tour guide). In the event that a specific person has been identified, we reserve the right to replace that person with another person in case of compelling reasons (in particular due to illness). If HDM is not able to find a replacement (in particular for solo self-employed persons) in the event of compelling reasons not attributable to HDM, HDM shall have the right to rescind the contract and/or shall have the right to an extraordinary termination of the contract with good cause. In that case the customer shall not be obligated to pay any remuneration. Any further rights of the customer, in particular reimbursements for outward or inward journeys, shall be excluded.

**3.4** Modifications of or supplements to the contractually offered services shall require an express agreement with HDM, for which text form is urgently recommended to serve as evidence.

**3.5** Modifications of essential services that deviate from the agreed terms of the contract and that become necessary after conclusion of the contract (in particular also changes to the schedule of the respective rendering of services) and that were not initiated by HDM in bad faith shall be permitted as far as the changes are not considerable and do not impair the overall scope of the service. Any warranty claims of the customer or client in case of such modifications of essential services shall not be affected.

**3.6** Information on the duration of services shall be approximates.

**3.7** The following shall apply to weather conditions and their effects on agreed services:

**a)** Where not expressly agreed on differently from case to case, the agreed services shall take place in any weather.

**b)** Weather shall therefore not entitle the customer or client to free of charge rescission or termination concerning the contract with HDM. This shall not apply only if the weather impairs the body, health or property of the customer or the participants of the

client in the service so considerably that performance is objectively unreasonable for the customer or client and his participants.

**c)** If such situations are present at commencement of the service or if they are objectively expected for the agreed time of the service before its commencement, both the customer or client, and HDM shall have the right to terminate the contract for the service by way of proper or extraordinary termination.

**d)** In the event of such termination by HDM, the customer or client shall not have any claims for reimbursement of costs, in particular any travel and accommodation fees, except if contractual or statutory claims of the customer or client to damages or reimbursement of expenses are justified regarding this.

#### **4. Rendering of Services and Payment Terms**

**4.1** The agreed services shall include rendering of services and additionally offered and agreed services.

**4.2** The agreed price shall be paid 14 days after the invoice date or at commencement of the Special Activity, depending on the agreement by HDM.

**4.3** The following shall apply where the customer has no contractual or statutory rescission right and HDM is willing and able to render the contractual services:

**a)** If the customer does not pay the service fee when due, or if the payment is incomplete, HDM shall have the right to withdraw from the contract after sending a reminder stipulating an appropriate grace period, and after expiration of this period, and to claim damages from the customer in accordance with sections 280 (1), 241 (2) German Civil Code, in accordance with the proviso of the following item 8, unless the customer has a right to set off or retention at the due date or is not at fault for the default of payment.

**b)** Without complete payment of the service price, the customer shall not have any claim to using the services.

#### **5. Booking Changes**

A claim of the customer or the client to modifications concerning the date of the service, time, departure and destination sites of the services (booking change) after conclusion of the contract shall not apply. Upon the customer's or client's wish, it can be reviewed whether a booking change is possible anyway. The booking change request will only be accepted in text form.

#### **6. Non-Utilization of Services**

**6.1** If the customer or client does not use the agreed services wholly or in part without any fault of HDM, in particular due to not appearing for rendering of the respective service without termination of the contract, although HDM is willing and able to render the services, there shall be no claim to reimbursement of payments already made.

**6.2** The agreed remuneration shall be according to the statutory provisions (section 615 s. 1 and 2 German Civil Code):

**a)** The agreed remuneration shall be paid without there being any claim to subsequent performance.

**b)** However, HDM shall accept set-off of expenses saved and any remuneration that HDM acquires by other use of the agreed services or neglects to acquire in bad faith against the remuneration.

#### **7. Rescission by HDM because the minimum number of participants is not reached**

**7.1** HDM may rescind the contract if a minimum number of participants according to the following provisions is not reached:

**a)** The minimum number of participants and the latest date of rescission by HDM must be clearly stated in the specific service offer or, in the case of consistent provisions for specific types of Special Activities, in a general notice or general service description.

**b)** HDM must clearly state the minimum number of participants and the latest rescission deadline in the booking confirmation or refer to the corresponding information in the service description.

**c)** HDM shall be obligated to declare cancellation of the Special Activity towards the customer without undue delay once it is certain that the Special Activity will not take place due to the minimum number of participants not being reached.

**d)** If a minimum number of participants is agreed, a deposit specified in the offer shall be due upon booking, and the remaining payment shall be due upon confirmation of the event.

**7.2** If the Special Activity does not take place for this reason, the customer shall be reimbursed for the Special Activity without undue delay.

#### **8. Termination and Rescission by the Customer or Client**

**8.1** The customer or client may terminate the contract with HDM after conclusion of the contract. Termination shall not require any specific form. Terminations shall be submitted in written form (Section 126b of the German Civil Code, f. ex. e-mail or fax).

**8.2** If the customer or client declares termination or does not use services without declaring termination – in particular by not appearing –, HDM may demand reimbursement for the travel plans made and the connected expenses. Calculation of the reimbursement shall generally consider possible other uses of the service and usually saved expenses. The following cancellation fees shall apply:

from day 9 to day 5 before the (first) day of rendering the service 50 %,

from day 4 onwards and if not showing up to the event 90 % of the total price agreed.

**8.3** The customer shall in any case have the right to prove to HDM that HDM has incurred no damage or a much lesser damage than the flat rate claimed by it in compensation.

**8.4** HDM reserves the right to demand a higher specific compensation instead of the above amounts as far as HDM proves that HDM has incurred considerably higher expenses, in particular where individual service components of the Special Activity are not reimbursed by the service provider. If HDM asserts such a claim, HDM shall be obligated to specify the amount and document the required compensation under consideration of any saved expenses and any other use of the travel service.

**8.5** The above termination rules shall not affect the statutory or contractual termination rights of the customer in case of defects of the services of HDM and any other statutory warranty claims.

#### **9. Liability of HDM; Insurances**

**9.1** HDM shall be liable without restriction as far as the damage results from violation of an essential obligation of HDM, the performance of which was required for proper execution of the contract or the violation of which endangers achievement of the purpose of the contract, or the damage results from violation of life, body or health of the customer. Apart from this, liability of HDM shall be limited to damage caused by HDM or its servants willfully or grossly negligently.

**9.2** HDM shall not be liable for services, measures or omissions of accommodation and meal operations or any other providers that are visited in connection with the service, except if the damage was caused or contributed to by culpable violation of obligations of HDM.

**9.3** The agreed contractual services contain insurances to the benefit of the customer or client only if this is expressly agreed. The customer or client is expressly recommended to take out travel rescission insurance.

#### **10. Termination due to behavior-related Reasons**

**10.1** HDM may terminate the service contract without observing any period of notice if the customer causes sustained disturbance in spite of a warning by HDM or acts in violation of the contract at a scope that justifies immediate cancellation of the contract.

**10.2** If HDM declares termination, HDM shall retain the claim to the service price; however, HDM must accept set-off of the value of saved expenses and the benefit that HDM acquires from other use of the service not utilized.

#### **11. Special Obligations of Customers Concerning Special Activities with Physical Activities (e.g. by Bicycle or Segway)**

**11.1** The customer shall be responsible for finding out before booking and before using the Special Activities whether the respective activities are suitable for them under consideration of their personal health.

**11.2** HDM shall not owe any special medical information or instruction in this respect unless explicitly agreed, in particular concerning the respective customer's specific situation.

**11.3** HDM or its vicarious agents (guides, etc.) may exclude the customer wholly or in part if there are any reasonable indications that the Special Activities may overtax the guest, provided that the customer threatens to endanger themselves or others due to this. Item 6 et seq. shall apply accordingly.

**11.4** If the customer withdraws or discontinues due to injury or illness for which the provider is not at fault, or at their own request, the provisions of item 6 et seq. shall apply as well.

**11.5** Although the Special Activities are accompanied by a guide, they require a high degree of personal responsibility on the side of the customer.

**11.6** Customers are advised to wear clothing suitable for Special Activities that protects them from strong sunlight, rain, or wind. It is also recommended that they carry a change of clothes. The provider of the Special Activities reserves the right to exclude any customer from the Special Activity for safety reasons wholly or in part if they join the Special Activities in unsuitable clothing or footwear.

**11.7** Instructions of the guides before and during the Special Activities must be observed. Traffic rules must be observed and consideration for other road users must be shown at all times.

**11.8** Non-swimmers are not permitted to participate in physically active Special Activities on water.

## **12. Special Arrangements in Connection with Pandemics (in particular the Corona Virus)**

**12.1** The parties agree that the agreed services shall always be provided by HDM in compliance and in accordance with the official requirements and conditions applicable at the time at which the service is rendered.

**12.2** The customer agrees to observe appropriate rules of use or restrictions imposed by HDM when using services and to inform HDM without undue delay if they experience any typical symptoms of illness.

**12.3** The provisions above shall not affect any possible warranty claims of the customer.

## **13. Choice of Law; Place of Jurisdiction; Information on Consumer Dispute Resolution**

**13.1** The entire legal and contractual relationship between the customer and HDM shall be subject to German law exclusively. The customer may raise a claim against HDM only at the registered office of HDM.

**13.2** For actions of HDM against the customer, the customer's place of residence shall be relevant. For claims against customers who are merchants, legal entities under public or private law or persons who have their residence or common abode abroad or whose place of residence or common abode is not known at the time at which the claim is raised, the place of jurisdiction shall be the office of HDM.

**13.3** The above provisions shall not apply

**a)** if and as far as anything other results to the benefit of the customer from any terms that cannot be contractually waived from conventions applicable to the contract for services between the customer and HDM or for any contracts concluded in electronic legal transactions

**b)** if and as far as any provisions applicable to the contract for services that cannot be waived in the member state of the EU to which the customer belongs are more beneficial for the customer than the above provisions or the corresponding German provisions.

**13.4** In light of the law on consumer dispute resolution, HDM notes that HDM will not participate in any voluntary consumer dispute resolution. If consumer dispute resolution was to become binding upon HDM after printing of these travel conditions, HDM shall inform the consumers about this in a suitable form. HDM informs about the European online dispute solution platform <https://ec.europa.eu/consumers/odr/>

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