

General Terms and Conditions - VIVA Cruises River

1. Conclusion of package travel contract / liability for fellow passengers

1.1. The following applies to all bookings through any channel:

- a) The offer underlying the contract is based on the travel proposal and supplementary information provided by VIVA Cruises for the respective package travel (hereinafter "Package Tour", "Tour" or "Package"), provided that these are available to the customer at the time of booking.
- b) The customer shall be responsible for all contractual obligations of fellow passengers for whom he¹ makes the booking, in the same manner as for his own to the extent that he has assumed this obligation in an express and separate statement.
- c) If the content of the notice of acceptance from VIVA Cruises deviates from the content of the booking, VIVA Cruises is deemed to have made a new offer, by which VIVA Cruises is bound for a period of ten days. The contract is concluded on the basis of this new offer provided that VIVA Cruises has pointed out the changes with respect to the new offer and complied with its pre-contractual obligation to provide information and if the customer declares his acceptance thereof to VIVA Cruises within the aforementioned binding period by express statement or by effecting the down payment.
- d) Travel agents (e.g. tourist agencies) and service providers (e.g. carriers) are not authorised to make agreements, provide information or give assurances which alter the agreed content of the package travel contract, go beyond the services contractually promised by VIVA Cruises or contradict the travel proposal.
- e) VIVA Cruises notifies the customer of his rights under data privacy laws on the separate data privacy information sheets and asks him to take note of them.

1.2. The following applies to bookings made **orally, by telephone, in writing, by email, text message or fax**:

- a) With his booking (travel registration) the customer submits a binding offer to VIVA Cruises for the conclusion of the package travel contract ("contract").
- b) The contract is concluded upon receipt of the booking confirmation (notice of acceptance) by VIVA Cruises. It does not require any particular form. Upon or immediately after conclusion of the contract, VIVA Cruises will send the customer a travel confirmation in writing or in text form.

1.3. The following applies with regard to the conclusion of the contract to bookings by way of **electronic business transactions (e.g. Internet, apps, telemedia²)**:

- a) The process of online booking is explained to the customer on the respective application.

¹ Pronouns in masculine, feminine and neuter genders shall be construed to include any other gender, and words in the singular form shall be construed to include the plural and vice versa, unless the context requires otherwise

² Electronic information and communication services, such as goods and services available online, as defined in the German Telemedia Act [Telemediengesetz; "TMG"]

- b) The customer has the option to make corrections (with explanations provided of how to use this option) for correcting his entries, deleting or resetting the entire booking form.
- c) The contractual languages offered for online booking are specified.
- d) If the text of the contract is stored by VIVA Cruises, the customer will be informed accordingly, including the possibility of later retrieval of the text of the contract.
- e) By pressing the button "booking subject to payment", the customer submits a binding offer to VIVA Cruises for the conclusion of the package travel contract.
- f) The customer will immediately receive confirmation of receipt of his booking (travel registration) by electronic means (confirmation of receipt).
- g) The transmission of the booking (travel registration) by pressing the button "booking subject to payment" does not establish a claim of the customer for the conclusion of a package travel contract in accordance with his booking (travel registration). The contract is concluded upon receipt of the booking confirmation from VIVA Cruises by the customer provided on a permanent data medium.
- h) If the booking is confirmed immediately after pressing the button "booking subject to payment" by a display of the booking confirmation directly on the screen, then the package travel contract has been concluded with the display of this booking confirmation. In this case, there is no need for an interim notification of the receipt of the booking according to lit. f) above, provided that the customer is offered the option to save the booking confirmation on a permanent data medium and to print it. However, the binding nature of the package travel contract does not depend on the customer actually using these options for saving or printing the confirmation.

1.4 VIVA Cruises points out that according the law (Sections 312 Paragraph 7, 312g Paragraph 2 Sentence 1 No. 9 German Civil Code (*Bürgerliches Gesetzbuch*; "BGB") package travel contracts pursuant to Sections 651a and 651c BGB entered into as distance contracts (letters, catalogues, telephone calls, faxes, email, text messages sent by cell phone as well as radio, teledmedia and online services) are not subject to the customer's right of withdrawal from the contract but only to the customer's statutory rights of cancellation and termination, in particular the right of cancellation pursuant to section 651h BGB (see also Clause 5 in this respect). There is a right of withdrawal, however, if the contract for travel services according to section 651a BGB was entered into outside business premises, unless the oral negotiations, on which the conclusion of the contract is based, were conducted on the basis of a prior order of the consumer; in that latter case, the right of withdrawal does not apply.

2. Payment

- 2.1 VIVA Cruises has insolvency insurance (customer finance guarantor contract) with tourVERS to cover the travel price to be paid by the customer. A guarantee certificate will be attached to the travel confirmation, to the copy of the contract or their back.

VIVA Cruises and travel agents may only demand or accept payments on account of the travel price before the end of the Package Tour if an effective customer finance guarantor contract is in place and the customer has been provided with tourVERS's name and contact details in a clear and comprehensible manner, with that information highlighted. After

conclusion of the contract and handing over of the guarantee certificate, a down payment of 20% of the travel price becomes due for payment. The balance is due 30 days prior to the commencement of the Tour, provided that the guarantee certificate has been handed over and the Package can no longer be cancelled for the reason stated in Clause 8.1.

- 2.2 If the customer does not make the down payment and/or the payment of the balance in accordance with the agreed payment due dates even though VIVA Cruises is ready and in a position to properly perform its contractual services, has complied with its legal obligation to provide information, and the customer has no statutory or contractual right of retention, VIVA Cruises is entitled to cancel the package travel contract after a reminder setting a deadline, and to charge the customer cancellation costs in accordance with Clause 5.2 sentence 2, to Clause 5.6.

3. Changes to the contents of the contract prior to the commencement of the tour not affecting the travel price

- 3.1 VIVA Cruises is permitted to deviate prior to the commencement of the Tour from the agreed content of the package travel contract with respect to essential features of travel services, where such deviations become necessary after conclusion of the contract and were not brought about by VIVA Cruises in bad faith, provided that such deviations are insignificant in nature and will not impair the overall Package Tour.

- 3.2 VIVA Cruises is entitled to in particular but not limited to make changes in travel times, routes and/or means of transport which become necessary due to the special conditions affecting travel by ship, due to security reasons or weather conditions or high or low water, due to orders issued by authorities (e.g. travel warnings issued by the Federal Foreign Office, restrictions due to an epidemic), for the protection of the health and safety of employees, crew and/or customers (e.g. from an epidemic) or for other reasons for which VIVA Cruises is not responsible, provided that these are minor changes only that will not affect the overall character of the Tour.

- 3.3. VIVA Cruises is obliged to inform the customer of any change to the travel services without undue delay after knowledge of its reason, on a permanent data medium (e.g. including an email, text message or voice message) in a clear and comprehensible manner, with that information highlighted.

- 3.4 In the event of a significant change of an essential feature of a travel service or a deviation from special specifications of the customers, which have become part of the package travel contract, the customer is entitled to the following within the reasonable period set by VIVA Cruises in the notification of the change:

- either accept the change;
- or cancel the package travel contract at no charge;
- or request participation in a substitute tour if VIVA Cruises offered one.

The customer has the option to respond or not to respond to VIVA Cruises' notification. If the customer responds to VIVA Cruises, he may either agree with the change of the contract, request his participation in a substitute tour if one is offered to him, or cancel the contract at no charge.

If the customer fails to respond to VIVA Cruises or fails to do so within the period set, the notified change shall be deemed to have been accepted.

The customer must be made aware of this in a clear and comprehensible manner, with that information highlighted, in the notification pursuant to Clause 3.3 above.

- 3.5 Should the changed services be defective, potential warranty claims shall remain unaffected. If VIVA Cruises had lower costs for the performance of the changed or substitute tour for equivalent quality, the customer must be reimbursed in the amount of the difference in accordance with Section 651m Paragraph 2 BGB.

4. Price changes after conclusion of contract

- 4.1 VIVA Cruises reserves the right to change the price agreed in the package travel contract in the event that the increase in the travel price results directly from an increase in the price for the carriage of passengers due to higher costs for fuel or other energy sources (costs of carriage), taxes and other charges for agreed services such as tourist taxes, port or airport charges or air passenger taxes or a change in the exchange rates applicable to the relevant Package occurring after conclusion of the contract, as follows:
- a) If the underlying costs of carriage (in particular fuel costs) increase after conclusion of the package travel contract, VIVA Cruises may increase the travel price according to the following calculation:
 - In the case of an increase related to the seat or bed, VIVA Cruises may charge the amount of the increase to the customer.
 - In other cases, the additional costs of carriage charged by the carrier per means of transport are divided by the number of seats or beds of the agreed means of transport. The amount of the increase resulting from that calculation may be charged by VIVA Cruises to the customer for the individual seat or bed.
 - b) If taxes and other levies such as tourist taxes, port/airport charges or air passenger taxes applicable at the time of conclusion of the package travel contract charged to VIVA Cruises are increased, the travel price may be increased by the corresponding proportional amount.
 - c) In the event of a change in the exchange rates after conclusion of the package travel contract, the travel price may be increased to the extent that the Package has become more expensive for VIVA Cruises as a result.
 - d) In the event of a subsequent change in the travel price, VIVA Cruises must inform the customer without undue delay in a clear and comprehensible manner on a permanent data medium (e.g. an email) about the price increase, its reasons and the calculation of the increase. The price may not be increased less than 20 days before the commencement of the Tour.
 - e) VIVA Cruises may not unilaterally increase prices by more than 8%. VIVA Cruises shall offer the customer the price increase and request that the customer either accept it within a reasonable period of time or cancel the contract at no cost. The offer to increase the price may not be made less than 20 days before the commencement of the Tour. VIVA Cruises may also offer the customer to participate in another Package (substitute). The customer has no legal claim to this option. Upon expiry of the period specified by VIVA Cruises, the offer to amend the contract shall be deemed accepted. The acceptance by the customer of any substitute VIVA Cruises may offer requires the customer's express notice of acceptance to VIVA Cruises.
- 4.2 At the customer's request, VIVA Cruises is obliged to reduce the travel price if and to the extent that the costs of carriage, taxes or exchange rates referred to in Clause 4.1 have changed after conclusion of the contract and before the commencement of the tour to such extent that the Package comes at a lower cost to VIVA Cruises. If the customer has paid more than the amount owed as a result, VIVA Cruises shall refund the excess amount, while VIVA Cruises is entitled to

deduct the actual administrative expenses incurred. At the customer's request, VIVA Cruises shall provide evidence of the amount of administrative expenses incurred.

5. Cancellation of the contract by the customer prior to commencement of the tour/cancellation costs

- 5.1 The customer may cancel the Package at any time prior to the commencement of the Tour. The cancellation must be expressed by notice given to VIVA Cruises. If the Package was booked through a travel agent, the notice of cancellation may also be given to the agent. It is recommended that the customer gives his notice of cancellation in text form on a permanent data medium.
- 5.2 If the customer cancels prior to the commencement of the tour or does not set out on the Package Tour, VIVA Cruises loses the right to claim the travel price. Instead, VIVA Cruises may claim appropriate compensation if VIVA Cruises is not responsible for the cancellation or if unavoidable, extraordinary circumstances occur at or in the immediate vicinity of the destination which significantly impair the performance of the Package Tour or the carriage of passengers to the destination. Circumstances shall be deemed unavoidable and extraordinary if they are not under the control of the party that invokes them and their consequences could not have been avoided even if all reasonable precautions had been taken.

An unavoidable and extraordinary circumstance shall not be constituted, in particular but not limited to, if in case of an epidemic

- a) at the time of the customer's cancellation no travel warning has been issued for the destination by the German Foreign Office and there are no other objective grounds for assuming that there is an overwhelming probability of infection with an epidemic disease;
- b) the customer's cancellation is based exclusively on purely subjective concerns regarding a possible risk of infection;
- c) the customer has concerns regarding official administrative orders after the return home (e.g. the ordering of a precautionary quarantine);
- d) at time of booking of the Tour, there already had been a travel warning issued by the German Foreign Office or objective grounds for assuming a reasonable probability of infection with an epidemic disease;
- e) the customer has concerns, that for reasons for which he is responsible (e.g. stays abroad before the commencement of the Tour), his entry into the travel destination or an intermediate destination of the Tour may be denied or other official measures (e.g. the ordering of a precautionary quarantine) may be ordered by authorities.

Furthermore, an unavoidable and extraordinary circumstance shall not be constituted if it is based exclusively on the intensification of facts that already had been present at the time of booking and such intensification was objectively foreseeable at the time of booking.

- 5.3 VIVA Cruises has determined the following lump sum compensation, taking into account the period between the notice of cancellation and the commencement of the Tour as well as the expected cost savings and the expected earnings by the use of the travel services in another way. The compensation shall be calculated as follows after the date of receipt of the notice of cancellation:

Up to 120 days prior to the commencement of the Tour 10%,
from the 119th to the 90th day prior to the commencement of the Tour 20%,
from the 89th to the 30th day prior to the commencement of the Tour 40%,
from the 29th to the 15th day prior to the commencement of the Tour 60%,
from the 14th to the 1st day prior to the commencement of the Tour 80% of the travel price,
Cancellation on the date of the tour or failure to set out on the Package Tour: 90% of the travel price.

- 5.4 In any case, the customer is at liberty to prove to VIVA Cruises that VIVA Cruises has incurred no damage or a substantially lower damage than the lump sum claimed by VIVA Cruises.
- 5.5 VIVA Cruises reserves the right to claim a higher compensation instead of the above lump sums, calculated individually on basis of the travel price less the value of the costs saved by VIVA Cruises and less what VIVA Cruises earns through the use of the travel services in another way. In this case, VIVA Cruises is obliged to justify upon the customer's request the amount of the compensation claimed.
- 5.6 If, in the case of a jointly booked double cabin, one passenger paying full fare cancels prior to the commencement of the tour, with the consequence that the double cabin is now used as a single cabin, VIVA Cruises is entitled to the compensation specified under 5.3., but at least to a lump sum compensation in the amount of the surcharge otherwise payable for a single cabin at the time of booking. The same applies if a customer paying full fare cancels a cabin booked for several passengers, so that a cabin, which is originally intended for three or four people, is used by fewer people.
- 5.7 If VIVA Cruises is obliged to reimburse the travel price (if already paid) as a result of the cancellation, VIVA Cruises shall reimburse it without undue delay, but in any case within 14 days of the cancellation.
- 5.8 VIVA Cruises strongly recommends that the customer takes out travel cancellation insurance and luggage and travel accident insurance (in the event that interruption of travel, e.g. due to an accident, becomes necessary).

6. Change of reservation

- 6.1 After conclusion of the contract, the customer is not entitled to changes with regard to the travel date, the destination, place of departure, accommodation or the mode of carriage (rebooking). This shall not apply if the rebooking is required because VIVA Cruises failed to provide the customer with pre-contractual information as defined in Art. 250 Paragraph 3 Introductory Act to the Civil Code ("EGBGB"), or provided insufficient or erroneous pre-contractual information; in this case, rebooking is allowed free of charge. If, in all other cases, a rebooking is nevertheless made at the customer's request at least 90 days prior to commencement of the Tour, VIVA Cruises may charge a rebooking fee of EUR 50 per customer. In individual cases, e.g. where flights are involved, the additional rebooking costs may be considerably higher.
- 6.2 Any rebooking requests made by the customer after expiry of the 90-day period, if possible at all, requires the cancellation of the package travel contract in accordance with the terms set forth in Clauses 5.2 to 5.7 with simultaneous new registration. This does not apply to rebooking requests that cause only negligible costs.

- 6.3 Any airline charges for the correction of names on airline tickets that have already been issued (as opposed to a change of the passenger) may be passed on to the customer. In addition to this, VIVA Cruises may also charge a rebooking fee of EUR 50 in these cases.
- 6.4 The customer may make a declaration to VIVA Cruises up to 7 days in advance of the commencement of the Tour that not the customer himself but a third party will join the package travel contract as a party to the contract, assuming all rights and obligations thereunder. This declaration must be made on a durable medium (paper or electronic). VIVA Cruises is entitled to object to the third party joining the contract if that third party is not in compliance with the contractual requirements for the Tour. If a third party joins the contract, this third party and the customer shall be liable to VIVA Cruises as joint and several debtors for the travel price and the additional costs incurred due to the third party joining the contract. These additional costs must be appropriate and must have actually been incurred, which VIVA Cruises shall prove to the customer.
- 6.5 Rebooking fees are due and payable immediately.

7. Services not used

If the customer does not make use of individual travel services properly provided to him for reasons attributable to him (e.g. premature return or for other compelling reasons), he is not entitled to a pro rata refund of the travel price, unless such reasons would have entitled him to cancel or terminate the package travel contract free of charge in accordance with the law. VIVA Cruises will endeavour to reimburse the expenses saved by the service providers. This obligation shall not apply in the case of entirely insignificant services.

8. Minimum number of participants not reached/Cancellation by VIVA Cruises prior to the commencement of the Tour

- 8.1 The minimum number of participants for all VIVA Cruises Package Tours is 80 persons.

If the minimum number of participants is not reached, VIVA Cruises may cancel the package travel contract only if VIVA Cruises has

- a) specified the minimum number of participants in the pre-contractual information and has given the latest date by which the notification must be received by the customer prior to the contractually agreed commencement of the Tour; and
- b) specified the minimum number of participants and the latest date for cancellation in the travel confirmation.

Notice of cancellation must be given to the customer by the 31st day prior to the agreed commencement of the Tour at the latest, but in any event no later than by the date indicated to the customer in the pre-contractual information and the travel confirmation.

Should it become apparent at an earlier point in time that the minimum number of participants cannot be reached, VIVA Cruises must exercise its cancellation right without undue delay.

- 8.2. VIVA Cruises may also cancel the package travel contract prior to the commencement of the Tour if VIVA Cruises is prevented from fulfilling the contract due to unavoidable extraordinary circumstances .

Circumstances are unavoidable and extraordinary if they are beyond the control of the party invoking them and their consequences could not have been prevented even if all reasonable precautions had been taken. Unavoidable and extraordinary circumstances are e.g. wars, civil wars, natural disasters, occurring epidemics (in particular the Covid-19 epidemic), terrorist attacks as well as official orders issued after the conclusion of the contract, entry bans (in particular due to epidemics) and travel warnings of the Foreign Office for the destination or an intermediate destination of the Tour.

Notice of cancellation according to this Clause 8.2 must be given to the customer without undue delay upon becoming aware of the reason for the cancellation.

- 8.3 If VIVA Cruises cancels the contract in accordance with above Clause 8.1 or 8.2, VIVA Cruises loses the right to claim the agreed travel price. If it has already been (partially) paid, VIVA Cruises shall refund the payments made without undue delay, but in any case, within 14 days. There is no right to claim additional compensation in the event of cancellation in accordance with Clauses 8.1 and 8.2.

If in such cases, at the customer's request, instead of a refund of the travel price the Tour is rebooked or a travel voucher is issued in accordance with the requirements of Article 240 § 6 EGBGB, the rebooking fee pursuant to Section 6 shall not apply.

9. Rescission/Termination of contract by VIVA Cruises for reasons related to behaviour, illness, or pregnancy

In the following cases, VIVA Cruises may rescind the package travel contract in whole or in part **without notice** prior to the commencement of the journey, or terminate the package travel contract in whole or in part **without notice** after the commencement of the journey:

- a) if the customer, **in the judgement of the captain, where applicable, after having consulted the ship's physician**,
 - is unfit to travel due to illness, infirmity, or for any other reason;
 - needs to be accompanied but travels unaccompanied;
 - is a danger to the health of other passengers, crew members, and employees of VIVA Cruises (e.g. due to contagion or threat of epidemic spread, e.g. Covid-19) ;
 - has booked by providing false information
 - notwithstanding a warning from VIVA Cruises, causes permanent or repeated disturbance or behaves contrary to the contract to such an extent that the immediate cancellation of the contract in whole or in part is justified;

- b) in the event of pregnancy, if the customer is in her 24th week of pregnancy or beyond at the time of departure or if she reaches the 24th week of pregnancy during the voyage. In these cases, the carriage is excluded for safety reasons and due to limited medical care on board VIVA Cruises vessels. If the customer could not have known this at the time of booking, VIVA Cruises will reimburse the travel price already paid if notified immediately after the customer becoming aware of the pregnancy. If such notification is culpably delayed, VIVA Cruises reserves the right to make a

claim in accordance with Clause 5. Expectant mothers less than 24 weeks pregnant at the time of embarkation must present a specialist (gynaecological) certificate of fitness to travel confirming the navigated area.

If VIVA Cruises terminates or rescinds the contract for any of the reasons specified under a) above, the customer may be entirely or partially excluded from the (continuation of the) Tour. VIVA Cruises retains the right to claim the travel price; however, VIVA Cruises must take into account the value of the cost savings as well as those benefits that VIVA Cruises obtains from the use of the travel services in another way, including the credits VIVA Cruises receives from the service providers. Any additional costs incurred for the return trip shall be borne by the customer.

10. Travel voucher

- 10.1 If the customer or VIVA Cruises withdraws from the package tour contract due to circumstances related to the Covid-19 pandemic and if the customer is entitled to a refund due to the withdrawal according to the package tour contract, by statutory law or these General terms and Conditions, VIVA Cruises may offer the customer a travel voucher instead of refunding the travel price. The customer may choose whether to accept the travel voucher offered by VIVA Cruises or to exercise its right to claim a refund of the travel price. VIVA Cruises will inform the customer of this right of choice when offering the travel voucher.
- 10.2 The value of the travel voucher corresponds to the sum of all payments made by the customer to VIVA Cruises at the time of cancellation according to the package travel contract. The travel voucher must indicate the value and the term of validity of the travel voucher as well as the fact that it has been issued due to the Covid-19 pandemic.
- 10.3 If the customer accepts the travel voucher offered by VIVA Cruises according to Clause 10.1, this shall be deemed as acceptance in lieu of performance (§ 364 Paragraph 1 BGB) for the customer's refund claim.
- 10.4 Clauses 10.1 and 10.2 are only applicable to package travel contracts concluded before 8 March 2020. Regarding all package travel contracts concluded after 8 March 2020 Article 240 § 6 EGBGB shall apply.

11. Duties of the customer to cooperate

11.1 Travel documents

The customer must inform VIVA Cruises if he has not received the required travel documents (e.g. flight ticket, hotel voucher) within the period specified by VIVA Cruises.

11.2 Notice of defects / Request for remedy of defects

If the Package Tour is not provided free from travel defects, the customer may claim remedial action.

If the customer culpably fails to notify VIVA Cruises immediately of a travel defect and VIVA Cruises was therefore unable to remedy the situation, the customer is not entitled to assert claims for reduction in price according to Section 651m BGB or claims for damages according to Section 651n BGB.

This shall not apply only if the notice of defect is clearly futile or unreasonable for other reasons.

The customer is obliged to notify the representative of VIVA Cruises at the holiday destination of the defect without undue delay, i.e. the tour guide on board or on site. If the tour guide is not available, or if there is no tour guide and none is owed under the contract, any travel defects must be reported to VIVA Cruises at its registered office under the contact information provided. Information on how to contact the tour guide or VIVA Cruises is included in the booking confirmation or is provided at the latest with the travel documents.

The tour guide is charged with remedying the situation, provided this is possible and does not entail disproportionate costs, taking into account the extent of the defect and the value of the travel service concerned. If VIVA Cruises/the tour guide invoke the impossibility or economic inefficiency of the remedy for a considerable part of the travel services, VIVA Cruises shall, if possible, offer the customer an appropriate, equivalent alternative service comparable to the service agreed upon in the contract. The tour guide is not authorized to recognise claims.

11.3 Period allowed for remedy prior to termination of contract

If the Package Tour is substantially impaired by a defect and a customer wishes to terminate the package travel contract according to section 651l BGB due to a defect of the kind described in section 651i Paragraph 2 BGB, provided that it is substantial, he first has to set VIVA Cruises an appropriate period for remedy. This shall not apply if immediate remedy is necessary or the remedy is refused by VIVA Cruises.

11.4 Luggage

The customer's luggage must not contain any weapons and other dangerous objects, narcotics, as well as alcoholic beverages intended for consumption during the voyage. Clause 15.4 of these terms and condition shall apply accordingly. Any luggage containing prohibited objects as provided above may be excluded from (further) carriage.

11.5 Damage to, and delayed delivery of, luggage in air travel; special rules and periods for seeking redress

- (a) The customer is advised that any delayed, lost or damaged luggage in connection with air travel must be reported by the customer in accordance with air traffic regulations to the relevant airline without undue delay on the spot by means of a damage report (P.I.R.). Airlines and tour operators may refuse refunds on the basis of international treaties if the damage report has not been completed. In the event of damage to luggage, the damage report must be filed within 7 days and in the event of delay within 21 days of delivery.
- (b) In addition, the loss, damage or misdirection of luggage must be reported without undue delay to the representative of VIVA Cruises (tour guide) or VIVA Cruises. This shall not release the customer from filing a damage report with the airline pursuant to lit. a) above within the periods stated above.

12. Limitation of liability

12.1 The contractual liability of VIVA Cruises for damages which do not arise from loss of life, bodily injury or damage to health and which were not culpably (intentionally or negligently) caused is limited to three times the travel price.

This maximum liability amount applies per customer and per journey.

Any further claims under the Montreal Convention or the Air Traffic Act shall remain unaffected by the limitation.

12.2 VIVA Cruises is not liable for disruptions to services, personal injury and damage to property in connection with services which are merely arranged by VIVA Cruises and actually provided by third parties ("Third-Party Services", e.g. excursions, sports events, theatre visits, exhibitions, transport services from and to the specified place of departure and destination) if these services are expressly marked as Third-Party Services in the travel description and booking confirmation stating the arranged contractual partner in such a clear manner that the customer is able to recognise that these services are not part of the travel services provided by VIVA Cruises. Sections 651b, 651c, 651w and 651y BGB shall remain unaffected. However, VIVA Cruises shall be liable if and to the extent that the violation of VIVA Cruises' duties of information, clarification or organisation were the cause of damage to the customer.

12.3 If international agreements or statutory provisions based on such agreements apply to a travel service to be provided by a service provider, according to which a claim for damages can only arise or be asserted under certain conditions or restrictions or is excluded under certain conditions, VIVA Cruises, in its capacity as the tour operator, may invoke the same in its dealings with the customer.

12.4 Where VIVA Cruises acts in the capacity of a contractual or performing carrier with regard to the voyage or VIVA Cruises is regarded as such according to statutory provisions, VIVA Cruises shall be liable according to the specifically applicable statutory provisions (in particular according to the provisions of the German Inland Waterways Act and the German Commercial Code).

12.5 Where VIVA Cruises acts in the capacity of a contractual or performing air carrier with regard to carriage by air or VIVA Cruises is regarded as such according to statutory provisions, VIVA Cruises' liability shall be governed by the specifically applicable statutory provisions or those stipulated in international agreements (including the German Air Traffic Act, the Montreal Convention).

12.6 VIVA Cruises shall not be liable for damage to or loss of personal items (e.g. photographic or film equipment, clothing, jewellery or other valuables) caused by theft, getting lost in any other manner, or excessive physical loads or stresses occurring off board the vessel, unless the damage or loss is due to intentional or grossly negligent conduct on the part of VIVA Cruises. Any and all liability is also excluded for storage or transport in the vehicles used for onshore activities or transfers, unless intentional or grossly negligent conduct on the part of VIVA Cruises has resulted in the damage or loss. VIVA Cruises shall be liable for damage to or loss of cabin luggage in accordance with the provisions of the German Commercial Code. Jewellery, cash, or other valuables must be safely stored and transported in the carry-on luggage during arrival and departure (not in the checked luggage).

12.7 If a claim is made against an employee or agent of VIVA Cruises for damage incurred in connection with the carriage, this employee or agent may, provided he proves that he acted in the performance of his duties, invoke the defences and limitations of liability which apply to VIVA Cruises under these travel conditions.

13. Limitation of actions, assertion of claims

13.1 The claims of the customer specified in section 651i Paragraph 3 BGB shall be time-barred in accordance with section 651j BGB in two years.

13.2 The limitation period starts to run on the day on which the Package Tour is scheduled to end according to the contract. If the last day of that period falls on a Sunday, a public holiday recognised by the state at the place where the notice is given, or a Saturday, the next business day shall take the place of such a day.

13.3 Claims pursuant to section 651i Paragraph 3 No. 2, 4-7 BGB must be lodged by the customer with VIVA Cruises. It is recommended to lodge the claim in writing on a permanent data medium.

13.4 If negotiations between the customer and VIVA Cruises about the claim or the circumstances substantiating the claim are pending, the limitation period shall be suspended until the customer or VIVA Cruises refuses to continue the negotiations. The limitation occurs at the earliest three months after the end of the suspension.

13.5 In the case of damage to, or delays in the delivery of, luggage in connection with flights in accordance with Clause 11.4, the following shall apply: A claim for damages due to damage to luggage must be asserted within 7 days, a claim for damages due to delayed luggage within 21 days after delivery.

13.6 The travel agency only acts as an agent when the travel contract is concluded. It is not authorised to accept the filing of warranty and compensation claims by the customer after the end of the trip.

13.7 Without the consent of VIVA Cruises, customers may not transfer claims against VIVA Cruises to third parties, either in whole or in part. This does not apply among accompanying family members.

14. Carriage by air and obligation to provide information on the identity of the operating air carrier

14.1 If the Tour involves air carriage, this portion of the Tour shall be governed by the terms and conditions of the airline operating the respective flights (cf. also Clause 12.5 regarding liability), which terms and conditions will be provided by VIVA Cruises on request. The scheduling of these special flights depends on the availability of the airplanes on the charter market and the authorisation by air-traffic control; therefore, early morning or late-night departures or arrivals may therefore occur.

14.2 The EU regulation on informing air transport passengers of the identity of the operating air carrier puts VIVA Cruises under the obligation to inform the customer of the identity of the operating air carrier for any and all air transport services to be provided within the scope of the booked Package at the time of booking.

If the operating airline has not yet been determined at the time of booking, VIVA Cruises is obliged to inform the customer of the airline(s) which is/are likely to operate the flight(s).

VIVA Cruises must inform the customer accordingly as soon as VIVA Cruises knows which airline will operate the flight.

If due to changes another airline than the one specified to the customer will be the operating airline, VIVA Cruises must inform the customer accordingly. VIVA Cruises must immediately take all reasonable steps to ensure that the customer is informed of any such changes as soon as possible.

The list of airlines banned from operating within the EU ("Black List") is available on the following website:

https://ec.europa.eu/transport/modes/air/safety/air-ban_en

15. Passport, visa and health regulations

- 15.1 The customer must comply with all laws, regulations, directions or provisions of travel (rules and regulations) of the countries and ports affected by the Tour, and with all instructions issued by VIVA Cruises and its agents. VIVA Cruises shall inform customers who are citizens of EU members states about general passport and visa requirements as well as formalities required by health authorities of the country of destination, including the approximate deadlines for obtaining visas, prior to the conclusion of the contract and any changes thereto prior to departure. Citizens of other countries may obtain that information from the competent consulate. This always under the assumption that no special circumstances apply to the person of the customer and any accompanying persons (such as dual citizenship, statelessness).
- 15.2 The customer is responsible for obtaining and carrying the travel documents required by the authorities (such as visa, vaccination certificates, online travel permits such as the ESTA authorisation for US travel), any necessary vaccinations and compliance with customs and foreign exchange regulations. Any loss arising from non-compliance with these regulations, e.g. the payment of cancellation costs, fines, penalties and expenses, shall be borne by the customer, unless VIVA Cruises has not provided any, or only has provided insufficient or incorrect, information. If VIVA Cruises has to pay or deposit sums of money in this connection, the customer is obliged to reimburse those immediately.
- 15.3. Additional costs (e.g. for additional catering on board) that arise due to a quarantine for which VIVA Cruises is not responsible are to be borne or reimbursed by the customer.
- 15.4 In the event that the customer fails to comply with the entry rules of individual countries or visa are not granted in time due to the customer's fault, so that the customer is unable to participate in the Tour for that reason, VIVA Cruises may charge the customer with the cancellation fees in accordance with Clause 5. In this case, the customer has the right to prove to VIVA Cruises that no damage has occurred or that the damage is significantly lower than the lump-sum compensation.

16. Information for persons with reduced mobility and other restrictions

16.1 VIVA Cruises wishes to ensure that customers with physical disabilities can enjoy a pleasant journey on board the ships of its fleet. For this purpose, VIVA Cruises must be informed of any special requests and needs of the customer due to physical impairments before booking. VIVA Cruises will then always endeavour to help the customer achieve the best possible travel experience, in particular by checking the suitability of the Package Tour requested by the customer and providing the customer with more detailed information in this respect.

16.2 The safety of the customer has priority at VIVA Cruises. For this reason, all customers who are deaf, in a wheelchair, blind or whose vision is considerably impaired despite vision aids, have to inform VIVA Cruises of their restrictions before booking. Together, we can then ponder the measures that are necessary to ensure the safety of the customer on board and for any planned excursions (e.g. accompanying person on the journey). If the restrictions only occur after booking, the customer must inform VIVA Cruises in good time so that any necessary measures can be agreed for the safety of the customer.

17. Refusal of landing permit, cost of onward journey

If the landing or entry of the customer and/or the import of his luggage in the designated port or country is refused, VIVA Cruises may transport the customer and/or his luggage to another port or country called at by the vessel and disembark them there. The customer must pay VIVA Cruises a fee corresponding to the onward journey and compensate VIVA Cruises for all other expenses incurred in connection therewith. These terms and conditions of travel shall also apply to such onward journey.

18. Assistance, salvage

VIVA Cruises shall be entitled to provide assistance to other ships, to tow and salvage ships with the vessel used. All such activities, whether previously announced or not, shall be deemed part of the voyage.

19. Medical care

The services of the ship's physician – if one is carried onboard - are not part of the package travel contract. In each case, the patient concludes a separate treatment contract with the ship's physician. Only the costs of treatment resulting from an accident caused by VIVA Cruises or its employees on board or during an onshore activity organised by VIVA Cruises shall be borne by VIVA Cruises.

20. Applicable law, jurisdiction, alternative dispute resolution

- 20.1 These General Terms and Conditions and the legal relationship as a whole between VIVA Cruises and the customer are subject to the substantive law of the Federal Republic of Germany.
- 20.2 The place of jurisdiction for legal actions against VIVA Cruises is Düsseldorf. The place of residence of the customer shall govern the place of jurisdiction for any legal action brought by VIVA Cruises against the customer. As regards actions against customers who are merchants [as defined in the German Commercial Code], legal entities under public or private law, or persons who have their residence or habitual abode abroad, or whose residence or habitual abode is unknown at the time of bringing the action, Düsseldorf shall be agreed as the place of jurisdiction.
- 20.3. The provisions set forth above shall not apply
- a) if and to the extent that provisions of international agreements applicable to this contractual relationship, which cannot be contracted away, provide otherwise in favour of the customer, or
 - b) if and to the extent that provisions of a member state of the EU to which the customer belongs, which are applicable to the package travel contract and cannot be contracted away, are more favourable to the customer than these provisions or the corresponding German statutory provisions.
- 20.4 With a view to the German Consumer Dispute Resolution Act, VIVA Cruises points out that it is not participating in voluntary consumer dispute resolution. Should consumer dispute resolution become mandatory for VIVA Cruises after the printing of these travel conditions, VIVA Cruises will inform the customer accordingly in an appropriate manner. VIVA Cruises refers to the European online dispute resolution platform at <https://ec.europa.eu/consumers/odr/> for all travel contracts entered into by electronic legal transaction. VIVA Cruises is not currently participating in this voluntary procedure.

Tour Operator

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