

The following intermediation and contract terms for leisure tourism apply to contracts with activities providers and their intermediation by MTK!

Intermediation and contract terms for leisure tourism

Dear customers,

The below intermediation and contract terms govern both the legal relationship between the Tourismuszweckverband Moselregion Traben-Trarbach Kröv - referred to in the following as "MTK" and yourself - referred to in the following as "Customer" - with regard to **MTK's intermediation activities and the legal relationship between you and the provider of the leisure tourism services intermediated by MTK**, referred to in the following as "Provider". The intermediation and contract terms are, to the extent that they have been included with legal effect, part of the **service contract** which is concluded between you and the principal and the tour guide when you place a booking. **Therefore, please read these terms through carefully before making your booking.**

1. Definitions: status of MTK and the Provider; applicable provisions of law; intermediation of additional services

- 1.1. In the following, "Customer" means individual guests as well as groups of customers.
- 1.2. The present terms and conditions for leisure tourism apply to leisure activities, guided tours and entry tickets which are provided by the **Provider**, last less than 24 hours and do not include an overnight stay according to section 651a para 5 no. 2 German Civil Code (BGB) ("day tours") and the price of which does not exceed EUR 500. These day offers are referred to in the following as "Leisure Activity/Activities".
- 1.3. The **Provider**, as an independent service provider, renders the advertised contractual services as the direct contractual partner of the Customer. **MTK** is the sole intermediary of the contract between the Customer and the executing **Provider**, unless **MTK** is expressly stated to be the Provider of the Leisure Activity in the individual case. If additional services, transfers, restaurant services and other services are booked in connection with the Leisure Activity, **MTK** is also the sole intermediary of such services.
- 1.4. As an intermediary, **MTK** has the status of a provider of associated travel services, insofar as the requirements for an offer of associated travel services of **MTK** under the provisions of Article 651w BGB are fulfilled.
- 1.5. Without prejudice to the obligations of **MTK** as a provider of associated travel services (including the provision of the legally prescribed form and securing customer funds in the event of debt collection activities by **MTK**) and the legal consequences in the event of failure to fulfil those legal obligations, if the requirements under Section 1.3 or 1.4 are fulfilled, **MTK** is neither the tour operator nor a party to the contract for the Leisure Activity concluded in the event of a booking. In the case of such orders/tours, **MTK** is, therefore, not liable for information about prices and services, the provision of the service itself or performance defects in connection with the Leisure Activity. This does not apply to the extent that the contractually agreed service is a package holiday or another offer where **MTK** is a direct contractual partner of the Customer.
- 1.6. Any liability of **MTK** arising from the intermediation contract and the provisions of law, including in accordance with mandatory provisions regarding teledia and electronic commerce, remain unaffected.
- 1.7. The agreements concluded with the **Provider/ MTK** apply primarily to the legal relationship between the Provider and the Customer; these intermediation- and contractual terms, the provisions of law concerning contracts for services according to section 611 et. seq. BGB apply on a subsidiary basis. Primarily, the agreements concluded with **MTK** apply to the intermediation relationship with **MTK**, with the provisions of the present contractual terms concerning **MTK's** intermediation activities and section 675 BGB (business procurement for payment) applying on a subsidiary basis.
- 1.8. Unless the mandatory provisions of international or European law which are applicable to the contractual relationship with the **Provider** or to **MTK's** intermediation work stipulate more favourable rules for the Customer, German law will apply exclusively to the entire legal- and contractual relationship with the **Provider** and **MTK**.

2. Conclusion of contract, position of group client

- 2.1. The following applies to all Leisure Activity bookings:
 - a) The basis of the **Provider's** offer and the Customer's booking are the description of the Leisure Activity and the additional information in the booking basis, insofar as they are available to the Customer upon booking.
 - b) If the content of the booking confirmation deviates from the content of the booking itself, the former constitutes a new offer by the **Provider**. The contract will be concluded on the basis of this new offer, provided that the Customer makes his/her acceptance by means of an express declaration, making a down payment, paying the outstanding balance or availing him-/herself of the services.
 - c) The Customer making the booking is liable for the contractual obligations of the participants for whom he/she undertakes the booking as for his/her own obligations - provided that he/she has assumed the relevant obligation by means of a separate express declaration. The same applies to group clients or persons responsible for groups with regard to the participants in the Leisure Activities who are registered by the group client or person responsible for the group.
- 2.2. The following terms apply on a supplementary basis to Leisure Activities for private groups. Leisure Activities for private groups within the meaning of these terms exclusively mean group offers which are organised by the **Provider** as the responsible provider and are booked and/or executed via a person responsible for the group/group client, who acts as the authorised representative of a certain group of participants and also has the sole status of Customer vis-à-vis the **Provider**.
- 2.3. The **Provider** highlights that, according to the provisions of law (section 312g para 2 sentence 1 no. 9 BGB), there is no right of withdrawal, even if the service contract was concluded as part of a remote sales transaction. The Customer's other statutory rights of withdrawal and termination remain unaffected.
- 2.4. In the case of bookings done over the website of the **Provider**, the tourism organisation or another intermediary, the following applies for the conclusion of the contract:
 - a) By clicking on the "book for a fee" (or similar) button, the Customer makes a binding offer to the **Provider** to conclude the contract for the Leisure Activity. The receipt of the booking will be promptly electronically confirmed to the Customer.
 - b) Sending the contractual offer by clicking on the "book for a fee" button does not establish any claim of the Customer or the principal to the conclusion of a contract with the **Provider** based on the information provided in the booking. The **Provider** may decide in its own discretion whether to accept or decline the offer made by the Customer/principal.
 - c) The contract is concluded upon receipt of the booking confirmation from the **Provider** by the Customer/principal.

3. Services, right of replacement; deviating agreements; amendment of material services; duration of services; weather conditions

3.1. The services owed by the **Provider** comprise the rendering of the respective service according to the service specification and the additional agreements concluded.

3.2. If the group size for a particular activity may not be less/more than a certain number, this must be stated in the service specification.

3.3. Unless otherwise expressly agreed, Leisure Activities do not have to be performed by a certain person (e.g. a certain tour guide). Even if a certain person is specified, the right is reserved to substitute this person by another person in the event that the person originally specified is prevented from performing the service for a compelling reason (including sickness). If the **Provider** is unable to find a substitute in the event of a compelling reason for which the **Provider** is not to blame (including in the case of lone freelancers), the **Provider** is entitled to declare its withdrawal from the contract or to terminate the contract extraordinarily for an important reason. In such cases, the Customer's obligation to pay the fees ceases to apply in its entirety. Any other claims of the Customer (including the claim to reimbursement of travel costs to and from the tour) are excluded.

3.4. Amendments or additions to the contractually advertised services require an express agreement with the **Provider** for which text form is strongly recommended for evidential reasons.

3.5. Changes to material services which deviate from the agreed contents of the contract and which become necessary after conclusion of the contract (including changes during the period when services are rendered) and that are not brought about by the **Provider** against good faith, are permitted - provided the changes are not significant and do not affect the overall design of the service. Any guarantee claims of the Customer/principal remain unaffected in the case of such amendments to material services.

3.6. Any information provided concerning the duration of services is approximate.

3.7. The following applies to weather conditions and their effects on agreed services:

a) Unless otherwise expressly agreed in the individual case, the agreed services will be rendered regardless of the prevailing weather conditions.

b) Therefore, weather conditions do not entitle the Customer/principal to withdraw from or terminate the contract with the **Provider** free of charge. This does not apply if the weather conditions affect the body, health or property of the Customer or participant of the principal in the service to such an extent that the performance of the service is objectively unreasonable for the Customer/principal and its participants.

c) If such conditions are prevailing at the time when the service commences or if such conditions can objectively be expected for the agreed time of service commencement, the Customer/principal and the **Provider** are entitled to terminate the contract for the service either ordinarily or extraordinarily.

d) If the **Provider** terminates pursuant to c), the Customer/principal has no claim to the reimbursement of costs (including travel and accommodation costs), apart from any justified contractual statutory/contractual claims which the Customer/principal has to damages or compensation for expenses in this respect.

4. Rendering of the services and payment terms

4.1. The agreed services include the rendering of the service and any additional services which have been advertised or agreed.

4.2. With regard to online payment, the **Provider** may stipulate that the agreed price must be paid directly upon completing the booking; otherwise, the price must be paid within 14 days of the invoice date or, subject to agreement, directly prior to the beginning of the Leisure Activity.

4.3. If the **Customer** has no contractual or statutory right of withdrawal and the **Provider** is ready and able to perform the contractual services, the following applies:

a) If the Customer does not pay the price of the service or does not pay it in full even though the requirements for its falling due have been met, the **Provider** is entitled (subject to setting a reasonable grace period for performance and the expiry of the same) to withdraw from the contract and to claim damages from the Customer according to sections 280 para 1, 241 para 2 BGB and subject to the following para 7 - unless the Customer has a right of set-off or retention at the time when the price falls due for payment or the Customer is not at fault for the payment default which has occurred.

b) The Customer is not entitled to the services unless and until the service price has been paid in full.

5. Changes to bookings; changes to the billing address

5.1. The Customer/principal is not entitled to have any changes made to the schedule for the service, the time, the point of departure, or the destination of the service (changes to booking) after the conclusion of the contract. At the request of the Customer/principal, it is possible to check whether it is possible to change the booking. Requests for changes to the booking are only accepted in text form.

5.2. The above provisions apply mutatis mutandis to changes in the billing address provided. A processing fee of € 10,00 may be charged for each change made.

6. Failure to utilise the services

6.1. If the Customer/principal fails to utilise the services or any part thereof (including by failing to appear to the tour without terminating the contract) even though the **Provider** was ready and able to render the services, and the **Provider** is not to blame for this failure, there is no claim to the reimbursement of any payments which have already been made.

6.2. The statutory rule (section 615 sentences 1 and 2 BGB) applies to the agreed fee:

a) The agreed fees must be paid without there being any claim to the subsequent rendering of the services.

b) However, the Provider must accept deductions on the fees for any expenses which are saved and for any fees which the Provider earns by providing (or by maliciously failing to provide) the agreed services to another party.

7. Withdrawal by the Provider due to failure to reach the minimum number of participants

7.1. If the minimum number of participants is not reached, the **Provider** may withdraw from the contract subject to the following provisions:

a) The minimum number of participants and the latest point by which the **Provider** may withdraw from the contract must be clearly stated in the specific service specification or, if standard rules apply to certain types of Leisure Activities, in a general notice or a general service specification.

b) The **Provider** must clearly state the minimum number of participants and the latest deadline for withdrawal in the booking confirmation or include a reference to the relevant information in the service specification in the booking confirmation.

c) The **Provider** must notify the Customer of the cancellation of the Leisure Activity without delay if it is certain that the Leisure Activity will not take place due to the minimum number of participants not being reached.

d) If a minimum number of participants has been agreed, a down payment specified in the advertisement may fall due for payment when the booking is made; the payment of the outstanding balance/entire fee falls due when the service is rendered.

7.2. If the Leisure Activity is not performed for this reason, the Customer will be reimbursed for any payments he/she has made on the Leisure Activity without delay.

8. Termination and withdrawal by the Customer/principal

8.1. The Customer/principal are entitled to terminate the contract with the **Provider** after its conclusion. No specific form is required for the termination. However, text form is strongly recommended for termination notices. If the Customer/principal terminates the contract or fails to utilise the services without giving notice of termination (including by not appearing to the tour), the **Provider** may demand the price for any services made available as well as any associated expenses.

8.2. The cancellation fees are expressly specified in the advertisement for the Provider's Leisure Activities. Unless the **Provider** expressly states otherwise in the advertisement for the Leisure Activities, cancellation fees of 100% of the price for the service will be charged. Section 6.2.b) applies.

8.3. If, based on the cancellation conditions stipulated by the **Provider**, a pro rata reimbursements to the Customer would fall due in the event of cancellation or termination, any pro rata reimbursement of payments already made which fall due will be made by the **Provider** only. Intermediaries of the **Provider** with debt collection authorisation are expressly not entitled or obliged to make repayments on behalf of and on the account of the **Provider**.

8.4. However, the Customer is still at liberty to furnish proof to the **Provider** that the **Provider** has not suffered any damage at all or materially less damage than the compensation demanded.

8.5. The above provisions on termination do not affect the Customer's statutory or contractual rights in relation to defects in the services of the **Provider** or any other statutory guarantee claims.

9. The Provider's liability; insurance

9.1. The **Provider's** liability is unlimited, provided that

- the losses result from a breach of a key obligation of the **Provider** whose fulfilment makes it possible to correctly perform the contract at all or the violation of which jeopardises the achievement of the objective of the contract;
- the losses result from loss of the Customer's life or injury to the Customer's body or health.

Otherwise the **Provider's** liability is limited to losses caused by the **Provider** or its vicarious agents either intentionally or due to gross negligence.

9.2. The **Provider** is not liable for the services, measures or omissions of accommodation and catering establishments or other providers visited within the context of the tour, unless the damage is caused by (or partially caused by) a culpable breach of duty on the part of the **Provider**.

9.3. The agreed services under the contract only include insurance in favour of the Customer/principal if this has been expressly agreed. The Customer/principal is strongly advised to conclude cancellation insurance.

10. Termination for reasons relating to behaviour

10.1. The **Provider** may terminate the service contract with immediate effect if the Customer continues to cause disruption despite being issued with a warning by the **Provider**, or if the Customer behaves in a way which breaches the contract to such an extent that the immediate cancellation of the contract is justified.

10.2. If the **Provider** terminates the contract, the **Provider** retains the claim to the price of the service; however, the **Provider** must accept deductions for any savings on expenses or any benefits which the **Provider** obtains from providing the service which the Customer fails to utilise to another party.

11. Obligations of the guest

11.1. The Customer must notify the **Provider** of any defects in the agreed services immediately and demand remedial action. The only time when claims which arise from the **Provider** rendering the services defectively or incompletely do not lapse if this notification is omitted without fault.

11.2. When making the booking or in a timely manner before the agreed date for the Leisure Activity, the Customer will be asked to provide a mobile phone number so that they can be contacted in the event of extraordinary circumstances. **MTK** usually also provides the guest or a nominated individual with a mobile phone number of the Provider of the tour.

11.3 Agreed service schedules must be adhered to punctually. If the Customer is late, he/she must notify the provider of the Leisure Activity of this delay by the agreed scheduled time for the beginning of the tour and specify their expected time of (late) arrival. The **Provider** is entitled to refuse to commence the Leisure Activity at a later point, if postponement is objectively impossible or unreasonable, including if any subsequent services would not be able to be rendered or other mandatory business or private appointments would not be able to be attended. As a rule, postponements of more than 30 minutes entitle the **Provider** to cancel the Leisure Activity. In this case, the provisions of Section 6 of these terms apply to the **Provider's** claim to the fees.

11.4. The Customer is only entitled to abort or terminate the Leisure Activity after it has commenced if the services provided by the **Provider** are highly defective and these defects are not rectified despite being appropriately notified. If the tour is aborted or terminated without justification, there is no claim to reimbursement. This does not affect the Customer's guarantee claims in the event that the Leisure Activity is performed defectively.

12. Specific obligations of guests in relation to outdoor Leisure Activities

12.1. Before making the booking and taking part in the Leisure Activity, the Customer is responsible for ensuring that the Leisure Activity are suitable for him/her, in view of his/her personal state of health.

12.2. In the absence of an express agreement, neither the **Provider** nor **MTK** are obligated to provide the Customer with any (personalised) medical advice or instructions.

12.3. The **Provider** and its vicarious agents (guides etc.) may exclude the Customer either wholly or partially from the tour if there are substantiated indications that the Leisure Activities could exceed the Customer's abilities and the Customer could therefore place him-/herself or others at risk. Section 6 applies.

12.4. In the event that the Customer leaves or aborts the tour at his/her own request due to an injury or illness for which the **Provider** was not to blame, the provisions of Section 6 apply.

12.5. The Customer is advised to wear clothes which are suitable for the Leisure Activity and which provide protection against intense sunlight, rain or wind. The Customer is also advised to take a change of clothes. If the Customer appears at the tour with

unsuitable clothing or footwear, the **Provider** reserves the right to exclude the guest from the Leisure Activity either wholly or in part for safety reasons.

13. Specific obligations of the Customer with regard to Leisure Activities entailing physical activity (e.g. hiking, cycling, Segway etc.)

13.1. Section 12 applies to Leisure Activities entailing physical activity.

13.2. Even though the Leisure Activities are accompanied by a guide, they demand a high level of self-responsibility on the part of the Customer.

13.3. Guests are advised to wear clothes which are suitable for the Leisure Activity and which provide protection against intense sunlight, rain or wind. The Customer is also advised to take a change of clothes. If the Customer appears with unsuitable clothing or footwear, the Provider of the tour reserves the right to exclude the Customer from the Leisure Activity either wholly or in part for safety reasons.

13.4. Instructions given by the guide must be followed both before and during the Leisure Activity. Traffic rules must be observed and due consideration paid to the other transport users.

13.5. Non-swimmers are not permitted to participate in any Leisure Activities which feature physical activities on water.

13.6. The **Provider** reserves the right to make changes to the planned Leisure Activities depending on the knowledge of the Customers who wish to participate, their technical capabilities and fitness or due to unforeseen circumstances as part of the **Provider's** duties of care and duties to ensure public safety.

13.7. Unforeseen circumstances as regards the risks of Leisure Activities within the meaning of the above paragraph include, but are not restricted to: Extreme weather conditions or returns due to injury, illness or exhaustion on the part of a participating Customer.

14. Special provisions relating to pandemics (particularly coronavirus)

14.1. The parties agree that the **Provider** will always perform the agreed services in compliance and in accordance with the official requirements and stipulations applicable at the time when the tour takes place.

14.2. The Customer declares that he/she agrees to comply with reasonable usage rules or restrictions of the **Provider** when taking advantage of services and to promptly notify the **Provider** in the event that he/she suffers typical symptoms of illness.

15. Choice of law; place of jurisdiction; consumer dispute resolution

15.1. German law applies exclusively to the entire legal and contractual relationship between the **Provider** and the Customer. The Customer may only bring legal action against the **Provider** at the location of the **Provider's** corporate seat.

15.2. The Customer's place of residence is decisive in terms of where the **Provider** may bring legal action against the Customer. For suits brought against Customers who are traders, legal persons under public or private law or persons who have their place of residence or habitual residence abroad or whose place of residence or habitual residence are not known at the time when the action is brought, the location of the **Provider's** registered office is agreed as the place of jurisdiction.

15.3. The above provisions do not apply:

a) if and to the extent that mandatory provisions of international conventions which are applicable to the service contract between the Customer and the **Provider** stipulate more favourable conditions for the Customer, or

b) if and to the extent that mandatory provisions applicable to the service contract in the EU member state to which the Customer belongs are more favourable to the Customer than the above provisions or the corresponding German provisions.

15.4. With regard to the law on consumer dispute settlement, the **Provider** hereby indicates that it will not participate in any voluntary consumer dispute settlements. If consumer dispute settlements become obligatory for **Provider** following the printing of these terms and conditions, **Provider** will inform the consumers in a suitable format. The **Provider** refers to the European online dispute resolution platform <https://ec.europa.eu/consumers/odr> for all contracts concluded in electronic commerce

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The provider of the respective Leisure Activity is the provider of leisure tourism specified in the offer.

The intermediary for the leisure activities is:

Tourismuszweckverband Moselregion Traben-Trarbach Kröv