



GENERAL TERMS AND CONDITIONS
of the Agency Contract for the Purchase and Sale of
Incoming/Inbound Agency Services
for Client in the business to business marketplace (B2B)

APPENDIX 1

Provisions for the contractual relationship between LIBERTY INTERNATIONAL
TOURISM GROUP and its companies and its clients.

1. Contract Design

1.1. The General Terms and Conditions set forth in this agreement (hereinafter referred to as „Agency GTC“) shall apply to all and any contracts between **Liberty Holding** ... - a destination management company (so called DMC) - (hereinafter referred to as „**Agency**“) and its customers - (travel) organizers listed in - [Our destinations | Liberty \(liberty-int.com\)](#), and as may be amended from time to time, by Agency, at its sole discretion - (hereinafter referred to as „**Client**“) with the subject matter of Agency being assigned with the administrative conception, planning, organization, coordination and execution of a (travel) event in Agency's location of business operation/destination (hereinafter referred to as „**Inland**“). Agency will in the course of the aforementioned procure (touristic) Inland services and resell them in its function as an agency in form of package and/or individual services to Client in the Inland and/or foreign countries (Incoming/Inbound), so that event participants from foreign countries travel to the Inland in order to participate in the event.

1.2. The Agency GTC shall prevail the contractual relationships with companies in the business-to-business (B2B) marketplace. Enterprises are natural or legal entities or business partnerships between natural and/or legal persons, vested with legal capacity, who in the course of a legal transaction act within and for the execution of their commercial or professional activity, in particular companies, merchants, corporate bodies under public law and special assets under public law.

1.3. Any and all contractual relationships shall be formed solely on the basis of the Agency GTC set forth in this blanket agreement. Supplemental terms and conditions of Client and/or those conflicting with the Agency GTC shall only

become valid upon Agency's clear and written consent.

1.4. In case Agency and Client will, in form of an agency contract or an appendix to such agency contract, conclude an agreement on terms and conditions deviating from the Agency GTC set forth in this blanket agreement, such specific provisions shall take precedence over the respective provisions of the Agency GTC. Any conclusion of contracts between Agency and Client with regards to the mutual services to be performed as well as modifications and/or amendments thereto shall require the written form.

2. Contract Conclusion

2.1. Agency's respective cost specifications and estimates, which contain a description of services as well as its cost, shall form the basis of the contractual relationships of Agency with its Clients.

2.2. Cost estimates and specifications of Agency shall be a basis for negotiation and represent a re-quest to Client for making an offer that will be subject to acceptance by Agency.

2.3. By booking services stated in Agency's cost specification and estimate, Client is making a binding offer to Agency for the conclusion of an agency contract (hereinafter referred to as "Agency Contract"). Client is required to make a booking in writing (via facsimile, via e-mail, via letter). The services and cost specifications provided to Client by Agency shall form the basis for the contract offer by Client.

2.4. Agency's acceptance of the contract offer made by Client shall require Agency to provide to Client, in written form (via facsimile, via e-mail, via letter),
a) a concrete individual contract, or
b) a booking confirmation.



The Agency Contract and any appendix referenced therein shall come into effect with either the execution of the contract by both parties signing or already with the transmission of the booking confirmation by Agency in accordance with section **2.4 lit. b).**

2.5. In the event that the subject matter and terms of the individual contract or the booking confirmation deviate from Client's initial offer, such new provisions shall represent a new offer made to Client by Agency, and an Agency Contract on the basis of the new offer shall come into effect upon Client's acceptance of the new offer by either signing the Agency Contract or confirming the booking confirmation in writing.

3. Agency Services

3.1. Nature and scope of the services to be performed by Agency under the Agency Contract shall be in accordance with Agency's services and cost specifications in the form and to the extent that they have constituted the contractual basis.

3.2. With regards to the specification of touristic classifications of accommodations set forth in the services and cost list, such designation of classification will pertain to country/ destination specific classifications as long as not otherwise stated by Agency.

3.3. With regards to hotel bookings, it shall not be assumed that facilities are handicapped accessible unless clearly indicated. Bookings of handicapped accessible rooms will be made solely upon the written request by Client and the written confirmation by Agency to carry out such bookings, as long as such provisions have not already been agreed upon by both parties in the services and cost specification. Consideration of a request for handicapped accessible rooms that deviates from the services and

cost specification under the Agency Contract or was expressed after contract conclusion is subject to the hotels' power of disposition and authorization to warrant such accommodation.

3.4. Consideration of any special requests for rooms, beds or facilities that differ from the specification in the services and cost list are subject to the hotels' power of disposition and authorization to warrant such services and cannot be guaranteed by Agency.

3.5. Agency is not an organizer and not a travel organizer in particular, but rather assumes the role of a DMC - a destination management company in accordance with **section 1.1** of the Agency GTC - for the tasks and services specified in the Agency Contract. Agency, in the course of the performance of its duties under the Agency Contract, enters on its own behalf and for its own account into agreements with the respective service providers (i.e. location hosts, hotels, caterers, artists, advertising partners) and will, insofar as contractually agreed, secure on its own behalf and for its own account any required regulatory permits. Agency's duties do not include the organization of the event with regards to subject-matter expertise or content, which shall be the sole responsibility of the organizer.

4. Obligations of Client

4.1. Client shall be obligated to promptly notify Agency in writing of any changes or news that are of importance for the event organization, coordination and execution.

4.2. In the event that a service provider may directly approach Client with regards to the responsibilities and services covered by this agreement, Client shall be obligated to refer the service provider directly to Agency and to leave further



contract and organizational negotiations to Agency.

4.3. Client, as the organizer, shall assume the typical organizational duties and liabilities, in particular

- a) the payment of possible taxes and other dues, with the exception of artist social security contributions, insofar as such contributions are to be made according to respective applicable laws, in which case Agency shall be responsible to make such potential artist social security payments;
- b) the payment of royalties to copyright collecting societies for the performance of proprietary works, insofar as such royalties are compulsory under the respective applicable law (in particular but not limited to GEMA in Germany, AKM in Austria and SUISA in Switzerland).

It is the sole responsibility of Client to secure, in a timely manner, any and all required regulatory permits and/or submissions and registrations, insofar as these are not already part of the subject matter of the contract. Client shall promptly report to Agency any municipal regulations or ordinances which may be imposed.

4.4. Client guarantees Agency to designate a competent contact person available to Agency during the event planning, execution and post-processing phases. This designated contact person shall be authorized to, on behalf of Client, make or receive to and from Agency any statements or notifications.

5. Special Duties to Notify and Cooperate

5.1. Client shall inform Agency in case that not all required event documentation (i.e. travel documents such as tickets and hotel vouchers) has been received within the time period stated by Agency. Client is

obligated to verify the transmitted event documentation on its correctness and completeness, in particular with regards to compliance with the bookings. Client is further obligated to promptly notify Agency of any potential discrepancies, missing documentation or other inconsistencies. In the event that Client fails to fulfil such duties by negligence or within due time, Client shall be deemed jointly responsible and liable for any damages arising as a consequence.

5.2. It is the sole responsibility of Client to inform its (travel) participants of any passport, visa and health provisions as well as any potential modifications thereof in a timely manner before the start of the event.

5.3. Client shall inform its participants/ travelers that Agency is not the event organizer, in particular not the travel organizer, and that in fact Client itself is the event organizer.

5.4. Client shall further inform its participants / travelers that

- a) any additional services onsite not included in the services specification of Agency (such as visitor's tax, miscellaneous local fees, parking, and so forth) will have to be incurred by the participants themselves. Agency is not a (travel) organizer and will not incur any of such cost.
- b) local service providers may insist on credit card guarantees or cash deposits. Client will be informed thereof by Agency in advance and due time.

6. Cost Budgeting, Substitute Participants/ Travelers, Rebooking

6.1. With the total cost agreed upon by both parties all industry typical purchases and expenses with regards to the



performance of services by Agency under the Agency Contract are deemed accounted and compensated for. Any other additional cost, such as for postage or courier, shall be incurred by Client, whereby **sections 6.4 and 6.5** of this contract shall be unaffected by this provision.

6.2. Client shall be at liberty to notify and have Agency process any changes to names and persons of its participants/travelers prior to the start date of the event or travel, insofar that the substitute participants/travelers comply with the special event/ travel requirements and the participation of the substitute participants/travelers is not opposed to by any statutory provision or regulation. Any additional cost arising from aforementioned changes shall be incurred by Client and can be assessed by Agency with a flat charge of 30 EUR per person. The proof that expenses incurred are of a lesser amount shall be at the liberty of both parties. The enforcement of claims for further damages shall not be excluded by the aforementioned flat charge.

6.3. Agency cannot guarantee to warrant Client any special requests made by Client after contract conclusion, in particular for rebooking with regards to date, scope and location of services as well as accommodation and transportation. **Section 6.2** shall remain unaffected by the aforementioned.

6.4. Any cost of transportation and accommodation for travel scheduled under the Agency Contract, insofar as such cost are not already included in the cost budget in accordance with **section 6.1**, will be billed separately as follows:

a) Reimbursable are cost for cab rides, train rides in first class, business air travel and four-star hotels. Upgrades are permitted if the price of a comparable ride, flight or room does

not exceed the price of the aforementioned respective categories.

- b) In case of utilization of one's own passenger car, an amount of 0,30 EUR per kilometer can be assessed.
- c) Travel abroad requires the consent of Client in order to be able to be billed.

6.5. Daily Rates for the personal presence of Agency or its employees on-site for inspection of the event location or for its presence during the event can be billed separately to Client, insofar as such cost are not already included in the budget in accordance with **section 6.1**.

7. Services and Cost Modifications

7.1. Agency is generally entitled to make modifications to the contractually agreed services provided that significant reasons for changes occur after contract conclusion, which make such changes to services absolutely necessary, whereby modifications and variations of services which substantially impact the nature and scope of services or can be deemed unreasonable for Client, after mutual and careful consideration of the respective interests of both parties, and disadvantage Client in against good faith shall not be permitted. Warranty shall not be affected by the aforementioned provision insofar as the modified services are impaired by defects.

7.2. In the event that Client will change or cease the planning, operations and other activities outside of the on-going performance of services by Agency, Client will reimburse Agency for all additional cost incurred and dismiss Agency from any liabilities against third parties.

7.3. Agency is entitled to adjust the agreed upon cost after contract conclusion, in



due consideration of the interests of Client, if and to the extent to which

- a) price changes of service providers,
 - b) changes to royalties, dues and taxes which are essential for and included in the scope of services agreed upon,
 - c) changes to transportation cost (i.e. fuel) or
 - d) changes to currency exchange rates
- make such cost adjustments absolutely necessary in order to avoid a loss in profits and insofar as the circumstances which resulted in an increase were not already existing prior to contract conclusion and thereby not foreseeable to Agency at the time of contract conclusion.

A declaration of cost increase is only valid if it is made in writing and stating the relevant cost positions, for the cost increase relevant factors, to the individual cost positions applied allocation methods, and the resulting calculations.

Added costs for a service will have to be based on the difference between the contractually agreed calculation and the actual increased purchase price of that individual service. These added costs require proof by Agency.

7.4. Both parties shall inform each other promptly about any and all modifications and adjustments set forth in the aforementioned **sections 7.1 through 7.3**. In case of significant modifications to essential services, including respective costs, Client is entitled to withdraw from the contract free of charge. In case of changes in accordance with **section 7.1 sentence 1**, Client shall have the right, instead of withdrawing from the contract, to claim provision of a service of at least equal value, if and to the extent that Agency has the capabilities to provide such service from its service offer without additional cost for Client. Client has to make claim to its rights against Agency under the aforementioned **sentences 2 and 3** in writing and immediately upon

receiving Agency's declaration of services and cost modifications in accordance with **sentence 1**.

7.5. Total services and cost assessments will be carried out by Agency in appropriate time intervals.

8. Due Date, Payment Terms and Default

8.1. The contractually agreed compensation will be invoiced to Client, and payments are to be made in compliance with the specifications in the invoices. Invoiced amounts are to be transferred to Agency's accounts, no discounts for early payments applied, within 10 days unless otherwise stated in the respective invoice.

8.2. Unless otherwise agreed upon in individual contracts, the invoiced amount will be due for payment in full (100%).

8.3. The invoiced amounts are in Euro (EUR), unless otherwise agreed upon and stated, and contain, insofar as required, the statutory value added tax according to the taxation rate applicable on the date of performance of services. Client shall consider and assume responsibility for any potential bank fees incurred in connection with payments, including but not limited to bank or currency fees as well as currency fluctuations.

8.4. Agency is entitled to deposits and/or advance payments, which will be determined by both parties in form of individual agreements. These will be accounted for in the total payments due.

Should Agency only be willing to perform its services on the condition of complete or partial advance payments, then such provision will need to be agreed upon under an individual agreement.

The client understands that prepayments paid to Liberty are used, among others, to



comply with contractual requirements with suppliers involved in the program, in reference to the contract. Liberty will take measures and act to make the service happen. That said, in the event that the supplier is declared bankrupt or take other similar measures (such as arrangements with creditors or alike) Liberty cannot, under any circumstance, be considered responsible for such prepayments and all such payments shall not be returned to the client.

- 8.5.** In case Client does not make the advance payments or payment of the complete and remaining amount respectively within the agreed time period,
- a) Agency shall be entitled to the legally applicable interest for default even without issuing any further demand notices for payment.
 - b) Agency shall further be entitled, even without admonition, to deny the performance of its services and, after setting a time limit, to withdraw from the contract if and to the extent that services have not yet been provided, in which case Agency shall be entitled to charge Client cancellation fees in accordance with **sections 13.3 through 13.6.**

9. Rights of Agency

9.1. In the course of its performance of duties and responsibilities under the Agency Contract, Agency shall be entitled to use the services of third parties, such as but not limited to employees, freelancers and subcontractors (Delegation Authority).

9.2. Agency shall hold the sole decision authority regarding legal matters and relations pertaining to the contractual relationship.

9.3. Agency shall have the right to retain shares/ compensation to which it is entitled by offsetting such against any amounts

payable according to accounting practices.

10. Rights of Client

10.1. Client shall reserve the right to be involved in significant planning, organization and realization phases (Participation and Co-Determination Rights), provided that it does not constitute an impediment to Agency in its fulfilment of duties and responsibilities under and in accordance with the contract.

10.2. Client shall only be entitled to disclosure of and access to all legal and business matters under this contract agreed upon by both parties separately in writing.

11. Advertising/ Photo and Image Rights

11.1. Client shall make available to Agency all materials necessary for Agency to provide or perform the contractually agreed services, including, but not limited to, advertising materials, company logo, event logo, photos, videos, and press releases, free of third party rights, and will upon request provide further information regarding the event as well as concrete program content. Client guarantees that potentially required rights have been obtained. **Sections 12.5 and 19.1** prevail.

11.2. Client will upon prior consultation appoint Agency as the responsible event agency within the scope of the event.

11.3. Agency shall be entitled during the course of the event to advertise and promote to a reasonable extent.

11.4. Agency is allowed, for reference purposes, to use results of works in excerpts



for internal use as well as the name and logo of Client.

11.5. Agency will neither produce nor make use of any photos or videos of the event, unless explicitly agreed by both parties in writing, for example for the purpose of documentation or self-publication as work reference.

12. Liability

12.1. In case of breach of contractual and non-contractual duties and responsibilities, both parties to this contract shall be liable in accordance with the pertinent statutory provisions, as long as not otherwise determined by the Agency Contract and the Agency GTC.

12.2. Agency shall be held liable for damage compensation - irrespective of legal basis - only in case of deliberate intent or gross negligence by Agency or its legal representatives and vicarious agents. In cases of ordinary negligence on the part of Agency, its legal representatives or vicarious agents, Agency shall only be held liable for

- a) loss of life, bodily injury and damages to health, as well as
- b) damages resulting out of the breach of substantial duties under the contract (duties whose fulfilment makes the contract execution possible in the first place, and where the compliance with such contract duties the other party to the contract shall and will constantly trust in); in this case, liabilities of Agency shall be limited to predictable, typically occurring damages.

12.3. The release from liability under **section 12.2** shall also apply to liabilities of legal representatives and vicarious agents of Agency.

12.4. The limitations of liability under **section 12.2** shall not apply if and to the extent to which Agency or its representatives maliciously concealed a defect or incurred a guarantee for the constitution of the works/ services. The same shall apply to the claims of Client in accordance with the law on product liability.

12.5. Client shall release Agency irrevocably from any liabilities that arise out of the materials provided by Client under **section 11.1** infringing upon the rights of third parties (in particular intellectual property rights, photo/image and personality rights, rights on trademarks and competition) or other statutory provisions.

12.6. Client shall provide for sufficient event organizer's liability coverage with regards to the event under the contract.

13. Event Cancellation/ Postponement, Cancellations

13.1. Neither Party shall be liable for any obligation of performance, injury, damage, delay, accident, inconvenience or irregularity under this Agreement that results directly or indirectly from a **Force Majeure** Event and this Agreement may thereupon be terminated in whole or in part by written notice within a reasonable time from the affected Party. A "Force Majeure Event" for purposes hereof means any act or circumstance beyond the affected Party's reasonable control that has the effect of delaying or rendering the performance of that Party's obligations hereunder (with the exception of payment) impractical, inadvisable, or in any other way causes that Party to delay or fail to perform, in whole or in part (but only to the extent of such delay or failure to perform), including, without limitation, the occurrence of any of the following which meet that criteria: an accident, fire,



riot, war, civil disturbance, terrorist act, strike, labor dispute, disruption of transportation, health or travel advisories.

In such a case, both parties have the obligation to notify the other party in writing that a Force Majeure event occurred and to state exactly the reason for the event.

Should this Agreement be terminated according to the force majeure terms herein, Liberty will return to Client any payments previously paid by Client to Liberty, less all of the following amounts which Liberty shall be entitled to retain (or to be paid in the event there are insufficient Client funds on hand with Liberty): any non-recoverable and other out-of-pocket costs Liberty has paid or is obligated to pay to its vendors, suppliers and subcontractors, and any costs (including labor) for which Liberty has otherwise incurred an obligation to pay, as of the time of the force majeure termination, so long as such direct and/or indirect costs are supported by reasonable documentation. Liberty may also decide to offer the client credit to be used towards a future event, with the choice of a refund or credit being entirely Liberty's decision. If credit is offered, Liberty shall propose options to allow the client more alternatives to use the credit.

In case a refund should be made, it will only be processed once Liberty has received all refunds from its vendors, suppliers and subcontractors.

13.2. Should Client decide not to execute or to postpone the event due to justifiable reasons outside of **section 13.1**, Client shall promptly notify Agency in writing and declare the respective withdrawal from the contract in writing. In that case Client shall be obligated to compensate Agency for damages less the saved expenditures. In case of Agency's equal responsibility/

contributory negligence with regards to the event cancellation or postponement according to sentence 1, Agency should receive a lesser damage compensation amount to the extent of the mutual accountability.

13.3. Agency structured the claim for compensation under **section 13.2** staggered according to time, in consideration of the proximity of point in time to the contractually agreed start of the performance of services, compound as a percentage of the agreed price and taking into account the calculation of damages, usual saved expenditures and potential ulterior utilization of services. Concrete lumps-sum cancellation fees and deadlines (Cancellation) can differ depending on the service and will be determined with Client in the Agency Contract on individual contract basis or individually in the booking confirmation.

14. Withdrawal due to Insufficient Number of Participants

14.1. In case of services with a contractually agreed minimum number of participants, Agency shall be entitled to withdraw from the contract due to the intended minimum number of participants not being attained.

14.2. Withdrawal from the contract shall be declared to Client immediately and in writing, unless agreed otherwise in individual contracts. Performed services shall be granted back. Claims of Agency under **sections 13.2 through 13.6** shall not be affected thereof.

14.3. **Sections 14.1 and 14.2** shall not apply insofar as Agency guarantees the performance of the service independent of the achievement of the minimum number of participants (Provision of Services Guarantee). In that case, Agency



is allowed to adjust the agreed services to the actual size of the group, at equitable discretion. **Sections 7.1 and 7.4** apply accordingly.

15. Unutilized Services

Should Client not make use of certain individual services that were offered to Client accordingly, due to reasons attributable to Client, Client shall have no right to claim a pro rata reimbursement with regards to the respective incurred price. Agency will make due effort to obtain reimbursement of saved expenses from its service providers, unless the respective services can be deemed insignificant or in the event that statutory or regulatory provisions oppose a reimbursement.

16. Termination

16.1. An unrestricted right of termination shall be excluded.

16.2. The right to extraordinary termination for both parties shall not be affected thereof. Agency shall be entitled to such right in particular if

- a) a) the agreed compensation is not being paid by Client in due time.
- b) individual participants of the event, in disregard of warnings by Agency, are significantly disturbing the execution of the event or if their behavior is violating contractual terms and provisions in such a manner that the immediate termination of the contract is justified.
- c) insolvency proceedings over Client's assets were opened or the opening of insolvency proceedings was refused due to a lack of assets.

Should Agency terminate on the basis of the afore-mentioned, Agency shall however retain its claim for compensation but has to credit Client for the saved expenditures as well as for the advantages from an ulterior utilization of unused services, including potential credited amounts from its service providers.

17. Confidentiality

Both parties pledge to treat as strictly confidential all information that has become known during the engagement of the parties under this contract, such as business relationships and other business/commercial facts, budget negotiations and guest data. The obligation to confidentiality shall also apply after termination of the contractual relationship.

18. Principles of Loyal Collaboration

18.1. For the purpose of fulfilling the contract, both parties will work together cooperatively and loyally and will promptly inform each other in case of any significant changes.

18.2. Any disputes will be resolved in a fair manner with the goal of a mutual and amicable solution.

19. Contract Penalties / Flat Compensation for Damages

19.1. In the event of a culpable breach of **section 11** by Client, Agency shall be entitled to a contract penalty in the amount of 3,000 € for each culpable breach of photo and image rights, whereby each singular act shall be deemed an individual infringement (exclusion of the continuation connection).

19.2. In the event of a culpable breach of contract confidentiality by Client under



section 17. Agency shall be entitled to a contract penalty in the amount 10% of the contract offer volume, as basis for assessment, for each event, whereby each singular act shall be deemed an individual infringement (exclusion of the continuation connection).

19.3. In the event of any other culpable breach of contract by Client, Agency shall be entitled to a contract penalty in the amount 10% of the contract offer volume, as basis for assessment, for each event, whereby each singular act shall be deemed an individual infringement (exclusion of the continuation connection).

19.4. Both parties shall remain at liberty to prove a lesser damage with regards to the aforementioned cases under **sections 19.1 through 19.3.** The aforementioned flat charge assessments for damage compensation shall not exclude the enforcement of further damages.

20. Offsetting, Withholding Rights

20.1. Client shall be entitled to offsetting rights against Agency only if Client's counter claims have been established as legally binding, are undisputed or have been recognized by Agency.

20.2. Client may only exercise withholding rights if its counterclaim is based on this contract.

21. Contract Language

21.1. Contract language is English, unless otherwise agreed upon by both parties in writing.

21.2. Organization in local destinations where the contractually agreed services are performed shall be possible to be

conducted in the respective language, unless otherwise contractually agreed.

22. Applicable Law, Jurisdiction

22.1. The contractual relationship shall be subject to the laws of the country/ territory where the contracted services are being performed or provided, unless otherwise contractually agreed.

22.2. Place of fulfilment for all obligations under the contract shall be the country/ territory where the contracted services are being performed or provided, unless otherwise contractually agreed. Insofar as no legal provisions imperatively stipulate a different place of jurisdiction according to the respective relevant law, both parties shall be subject to the exclusive jurisdiction of the courts in the country/ territory where the contracted services are being performed or provided.

23. Data Collection, Processing and Use

The fulfilment of business obligations under the contract will also entail the collection, processing and use of personal data submitted, in accordance with the relevant legal provisions of the country/ territory where the data was collected, processed and used.

24. Concluding Provisions

In the event that certain clauses of the Agency-GTC are invalid or should become invalid, they will be replaced by the applicable regulatory provision from which they deviate.

(As of: Oct. 2016)