

# General Terms and Conditions - Trails of Menorca

## Article 1. Definitions

- 1.1. Terms written with an initial capital letter in these general terms and conditions have the following meanings:
  - a. **Organiser:** the user of these general terms and conditions, being the sole trader 'Trails of Menorca', with registered offices in (8749 TC) Pingjum (the Netherlands), at the address Nesslerlaan 6, Chamber of Commerce number: 89837827, offering Activities in the exercise of a profession/business.
  - b. **Contracting Party:** the (natural) (legal) person who has entered into a Contract with the Organiser.
  - c. **The parties:** the Organiser and the Contracting Party.
  - d. **Contract:** the contract between the Parties relating to the organisation/performance of one/multiple Activity/Activities by the Organiser on behalf of the Contracting Party and in return for payment by the Contracting Party.
  - e. **Activity:** physical activity organised by the Organiser, including hiking trips, walking tours, (outdoor) sports, and all activities required for its realisation, such as providing, renting or buying/selling equipment, arranging transport, arranging accommodation, giving or commissioning instructions, and providing or commissioning supervision of the physical activity.
  - f. **Participant:** the person who actually participates in an Activity, including the Contracting Party if the Contracting Party (also) actually participates in an Activity.

## Article 2. Applicability of general terms and conditions

- 2.1. These general terms and conditions apply to all the Organiser's Contracts and offers insofar as Organiser has not explicitly specified otherwise in writing.
- 2.2. The applicability of any (general) terms and conditions of the Contracting Party to any Contract or offer is excluded.
- 2.3. These general terms and conditions are declared applicable in the Contract. The Contracting Party also accepts their applicability by participating in an Activity and paying the price.
- 2.4. Deviation from these general terms and conditions is only possible if expressly agreed in writing by the Parties.
- 2.5. If one or more provisions of these general terms and conditions are found to be inapplicable or void, in full or in part, the remaining provisions of these general terms and conditions will continue to apply in full.
- 2.6. All possible situations that may arise between the Parties that are not regulated in these general terms and conditions shall be assessed and settled according to the purpose and scope of these general terms and conditions.
- 2.7. If the Organiser does not always demand the Contracting Party's strict compliance with these general terms and conditions, this does not mean that the relevant provisions do not apply to a Contract or offer, or that the Organiser no longer has the right to demand compliance by the Contracting Party with these general terms and conditions in other cases, similar or otherwise.

## Article 3. Conclusion of Contract

- 3.1. A Contract is concluded after written confirmation by the Organiser of a booking made by the Contracting Party.
- 3.2. A Contract is concluded subject to the proviso that any required permits, exemptions, allocations etc. are granted in time.
- 3.3. Verbal undertakings or agreements by/on behalf of the Organiser are not binding unless expressly confirmed in writing by the Organiser.
- 3.4. Acceptance by the Contracting Party of an offer by Organiser will not lead to a Contract if the acceptance differs from the offer, whether or not on minor points, unless the Organiser explicitly indicates otherwise in writing.

## Article 4. Offers and prices

- 4.1. All prices stated in an offer are inclusive of VAT and other (inter)national levies, taxes or government surcharges, unless explicitly stated otherwise in writing by the Organiser. These costs will be charged on to the Contracting Party.
- 4.2. If additional costs arise for the Organiser after making an offer or after concluding a Contract as a result of a change in levies/charges directly related to an Activity, these costs will be charged on to the Contracting Party.
- 4.3. The Organiser is not bound by any aspect of an offer or a Contract if the Contracting Party could reasonably recognise that this aspect is an obvious mistake or clerical error.

## Article 5. Payment

- 5.1. The Contracting Party shall pay the agreed price immediately upon entering into the booking to the bank account number provided by the Organiser.
- 5.2. Any cash payment to which the Organiser agrees shall be made in euros.
- 5.3. If the Contracting Party is in default of any payment obligation, Organiser is entitled to suspend compliance with the Contract in its entirety.

## Article 6. Bookings for multiple people

- 6.1. The Contracting Party can book an Activity for themselves and/or for other people. In all cases, the Contracting Party enters into a Contract in their own name and on their own behalf. These other people - Participants - are then not the Organiser's contracting party. All rights and obligations arising from the Contract, these General Terms and Conditions, Privacy Statement and Risk & Liability Declaration shall in such case accrue to/be vested in the Contracting Party.

- 6.2. When booking for multiple people, the Contracting Party is responsible for ensuring that the participants have familiarised themselves with the General Terms and Conditions, the Privacy Statement and the Risk & Liability Declaration before the start of the activity.
- 6.3. When booking for multiple people, the Contracting Party is also responsible for the Participants' compliance with all rules of conduct, duties of disclosure, instructions, government regulations etc. Participants' failure to comply with these shall be at the Contracting Party's risk and expense with regard to the Contract.

## Article 7. Participation in Activity and obligations

- 7.1. The house rules, rules of conduct and safety rules adopted by the Organiser and the Organiser's instructions must be observed/followed by the Participant at all times.
- 7.2. The Participant is aware that an Activity may pose risks to the Participant's health and safety. In order to participate in an Activity, the Participant must therefore be in good health and have good fitness. The Participant must notify the Organiser in writing prior to an Activity of any details regarding their health/fitness which may be important for proper and safe participation.
- 7.3. The Participant is ultimately responsible for their own health and safety. Participation is at all times expressly at the Participant's own risk. The Organiser and all (supporting) persons associated with it and engaged by it is/are in no case liable with respect to the Contracting Party/Participant(s)/third parties for any tangible/intangible loss suffered by the Participant or third parties (family/next of kin/heirs/carers) as a result of participation in an Activity. Prior to the start of an Activity, (each) Participant declares having taken note of and agreeing to these general terms and conditions and the Risk & Liability Declaration which must be ticked prior to booking, in the absence of which the Participant will not be allowed to participate in the Activity.
- 7.4. The Organiser recommends that the Participant takes out travel/accident insurance which covers at least the entire Activity.
- 7.5. The Participant must be in possession of all required documents which are mandatory under local regulations. If the Participant cannot participate in an activity due to the absence of a required document, this will be at the Contracting Party's risk and expense.
- 7.6. When booking an Activity for multiple people, the Contracting Party shall in any case specify the number of people.

## Article 8. Cancellation by Contracting Party

- 8.1. Cancellation of the Contract by the Contracting Party must be in writing and is only possible up to 24 hours before the start of the Activity. The time of receipt is considered the time of cancellation. In that case, cancellation is free of charge. If cancellation takes place later, no refund will be made.
- 8.2. If after the start of an Activity a Participant decides to terminate their participation early, this shall be deemed to be a cancellation of the entire Contract or a cancellation of the part of the Contract relating to the Participant in question. The Contracting Party is then not entitled to a refund.

## Article 9. Cancellation by Organiser

- 9.1. The Organiser is entitled to cancel the Contract in accordance with the provisions of the law.
- 9.2. Cancellation of the Contract by the Organiser shall be in writing and shall be final upon receipt by the Contracting Party of the notice of cancellation. The time of receipt is considered the time of cancellation.
- 9.3. The Organiser will refund the price paid within 14 days of cancellation.
- 9.4. If the cancellation is related to acts/omissions on the part of the Participant - such as non-compliance with information requirements, house rules, rules of conduct, safety rules, government regulations, instructions - the price will not be refunded. Any loss suffered by the Organiser shall then be borne by the Contracting Party.

## Article 10. Breach of contract and dissolution

- 10.1. The Organiser is entitled to dissolve the Contract in accordance with the provisions of the law.
- 10.2. In the case of a booking for multiple people, all acts/omissions on the part of the Participants shall be at Contracting Party's risk and can therefore be considered a breach of the Contract.
- 10.3. The Contracting Party is obliged to compensate for all losses suffered by Organiser as a result of dissolution.

## Article 11. Force majeure

- 11.1. The Organiser is not obliged to comply with any obligation towards the Contracting Party if the Organiser is prevented from doing so as a result of a circumstance which is not attributable to it and which is not its responsibility according to the law, a legal act or generally accepted practice.
- 11.2. The Organiser is entitled to suspend the fulfilment of its obligations without thereby being in default if it is temporarily prevented from fulfilling its obligations as a result of changes in circumstances which could not reasonably be foreseen at the time when the contract was concluded and/or are beyond its control.
- 11.3. In these general terms and conditions, force majeure is defined - in addition to what is defined in this respect in (case) law - as all unexpected causes outside the Organiser's control as a result of which Organiser is unable to comply with its obligations, including - without being exhaustive - natural disasters, illness, obstructions by or at third parties, fire, strikes/work stoppages, transport problems, weather conditions, riots, war and government measures/regulations.

## Article 12. Amendment of the Contract

- 12.1. The Contract can be amended at the Contracting Party's request. An amendment is final only after being approved by the Organiser. All additional costs shall be borne by the Contracting Party.
- 12.2. The Organiser reserves the right at all times to make changes to the Contract due to circumstances, including in any case cases of force majeure, without thereby being in breach of the Contract, including (without being exhaustive): changing the start times of the Activity, changing the route of the Activity, changing the start and end point of the Activity, terminating the Activity early and cancelling the Activity altogether.
- 12.3. The circumstances referred to in the previous paragraph of this article include, without being exhaustive:
- weather conditions;
  - risk of avalanche
  - the health of Participants/the instructor;
  - (maintenance of) public order;
  - emergencies;
  - (danger to the) safety of Participants and third parties;
  - measures taken by public authorities, including measures relating to the protection of public health, which factually and/or legally prevent an Activity from taking place;
- 12.4. If the Organiser takes a step as referred to in paragraph 2 due to circumstances as referred to in paragraph 3, the Contracting Party is not entitled to a refund of the registration fee and/or compensation for any losses.
- 12.5. If the Organiser cancels the Activity in its entirety, this shall not constitute a cancellation of the Contract. The Organiser is then entitled to provide a replacement, namely holding the Activity at a different time and/or in a different manner. The Organiser will then not be in breach of the Contract. In that case, the Participant is not entitled to a refund of the registration fee or compensation for any losses. The Participant does have the right to a full refund of the registration fee if the Organiser decides not to provide a replacement.
- 12.6. All provisions in the general terms and conditions regarding the liability of Parties also apply if Organiser provides a replacement.

#### **Article 13. Liability**

- 13.1. Without prejudice to what is stipulated elsewhere in these general terms and conditions, this article determines any liability of the Parties.
- 13.2. The Organiser is only liable for loss suffered directly by the Contracting Party / Participant which is solely the result of a breach of the Contract attributable to the Organiser.
- 13.3. If the Contracting Party / Participant is a party in the exercise of a profession or business, the Organiser is never liable for loss suffered by the Contracting Party, even if there is intent or gross negligence on the part of the Organiser and/or third parties / (supporting) persons engaged by the Organiser.
- 13.4. In all cases, the Organiser will only be liable for a maximum of the amount paid out by the Organiser's insurer.
- 13.5. If the liability is not covered by insurance or the insurer does not pay out (in full) for any reason, the Organiser's liability is limited to the amount paid by the Contracting Party.
- 13.6. The Organiser shall in no case be liable for:
- a. the consequences of (extreme) weather/natural phenomena;
  - b. indirect loss such as trading loss and/or consequential loss;
  - c. loss resulting from a breach of contract which is the result of force majeure;
  - d. loss, theft and damage to/of Participant's property.
- 13.7. The Organiser is entitled to engage third parties to execute the Contract. The Organiser is not liable for loss caused by acts and/or omissions of these third parties, even if there is deliberate recklessness on the part of third parties. The Organiser is entitled to accept third parties' limitations of liability.
- 13.8. The Organiser accepts no liability for loss which can be reclaimed under travel/accident insurance by the Contracting Party/Participant.
- 13.9. The Contracting Party is liable to the Organiser for any loss resulting from acts/omissions on the part of the Contracting Party/Participant.
- 13.10. When the Contracting Party / Participant participates in (motorised) traffic, the Contracting Party / Participant is responsible for their own driving behaviour. The Organiser is not liable for loss on the part of the Contracting Party / Participant or third parties in respect of any accidents.

#### **Article 14. Complaint obligation (Civil Code section 6:89)**

- 14.1. All complaints about defects in the performance of a Contract must be notified to the Organiser in writing within 24 hours of the end of the Activity.

#### **Article 15. Applicable law and competent court**

- 15.1. A Contract and all resulting/related disputes shall be governed exclusively by Dutch law.
- 15.2. Noord-Nederland District Court, Leeuwarden location, has exclusive competence to hear all disputes arising from/related to a Contract, and if the Contract is a consumer contract and the aforementioned court is a court other than the court competent under Dutch law, the Organiser shall invoke this competence clause against the Contracting Party and hereby grants the Contracting Party a period of one month to choose the court which has competence under Dutch law to settle the dispute. If the Contracting Party does not make a choice within

this period, Noord-Nederland District Court, Leeuwarden location, shall have exclusive competence.