

General Terms and Conditions (GTC) for charter contracts

As of 27.11.2015, Older versions lose their validity with immediate effect.

§ 1 General, scope

- For all contracts for charter cruises on ships of **RAINER ABICHT Elbreederei GmbH & Co. KG**— hereafter referred to as „shipping company“ - (Passenger ships and launches) as well as for all other related supplies and services apply exclusively to these General Terms and Conditions (GTC). The GTC do not apply to other cruises carried out by the shipping company (e.g. harbour boat tours, special cruises, light cruises, public cruises); only the general terms and conditions for harbour tours and public events apply.
- Only these terms and conditions apply. Customer's terms and conditions deviating from or conflicting with these GTC only apply, if their application has been agreed explicitly in writing. This shall also apply, if the service or delivery to the customer is carried out unconditionally despite the customer's knowledge of contrary or deviating conditions.
- The GTC apply both to consumers and to entrepreneurs, legal entities under public law and public sector special funds.

§ 2 Conclusion of the contract

The conclusion of the contract requires a written form (fax, email or in writing). All offers by the shipping company, in particular on its website, on flyers, on posters, in brochures, advertisements and other advertising offers as well as the offers directly transmitted to clients, are basically non-binding. The contract is only concluded when the shipping company gives an explicit booking confirmation.

§ 3 Services, changes and impossibility of the service, prices, terms of payment

- The shipping company is obliged to provide the required contractual services, in particular the provision of the ship for the agreed period of use in conditions including technical equipment and the essential crew according to the relevant statutory provisions.
- In case of force majeure, in particular extreme conditions of the weather, waterways or lock closures, unforeseen technical defects on the ship or other reasons interfering the implementation of the charter for which the shipping company cannot take the responsibility, the shipping company will inform the customer immediately.
In case the use of the agreed ship should be impossible for the reasons stated in sentence 1, the shipping company may use a comparable, different vessel instead of the agreed ship, as far as this is not unreasonable for the customer according to the circumstances of the individual case. A customer's claim for compensatory damages does not arise thereby.
In case, it is not possible to carry out or continue a charter cruise on the agreed route for the reasons stated in sentence 1, the route may be changed, unless this is unreasonable for the customer. If a change of the route during a charter cruise is not possible, the cruise may be cancelled. A customer's claim for compensatory damages does not arise thereby.
In case, for the reasons stated in sentence 1, it is impossible to carry out a charter cruise, the shipping company will place the ship at disposal to the customer for the rental period at the nearest possible appropriate landing place accessible by ship. If it is impossible for the shipping company for reasons beyond its control to place the ship at disposal at all, the shipping company will be released from its obligation to perform and the shipping company will reimburse any services already provided by the customer immediately. A customer's claim for compensatory damages does not arise thereby.
- The customer is obliged to pay the agreed or customary prices for the charter and the other services used. This also applies to the use of services by the charter participants, which the customer takes on board as part of his charter. He is liable for the payment of all services used by the charter participants as well as for the costs caused by them. This also applies to the expenses incurred by him to third parties, in particular for claims of copyright exploitation societies.
- The price stated in the charter contract includes the services specified in the charter contract, including the expenses required for the operation of the ship as well as applicable port dues, canal fees and lock charges,

insofar as these relate to the Port of Hamburg and the respective statutory value added tax.

- The invoices are payable without deductions within 8 days of receipt of the invoice, but no later than 14 days before departure, unless otherwise agreed.
- In case of default of payment, the shipping company is entitled to demand the applicable statutory default interest of currently 9% above the base interest rate or in the case of legal transactions involving a consumer in the amount of 5% above the base interest rate. The proof of a higher damage remains reserved. For every reminder after default, the customer has to reimburse reminder costs of 5.00 €. The proof that no or only significantly lower costs were incurred, is at liberty to the customer. All other costs incurred in the collection are borne by the customer.
- The customer is only permitted to offset against counterclaims insofar as they are undisputed, legally established or ready for decision.
- In case, circumstances become known after signing the contract which makes the customer's creditworthiness appear doubtful, then the shipping company is entitled to withdraw from the contract or to provide the agreed services only against payment in advance or security deposit. There are doubts to the client's creditworthiness when insolvency proceedings have been opened against the customer's assets or when an application for insolvency proceedings has been filed. Furthermore, there are doubts about the creditworthiness of the customer even if there are payment arrears from other contractual relationships with the shipping company.

§ 4 Rescission by customer (cancellation, annulment)

A customer can rescind the concluded contract with the shipping company by informing it in written form, which is free of charge up to 90 days before the agreed day of travel. In case of a later withdrawal of the customer, the shipping company is entitled to demand a cancellation fee. In case of withdrawal before the begin of service this fee is

until the 28th day		10%
from the 15th to the 27th day	30%	10%
from the 7th to the 14th day		40%
from 2nd to 6th day		70%
after the 2nd day		
or by non-appearance		80%

of the agreed remuneration.

The deduction of saved expenses is taken into account. However, the customer is free to prove that the above claim has not arisen, or not arisen in the required amount.

§ 5 Rescission by the shipping company

- If an agreed payment is not made on the agreed due date, the shipping company is entitled to rescind the contract.
- The shipping company has the right to rescind the contract if there are doubts about the creditworthiness of the customer; reference is made to § 3 no. 8 of these terms and conditions.
- Furthermore, the shipping company is entitled to rescind the contract for a materially justified reason, for example in case of
 - Force majeure or other circumstances, for which the shipping company is not responsible, making the fulfilment of the contract impossible,
 - Charter cruises under misleading or false statements of material facts, e.g. regarding the customer's person or the purpose of booking,
 - No valid catering agreement with the ship's gastronomic tenant ship is completed for charter cruises or the shipping company has not agreed to a foreign caterer.

§ 6 Rescheduling the charter time

Provided that starting or ending times of the charter cruise are postponed without the shipping company's fault, the shipping company may charge a reasonable amount for the additional service. The customer has no right unilaterally to determine the change of the charter time. For boarding

and disembarking guests, 30 minutes for passenger ships and 15 minutes for launches, in addition to the agreed charter period, are included in the agreed charter price.

In addition, times drawn on by the customer e.g. for upgrades and unloading will be invoiced separately at the agreed hourly rate.

§ 7 Liability of the shipping company

1. Customer's claims for damages are excluded, unless otherwise stated below. The above disclaimer of liability also applies in favour of the legal representatives and vicarious agents of the provider, if the customer claims against them. Excluded from the above-mentioned exclusion of liability are damages resulting from injury to life, body or health, if the shipping company is responsible for the breach of duty, as well as other damages that are based on an intentional or grossly negligent breach of duty by the shipping company.

A breach of duty by the shipping company is equal to that of a legal representative or vicarious agent.

In case of any disruptions or defects in the services of the shipping company, the shipping company will endeavour to remedy the situation immediately when being aware of it or on customer's complaining. The customer is obliged to contribute to what he can reasonably do to remedy the incident and minimize possible damage. Incidentally, the customer is obliged to inform the shipping company early enough about the possibility of causing an exceptionally high damage. Disruptions or defects must be report by the customer directly at the Charter for examination.

2. The supervision of children is to the parents' or accompanying persons' responsibility. In particular, they must ensure that the safety of the children is not jeopardized by their behaviour on board and at the landing stages.

§ 8 Decoration

1. The installation and attachment of decorative material or other objects is not permitted without the express written consent of the shipping company. If the shipping company permits, all decoration material must comply with the fire safety requirements. The shipping company assumes no liability for damage to health caused by the installation of decorative materials or for damage or loss of decorative materials.

§ 9 Loss or damage of brought items

1. Carried (personal) items are at the customer's risk on the ship. The shipping company assumes no liability for loss, destruction or damage, including for financial losses, except in the case of gross negligence or intent in the performance of contractual obligations by the shipping company. In addition, all cases in which the custody is a contractual obligation due to the circumstances of the individual case are excluded from this indemnification. Apart from the cases mentioned in sentence 3, a custody agreement requires explicit agreement.

2. Any abandoned items left behind must be picked up by the passenger at the shipping company. If there is no identifiable value, the shipping company reserves the right to destroy it after three months have elapsed.

3. Lost property must be handed over immediately to the ship's crew for forwarding to the shipping company.

§ 10 Official permits and report to GEMA

1. Any necessary official permits, conditions and permits required for the charter cruise must be provided by the customer at his own expense in good time. He is responsible for compliance with public law and other regulations.

2. Music and dancing on board must be registered with the GEMA in good time before departure. The customer is responsible for the payment of GEMA fees.

3. The customer indemnifies the shipping company in the event of noise and environmental damage from claims of third parties, including public departments and authorities.

§ 11 Liability of the customer for damages

The customer is liable for all damages to the ship, to equipment, inventory and landing stages, etc., which are caused by charter participants, employees or other third parties from his area or by himself.

§ 12 Catering on launches

1. Gastronomic services are not included in the agreed charter price, unless this is agreed explicitly.
2. If the customer requires gastronomic services, hereby he can commission the gastronomic tenants of the shipping company, provide them himself or have them provided by a catering company.
3. For catering services, the shipping company assumes no liability, unless this is explicitly part of the charter contract.
4. If the catering is not provided by the gastronomic tenant of the shipping company, the shipping company is entitled to charge a final cleaning fee.

§ 13 Catering on passenger ships

1. Gastronomic services are not included in the agreed charter price, unless this is agreed explicitly.
2. On charter cruises on passenger ships, a catering agreement must always be concluded with the catering tenant of the ship.
3. The customer is not permitted to provide catering services on the ship on his own or to have them provided by third parties without the express consent of the shipping company.
4. The shipping company is not liable for services of on-board catering, unless in exceptional cases this is part of the charter contract.

§ 14 Other conditions of transport

1. Bulky luggage can only be carried on board if space is available. Flammable, explosive, corrosive and foul smelling substances will not be transported.
2. Wheelchairs and baby carriages can only be carried on board in limited numbers or as agreed.
3. The transport of dogs or other animals requires the consent of the shipping company.
4. The shipping company reserves the right to exclude heavily drunk persons or persons under the influence of drugs or groups with predominantly heavily drunk persons or persons under the influence of drugs from the cruise or to refer them from the ship. The same applies to persons or Groups of people who, by their behaviour, pose a threat to safety.

§ 15 Place of jurisdiction, choice of law, final clauses

1. Place of performance and place of payment is the registered office of the shipping company.
2. The exclusive place of jurisdiction in commercial transactions is the **registered office of the shipping company**. The same applies if the customer meets the requirements of § 38 Abs.2 ZPO and has no general jurisdiction in Germany.
3. **German law** applies. The application of the UN Sales Convention is excluded.

Definitions

For the purposes of these GTC, a charter or charter cruise shall be deemed when the shipping company provides the customer with the sole use of a ship (passenger ship or launch) including the crew for the purpose of carrying out a cruise and/or event on the ship.