

Terms and Conditions of Service

In these Terms, when we say **you** or **your**, we mean both you and any entity you are authorised to represent (such as your employer). When we say **we**, **us**, or **our**, we mean Martin Randall Travel Ltd. We and you are each a **Party** to these Terms, and together, the **Parties**.

These Terms form our contract with you and sets out our obligations as a service provider and your obligations as a customer. You cannot use our Services unless you agree to these Terms.

Some capitalised words in these Terms have defined meanings, and each time that word is used in these Terms it has the same meaning. You can find a list of the defined words and their meaning at the end of these Terms.

For questions about these Terms, or to get in touch with us, please email: anz@martinrandall.com

OUR DISCLOSURES

Please read these Terms carefully before you accept. We draw your attention to:

- our privacy policy (on our website) which sets out how we will handle your personal information; and
- clause 15 (Liability) which sets out exclusions and limitations to our liability under these Terms.

If we refer you to a third-party provider, we may receive a financial incentive (such as a referral fee) from that provider.

These Terms do not intend to limit your rights and remedies at Law, including any of your Consumer Law Rights.

The Agent enters into an agreement with Martin Randall Travel, the agent agrees to pay Martin Randall Travel all funds collected on its behalf within **10 days** of receiving them, and no later than **[30 days before the tour or service begins]**. Payments must be made in Australian dollars to the account provided by Martin Randall Travel. Late payments may attract interest of **2% per month** (calculated daily) until the balance is fully paid. Martin Randall Travel may pause ticketing or cancel bookings if payments are overdue. The Agent will also cover any reasonable costs we incur to recover unpaid amounts (such as legal or collection fees). *These payment terms do not limit or replace any rights or protections you have under the Australian Consumer Law.*

1. Engagement and Term

1.1 These Terms apply from the Commencement Date until the date that is the earlier of:

- (a) the date set out in the Booking Form;
- (b) the date the Services are completed (as reasonably determined by us); or
- (c) the date on which these Terms are terminated,

(Term)

2. Services

2.1 **Nature of Services:** We act as principal in organising and conducting guided tours, cultural experiences, and related travel services using our own tour leaders and selected suppliers.

2.2 All variations to the Services must be agreed in writing between the Parties and will be priced in accordance with any schedule of rates provided by us, or otherwise as reasonably agreed between the Parties. If we consider that any instructions or directions from you constitute a variation to the scope of the Services or our obligations under these Terms, then we will not be obliged to comply with such instructions or directions unless agreed in accordance with this clause.

2.3 Notwithstanding clause 2.2, you agree that we may vary the Services or the Price at any time, by providing 30 days' written notice to you (**Variation Notice Period**). If you do not agree to any amendment made to the Services or Price, you may, before the end of the Variation Notice Period, terminate these Terms by giving us 30 days' notice in writing, in which case, the proposed variation will not come into effect and clause 16.2 will apply.

3. Your Obligations

3.1 You agree to (and to the extent applicable, ensure that your Personnel agree to):

- (a) comply with these Terms, all applicable Laws, and our reasonable requests;
- (b) provide us with all documentation, information, instructions, cooperation and access reasonably necessary to enable us to provide the Services; and

- (c) not (or not attempt to) disclose, or provide access to, the Services to third parties without our prior written consent.

3.2 You agree to pay our additional costs reasonably incurred as a result of you failing to comply with this clause 3.

4. Health and Fitness Requirements

- 4.1 When participating in our tours, you must be in good health, free of infectious illness, and have a level of physical and mental fitness that would not impair other participants' enjoyment.
- 4.2 You are required to read our Fitness Guidelines and complete any self-assessment tests described therein. By accepting these Terms, you confirm that you have understood our requirements and are fit to participate.
- 4.3 If you have a medical condition or disability which may affect your participation or necessitate special arrangements, you must discuss this with us before booking or, if the condition develops subsequently, as soon as possible before departure.
- 4.4 If during a tour it becomes apparent, in the reasonable judgment of our tour leaders, that you are unable to cope with the tour requirements, you may be asked to opt out of certain activities or leave the tour altogether at your own expense.
- 4.5 We reserve the right to refuse any booking in our absolute discretion.

5. Tour Changes and Safety

- 5.1 We maintain safety auditing processes and require suppliers to comply with local health and safety regulations. However, we operate tours in locations where standards may be lower than those in Australia, particularly regarding accessibility, handrails and seatbelts.
- 5.2 Circumstances may prevent us from operating a tour exactly as advertised. We will attempt to provide a satisfactory alternative, but if changes represent a significant loss to the tour, we will offer appropriate compensation. If you cancel because our alternative is inadequate, we will provide a full refund

6. Travel Advice and Passports

- 6.1 Before booking, you should refer to the Australian Government's Smartraveller website to ensure you understand the travel advice for the places to which the tour goes. Non-Australian citizens should look at the advice issued by their governments, which may differ significantly.
- 6.2 Australian citizens must have valid passports for all tours outside Australia. The passport needs to be valid for six months beyond the date of the tour. For certain countries, your passport must have been issued less than 10 years before the date you enter the country and valid for at least 3 months after the day you leave.
- 6.3 If visas are required we will advise Australian citizens about obtaining them; nationals of other countries should ascertain whether visas are required in their case.

7. Insurance

- 7.1 It is a requirement of booking that you have adequate travel insurance cover. The insurance must cover, at minimum, medical treatment, repatriation, loss of property and loss of payments to us in the event that you cancel the tour.
- 7.2 If you are making your own arrangements for international travel, please ensure you have insurance that protects you in the rare event of us cancelling the tour.
- 7.3 Experience indicates that free travel insurance offered by some credit card companies is not to be relied upon.

8. Cancellation by You

8.1 **Cancellation Charges:** For cancellations of our Tour Services, charges vary according to the period of notice you give:

- (a) *For Special Group Tours, Music Festivals and Symposium:*

- (i) 85 days or more: deposit only
- (ii) Between 84 and 43 days: 40% of total tour cost
- (iii) Between 42 and 15 days: 70% of total tour cost
- (iv) 14 days or less: 100% of total tour cost

- (b) *For cruises:*

- (i) Up to 90 days: deposit only

- (ii) Between 89 and 70 days: 40% of total tour cost
- (iii) Between 69 and 50 days: 60% of total tour cost
- (iv) Between 49 days and 30 days: 80% of total tour cost
- (v) 29 days or fewer: 100% of total tour cost

- 8.2 Additional costs for individual arrangements (including but not limited to flight upgrades, flight amendments, extra nights at the hotel(s), room upgrades and airport transfers) are subject to the same cancellation charges, apart from in the instance where we have previously notified you that an additional cost is non-refundable.
- 8.3 If you cancel your booking in a double or twin room but are travelling with a companion who chooses to continue to participate in the tour, the companion will have to pay the single-occupancy price.
- 8.4 If you cancel a non-residential event (normally a Culture Day) we will return the full amount if you notify us 22 or more days before the event. We will retain 50% if cancellation is made within three weeks, and 100% if within three days.
- 8.5 We take as the day of cancellation that on which we receive written confirmation of cancellation.

9. Cancellation by Us

- 9.1 We may decide to cancel a tour if there were insufficient bookings for it to be viable (though this would always be more than eight weeks before departure). We would refund you with everything you had paid us.

10. Price and Payment

- 10.1 In consideration for us providing the Services, you agree to pay all amounts due under these Terms in accordance with the Payment Terms.
- 10.2 **Payment Terms:** Unless otherwise specified at the time of booking:
 - (a) a deposit of 15% of the total cost of the Services is required upon booking; and
 - (b) we will provide you with an invoice and you must pay the remaining balance is due within 12 weeks of departure of the relevant tour as part of the Services.
- 10.3 If any payment has not been made in accordance with the Payment Terms, we may (at our absolute discretion, and without prejudice to any of our rights or remedies under these Terms or at Law):
 - (a) after a period of 5 Business Days from the relevant due date, cease providing the Services, and recover, as a debt due and immediately payable from you, our reasonable additional costs of doing so (including all recovery costs); and/or
 - (b) charge interest at a rate equal to the Reserve Bank of Australia's cash rate, from time to time, plus 2% per annum, calculated daily and compounding monthly, on any such amounts unpaid after the relevant due date in accordance with the Payment Terms.
- 10.4 When applicable, GST payable will be clearly shown on our invoices. You agree to pay us an amount equivalent to the GST imposed on these charges. "GST" has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

11. Intellectual Property

- 11.1 As between the Parties:
 - (a) we own all Intellectual Property Rights in Our Materials;
 - (b) you own all Intellectual Property Rights in Your Materials; and
 - (c) nothing in these Terms constitutes a transfer or assignment of any Intellectual Property Rights in Our Materials or Your Materials.
- 11.2 As between the Parties, ownership of all Intellectual Property Rights in any New Materials will at all times vest, or remain vested, in us upon creation. To the extent that ownership of such Intellectual Property Rights in any New Materials does not automatically vest in us, you hereby assign all such Intellectual Property Rights to us and agree to do all other things necessary to assure our title in such rights.
- 11.3 We grant you a non-exclusive, revocable, royalty-free, worldwide, non-sublicensable and non-transferable right and licence, to use Our Materials that we provide to you and the New Materials, solely for your use and enjoyment of the Services, as contemplated by these Terms.
- 11.4 You grant us a non-exclusive, irrevocable, royalty-free, worldwide, non-sublicensable (other than to our related bodies corporate, as that term is defined in the *Corporations Act 2001* (Cth)) and non-transferable right and licence to use Your Materials that you provide to us solely for the purpose of performing of our obligations or exercising our rights under these Terms.

- 11.5 If you (if you are an individual) or any of your Personnel have any Moral Rights in any material provided, used or prepared in connection with these Terms, you agree to (and will procure that your Personnel) consent to our use or infringement of those Moral Rights.
- 11.6 This clause 11 will survive termination or expiry of these Terms.

12. Confidential Information

- 12.1 Subject to clause 12.2, each Party must (and must ensure that its Personnel) keep confidential, and not use (except to perform its obligations under these Terms) or permit any unauthorised use of, information provided by the other Party, including information about these Terms and the other Party's business and operations.
- 12.2 Clause 12.1 does not apply where the disclosure is required by Law or the disclosure is to a professional adviser in order to obtain advice in relation to matters arising in connection with these Terms and provided that the disclosing Party ensures the adviser complies with the terms of clause 12.1.
- 12.3 This clause 12 will survive the termination of these Terms.

13. Privacy

- 13.1 If you are required to provide us with Personal Information so that we can provide the Services, you agree to comply with the Australian Privacy Principles as set out in the *Privacy Act 1988* (Cth), and any other applicable Laws relating to privacy (**Privacy Laws**).
- 13.2 Without limiting this clause 13, you must ensure that:
- (a) you have collected, used, stored and otherwise dealt with Personal Information in accordance with all Privacy Laws; and
 - (b) we are capable of collecting, using, storing and otherwise dealing with Personal Information, in the manner contemplated by these Terms, without infringing any third party rights or violating any Privacy Laws.
- 13.3 Without limiting this clause 13, you agree to only disclose Personal Information to us if:
- (a) you are authorised by the Privacy Laws to collect the Personal Information and to use or disclose it in the manner required by these Terms; and
 - (b) you have informed the individual to whom the Personal Information relates, that their Personal Information will be disclosed to us.
- 13.4 We agree to handle any Personal Information you provide to us, solely for the purpose of performing our obligations under these Terms, and in accordance with any applicable Laws.

14. Australian Consumer Law

- 14.1 Certain legislation, including the Australian Consumer Law, and similar consumer protection laws and regulations, may confer you with rights, warranties, guarantees and remedies relating to the supply of the Services by us to you which cannot be excluded, restricted or modified (**Consumer Law Rights**). To the extent that you maintain Consumer Law Rights at Law, nothing in these Terms excludes those Consumer Law Rights.
- 14.2 Subject to your Consumer Law Rights, we provide all material, work and services (including the Services) to you without conditions or warranties of any kind, implied or otherwise, whether in statute, at Law or on any other basis, except where expressly set out in these Terms.
- 14.3 This clause 14 will survive the termination or expiry of these Terms.

15. Liability

- 15.1 Despite anything to the contrary but subject to your Consumer Law Rights, to the maximum extent permitted by Law:
- (a) neither Party will be liable for Consequential Loss;
 - (b) a Party's liability for any Liability under these Terms will be reduced proportionately to the extent the relevant Liability was caused or contributed to by the acts or omissions of the other Party (or any of its Personnel), including any failure by that other Party to mitigate its loss; and
 - (c) (where our Services are not ordinarily acquired for personal, domestic or household use or consumption) in respect of any failure by us to comply with relevant Consumer Law Rights, our Liability is limited (at our discretion) to supplying the Services again or paying the cost of having the Services supplied again; and
 - (d) our aggregate liability for any Liability arising from or in connection with these Terms will be limited to the Price paid by you to us in respect of the supply of the relevant Services to which the Liability relates.
- 15.2 This clause 15 will survive the termination or expiry of these Terms.

16. Termination

- 16.1 These Terms will terminate immediately upon written notice by a Party (**Non-Defaulting Party**) if:
- (a) the other Party (**Defaulting Party**) breaches a material term of these Terms and that breach has not been remedied within 10 Business Days of the Defaulting Party being notified of the breach by the Non-Defaulting Party; or
 - (b) the Defaulting Party goes bankrupt, insolvent or is otherwise unable to pay its debts as they fall due.
- 16.2 Upon expiry or termination of these Terms:
- (a) we will immediately cease providing the Services;
 - (b) without limiting and subject to your Consumer Law Rights, any payments made by you to us for Services already performed are not refundable to you;
 - (c) you are to pay for all Services provided prior to termination, including Services which have been provided and have not yet been invoiced to you, and all other amounts due and payable under these Terms; and
 - (d) we may retain your documents and information (including copies) to the extent required by Law or pursuant to any information technology back-up procedure, provided that we handle your information in accordance with clause 12.
- 16.3 Termination of these Terms will not affect any rights or liabilities that a Party has accrued under it.
- 16.4 This clause 16 will survive the termination or expiry of these Terms.

17. General

- 17.1 **Amendment:** Subject to clauses 2.3 and 2.3, these Terms may only be amended by written instrument executed by the Parties.
- 17.2 **Assignment:** Subject to clauses 17.3 and 17.10, a Party must not assign, novate or deal with the whole or any part of its rights or obligations under these Terms without the prior written consent of the other Party (such consent is not to be unreasonably withheld).
- 17.3 **Assignment of Debt:** You agree that we may assign or transfer any debt owed by you to us, arising under or in connection with these Terms, to a debt collector, debt collection agency, or other third party.
- 17.4 **Disputes:** A Party may not commence court proceedings relating to any dispute, controversy or claim arising from, or in connection with, these Terms (including any question regarding its existence, validity or termination) (**Dispute**) without first complying with this clause 17.4. A Party claiming that a Dispute has arisen must give written notice to the other Party specifying the nature of the Dispute (**Dispute Notice**). The Parties must meet (whether in person, by telephone or video conference) within 10 Business Days of service of the Dispute Notice to seek (in good faith) to resolve the Dispute.

If the Parties do not resolve the Dispute within 20 Business Days of the date the Dispute Notice was served (or such further period as agreed in writing by the Parties), either Party may:

- (a) where you are resident or incorporated in Australia, refer the matter to mediation, administered by the Australian Disputes Centre, to be conducted in London, England, in accordance with the Australian Disputes Centre Guidelines for Commercial Mediation.
- (b) where you are not resident or incorporated in Australia, refer the matter to arbitration administered by the Australian Centre for International Commercial Arbitration, with such arbitration to be conducted in London, England, before one arbitrator, in English and in accordance with the ACICA Arbitration Rules.

Nothing in this clause will operate to prevent a Party from seeking urgent injunctive or equitable relief from a court of appropriate jurisdiction.

- 17.5 **Force Majeure:** Neither Party will be liable for any delay or failure to perform their respective obligations under these Terms if such delay or failure is caused or contributed to by a Force Majeure Event, provided that the Party seeking to rely on the benefit of this clause:
- (a) as soon as reasonably practical, notifies the other Party in writing details of the Force Majeure Event, and the extent to which it is unable to perform its obligations; and
 - (b) uses reasonable endeavours to minimise the duration and adverse consequences of the Force Majeure Event.

Where the Force Majeure Event prevents a Party from performing a material obligation under these Terms for a period in excess of 60 days, then the other Party may by notice terminate these Terms, which will be effective immediately, unless otherwise stated in the notice. This clause will not apply to a Party's obligation to pay any amount that is due and payable to the other Party under these Terms.

- 17.6 **Governing Law:** These Terms are governed by the laws of New South Wales, Australia. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts operating in New South Wales, Australia and any courts entitled to hear appeals from those courts and waives any right to object to proceedings being brought in those courts.
- 17.7 **Notices:** Any notice given under these Terms must be in writing addressed to the addresses set out in these Terms, or the relevant address last notified by the recipient to the Parties in accordance with this clause. Any notice may be sent by standard post or email, and will be deemed to have been served on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.
- 17.8 **Publicity:** Despite clause 12, with your prior written consent, you agree that we may advertise or publicise the broad nature of our supply of the Services to you, including on our website or in our promotional material.
- 17.9 **Relationship of Parties:** These Terms are not intended to create a partnership, joint venture, employment or agency relationship between the Parties.
- 17.10 **Subcontracting:** We may subcontract the provision of any part of the Services without your prior written consent. We agree that any subcontracting does not discharge us from any liability under these Terms and that we are liable for the acts and omissions of our subcontractor.

18. Definitions

In these Terms, unless the context otherwise requires, capitalised terms have the meanings given to them in the Booking Form. and:

Australian Consumer Law means the Australian consumer laws set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth), as amended, from time to time.

Booking Form means the document to which these Terms are attached or incorporated.

Business Day means a day on which banks are open for general banking business in New South Wales, Australia, excluding Saturdays, Sundays and public holidays.

Commencement Date means the date that is the earlier of:

- (a) the date that you accept the Booking Form;
- (b) the date that you ask us to begin supplying the Services; or
- (c) the date that you make part or full payment of the Price.

Consequential Loss includes any consequential loss, special or indirect loss, real or anticipated loss of profit, loss of benefit, loss of revenue, loss of business, loss of goodwill, loss of opportunity, loss of savings, loss of reputation, loss of use and/or loss or corruption of data, whether under statute, contract, equity, tort (including negligence), indemnity or otherwise. However, your obligation to pay us the Price and any other amounts payable under these Terms will not constitute "Consequential Loss".

Consumer Law Rights has the meaning given in clause 14.1.

Cultural Day Events means non-residential cultural experiences and educational events organised by us, typically lasting one day

Force Majeure Event means any event or circumstance which is beyond a Party's reasonable control including but not limited to, acts of God including fire, hurricane, typhoon, earthquake, landslide, tsunami, mudslide or other catastrophic natural disaster, civil riot, civil rebellion, revolution, terrorism, insurrection, militarily usurped power, act of sabotage, act of a public enemy, war (whether declared or not) or other like hostilities, ionising radiation, contamination by radioactivity, nuclear, chemical or biological contamination, any widespread illness, quarantine or government sanctioned ordinance or shutdown, pandemic (including COVID-19 and any variations or mutations to this disease or illness) or epidemic.

Intellectual Property Rights or **Intellectual Property** means any and all existing and future rights throughout the world conferred by statute, common law, equity or any corresponding law in relation to any copyright, designs, patents or trade marks, domain names, know-how, inventions, processes, trade secrets or confidential information, circuit layouts, software, computer programs, databases or source codes, including any application, or right to apply, for registration of, and any improvements, enhancements or modifications of, the foregoing, whether or not registered or registrable.

Law means all applicable laws, regulations, codes, guidelines, policies, protocols, consents, approvals, permits and licences, and any requirements or directions given by any government or similar authority with the power to bind or impose obligations on the relevant Party in connection with these Terms or the supply of the Services.

Liability means any expense, cost, liability, loss, damage, claim, notice, entitlement, investigation, demand, proceeding or judgment (whether under statute, contract, equity, tort (including negligence), indemnity or otherwise), howsoever arising, whether direct or indirect and/or whether present,

unascertained, future or contingent and whether involving a third party or a Party to these Terms or otherwise.

Moral Rights has the meaning given in the *Copyright Act 1968* (Cth) and includes any similar rights in any jurisdiction in the world.

New Materials means all Intellectual Property developed, adapted, modified or created by or on behalf of us or you or any of your or our respective Personnel in connection with these Terms or the supply of the Services, whether before or after the date of these Terms and any improvements, modifications or enhancements of such Intellectual Property, but excludes Our Materials and Your Materials.

Our Materials means all Intellectual Property which is owned by or licensed to us and any improvements, modifications or enhancements of such Intellectual Property, but excludes New Materials and Your Materials.

Payment Terms means the timings for payment of the Price and any other amounts payable under these Terms, as set out in the Booking Form.

Personal Information means information or an opinion, whether true or not and whether recorded in a material form or not, about an individual who is identified or reasonably identifiable.

Personnel means, in respect of a Party, any of its employees, consultants, suppliers, subcontractors or agents, but in respect of you, does not include us.

Price means the price set out in the Booking Form, as adjusted in accordance with these Terms.

Services means the services set out in the Booking Form, as adjusted in accordance with these Terms.

Terms means these terms and conditions and any documents attached to, or referred to in, each of them.

Your Materials means all Intellectual Property owned or licensed by you or your Personnel before the Commencement Date (which is not connected to these Terms) and/or developed by or on behalf of you or your Personnel independently of these Terms and any improvements, modifications or enhancements of such Intellectual Property, but excludes Our Materials and New Materials.