

## General terms and conditions

The following conditions are to provide comprehensive information for our travel clients. This information defines the contractual relationship between the client and Flying Elephant Tours and Leisure with consideration of the respective law. Please read the following general terms and conditions carefully.

### 1. Travel Contract

**1.1** With your booking, which can be done in writing, verbally, by telephone or by electronic means, the customer offers the conclusion of the travel contract to Flying Elephant Tours and Leisure (hereinafter FETL). The travel contract is concluded with the adoption by FETL and receipt of the invoice and written confirmation by the travel applicant.

**1.2** If the contents of the confirmation differ from the content of the application, FETL is bound to the new offer for a period of 10 days. Upon acceptance within the committed period, which can also be made by payment or the un-contradicted start of the journey, the travel contract is concluded on the basis of this new offer.

**1.3** The customer is also responsible for all contract obligations and for the soundness of the travel booking, if he has expressly arranged the booking for any accompanying passengers.

### 2. Payment

**2.1** Upon receipt of the written confirmation together with the security certificate by the traveler a deposit payment of 20% of the tour price is required, provided that no different agreement has been made before the conclusion of the contract. The payment of Customers are covered by STO Garant's guarantee.

#### STO Garant Guarantee Scheme

In order to meet its statutory obligation to provide a guarantee, FETL makes use of the guarantee scheme provided by STO Garant. You can check that this is the case by visiting STO Garant's website and verifying that the organisation is listed as a participant ([www.sto-garant.nl/en/members](http://www.sto-garant.nl/en/members)). You can find all information relating to STO Garant at [www.sto-garant.nl/en](http://www.sto-garant.nl/en).

Whether STO Garant's guarantee applies to a particular (travel) offer made by FETL is clearly stated for that offer. The Guarantee Scheme specifies what the guarantee covers and which conditions apply. You can find the Guarantee Scheme on STO Garant's website ([www.sto-garant.nl/en/downloads](http://www.sto-garant.nl/en/downloads)).

If STO Garant's guarantee applies to your booking, you do not pay the booking sum to FETL but instead into the escrow account belonging to

Stichting Derdengelden Certo Escrow, a payment services provider registered with De Nederlandsche Bank (DNB) and the Dutch Authority for the Financial Markets (AFM). This trust account holds your payment in reserve until the trip booked has come to an end. If services are not supplied (in full and/or on time) due to the financial insolvency of FETL, STO Garant implements the guarantee. The Guarantee Scheme details how you can make a claim under the guarantee in such cases.

**2.2** Payment of the total travel price must be arranged 30 days prior to departure if the travel cannot be canceled for the reasons given in paragraph 4.5.1.

**2.3** FETL only accepts payments by bank transfer to the account of Stichting Derdengelden Certo Escrow. For the bank details please refer to the booking confirmation form/ Invoice.

**2.4** Deposits and final payment will need to be transferred to Certo Escrow (certified by DNB, the Dutch Central Bank). They will keep customers transfers in an escrow account. These funds are not accessible to FETL.

**2.5** One (1) day after termination of the tour Certo Escrow will transfer the funds to FETL.

**2.6** In case of non-payment of the deposit within 10 days of receipt of the Email from Certo Escrow and the balance payment of the tour price within 30 days prior to departure and no payment made after a given deadline, FETL is entitled to immediately terminate the Agreement and to cancel the booking. In this case FETL reserves the right to require a cancellation fee in accordance with Clause. 4.4.2 - 4.4.7

**2.7** In case that FETL is financially unable to fulfil its obligations, Certo Escrow will transfer made payments to the foundation STO. STO will then refund customers payments in proportion to that part of the tour that has not been effectuated. Also, if the customer wishes, STO will offer an alternative tour for that part of the tour that has not yet been effectuated.

### 3. Services

FETL is responsible for the compliance of the contractual performance of its obligations, the scope of the services described in the catalog or the related travel offers that arise. The information

in the travel quotation is the basis of the contract.

### 3.1 Special requests

Within FETL possibilities we will put full effort to fulfill special requests that are not mentioned in the travel offer. Possible resulting additional costs will be communicated to the customer and invoiced upon approval.

### 3.2 Travel Extensions

An extension of the journey or longer stay at the destination is possible after confirming the agreement on dates and prices with FETL, provided that the relevant possibilities for extension and accommodation are given.

### 4. Services and Prices

#### 4.1 Changes or deviations of individual travel services

and alterations to individual travel services from the agreed content of the travel contract, which become necessary after conclusion of the contract and were not caused by FETL breach of good faith, are permitted, provided that the changes are not substantial and do not affect the overall format of the tour. Any warranty claims and any existing right of termination by the travel customers are unaffected if the amended services are defective. For air travel, airlines are subject to a change. Specified time schedules are subject to change as far it is not an unreasonable interference with a compatible night's sleep

**4.2** FETL is obliged to inform the customer of any travel changes immediately. In the event of a significant change of an essential travel service, the traveler shall be entitled to withdraw from the contract free of charge or to request participation in an at least equivalent journey if FETL is able to offer such a tour without additional price. The travel client has to claim these rights immediately after the declaration by FETL on the amendment of the travel service or cancel the tour immediately.

#### 4.3 Price changes

**4.3.1** FETL is entitled to increase the agreed travel price after the conclusion of the travel contract in case of an increase of the costs due to the unforeseeable reasons and circumstances for FETL, such as an increase in transportation costs (e.g. in oil prices), tax, fees, duties, a change in the applicable foreign exchange rates for travel in connection with the

entry, stay and public admission fees etc.

**4.3.2** The increase in costs can be proportionally distributed to the customers of the travel group equally per traveler. During calculation of the increased cost, the originally calculated average number of participants or the actual expected number of participants are factored in. The price increase is allowed if it is more than 4 months between the contract and the agreed start of the trip.

**4.3.3** For the subsequent price change after the conclusion of the travel contract FETL must immediately provide information to the travel clients. The increase in price is essentially entitled till 21 days prior to the departure of the journey. Price increases after this duration are not allowed.

**4.3.4** In the event of a price increase by more than 5% of the travel price, the travel customer is entitled to cancel the contract within 10 days without payment of compensation from the travel contract or the travel customer can at least demand to do an equivalent other travel if FETL is capable of offering such a journey without additional costs to the traveler from the original travel offer. The travel customer has to exercise this right immediately after the declaration of the price increase or alteration by FETL. The right of termination of the travel participant remains unaffected.

#### **4.4 Cancellation and Termination by traveler before the start of the travel, cancellation charges, rebooking, substitutes**

**4.4.1** The travel client can withdraw from the contract at any time prior to departure. The receipt of the cancellation notice by FETL is decisive. The withdrawal needs to be declared in writing to the address mentioned in Point 18 of this document.

**4.4.2** In case of cancellation of the travel contract or no departure from the travel customer for the reasons that are not attributable to FETL (except for cases of force majeure), FETL loses the right to collect the tour price, but has the right to claim adequate compensation for the travel arrangements and expenses as compensation. In general (if a substitute of travel participant is not available) resignation costs are charged per person in percent of the total price (according Point 4.4.7).

**4.4.3** During the calculation of the compensation the standard savings costs normally possible and other use

of travel services are taken into consideration. Due to their cancellation the travel customer has the liberty to prove that in connection with the withdrawal, a substantially lower or no damage incurred.

**4.4.4** In case the customer does not appear in the time mentioned in the provided travel documents at the respective departure airport or departure point or the customer cannot take the journey due to lack of travel documents, such as passport or necessary visas, the cancellation fees are also to be paid by customer.

**4.4.5** If a transfer or change of name in the travel documents is needed, particularly in the air ticket because the travel customer has not mentioned his name correctly in the booking form of FETL and has not communicated the need of a name correction immediately after receipt of the confirmation, FETL reserves the right to have the incurred additional costs to be paid by the travel client. Costs such as visa, telephone, or processing costs may not be refunded to the travel clients in case of cancellation. Up to the departure of the journey the traveler may replace himself/ herself by another appropriate person after delivering notice to FETL. FETL is entitled to charge the incurred additional costs.

**4.4.6** FETL can refuse the replacement of another person, if this person is not suitable for the special requirements of the tour or if their entry into the travel precludes any laws or administrative orders.

With the transfer and takeover of the contract, the original travel client and the substitute participant are jointly liable for the tour price and the additional costs arising from the occurrence of the replacement review. The costs of rebooking are calculated by FETL at a flat rate of 50 €.

**4.4.7** The provisions stated here for the cancellation fees apply for all journeys, unless peculiar and special rules are agreed for individual travel contracts. Provided that there is no traveler available for replacement, the cancellation fee is assumed per travel customer as a percentage of the total price.

#### **1. Cancellation fees:**

Until 30 days before departure 20%,  
From 29. to 22 days before departure 30%,  
from 21 to 15 days before departure 40%,  
from 14 to 9 days prior to departure 55%,  
from 8 to 2 days prior to departure 75%  
and from the day before departure and

failure to travel 90% of the tour price.

**2. Cancellation / Rebooking fees** for booked entrance tickets are generally 100%. The effective date for calculation shall be the receipt of the cancellation.

#### **4.5 Cancellation and Termination by FETL**

**4.5.1** In case of failure to achieve a specified expressed minimum number of participants, FETL is entitled to cancel the tour up to 21 days prior to departure. In this case, the travel customer receives payments of the travel price paid back immediately. A resignation or cancellation of the journey is to be informed to the travel customers immediately. A withdrawal of the travel by FETL does not exist if FETL is responsible for the circumstances that lead to the cancellation or their evidence is not provided by FETL. FETL is entitled to cancel the contract immediately if the customer violates the contractual obligations mentioned in contract.

#### **4.5.2 Cancellation of the contract due to exceptional circumstances**

If the journey is significantly impeded, endangered or impaired due to unforeseeable force majeure both the customer and FETL may terminate the contract. Upon termination of the trip prior to departure, the customer receives the tour price paid back immediately. There is no further claim. However, a fee for services rendered may be asked by FETL.

**4.5.3** If the above mentioned circumstances occur after commencement of the journey, the travel contract can also be terminated by both parties. In this case, FETL will take the necessary measures as a result of the cancellation of the contract. If the contract is terminated for the reasons stated above, FETL has a right to reparation for services performed or travel services to be provided. The additional costs for the return transport of FETL and the travel customers are split equally. Moreover additional costs are for the account of the customers.

**4.5.4** FETL can make the changes in the travel program with respect to the travel date, destination, accommodation, the travel or the mode of transport at the request of a travel client only after withdrawing from the contract and at the same time a new contract will be made. FETL may refuse the payment for the cancellation in particular cases and demand a flat amount for the rebooking € 50,-per

person.

**4.5.5** The desired changes of flights in the destination area may be performed according to availability of seats, the relevant tariff provisions of the airlines and against a reimbursement of € 50, - per person, that is to be paid immediately.

## **5. Warranty/Damages**

**5.1** Alternative travel arrangements can be sought if the travel services are not provided according to the contract. The defect must be reported immediately to the local tour guide or FETL. In case a local tour guide is not available on site Travels deficiencies need to be reported direct to FETL's headquarter. The travel documents that FETL provides will show details on how to reach the local tour guide as well as FETL during the journey. FETL may offer an equivalent replacement service. FETL can refuse the alternative arrangement, if they require a disproportionate effort.

**5.2** For the duration of a non-conforming provision of travel services the travel customer can make a claim for a reduction of the travel price. However, this right does not apply if the travel customer culpably fails to show the travel deficiency. If the travel is impaired due to a considerable deficiency or the travel or its continuation is due to the result of a deficiency or is unreasonable, the travel customer may reduce the travel price or terminate the contract in accordance with statutory provisions. Before this the traveler has to set a reasonable time line for alternative arrangements. The termination of the travel contract by the travel customer is only allowed if no reasonable offer from FETL is done to the travel customer after the client has set a reasonable time line for this. The determination of such a period is not valid if alternative arrangements are not possible or are refused by FETL or if the termination of the contract is justified by a special interest of the travel client. In addition, he can claim for compensation for non-performance.

**5.3** During the journey the tour manager or local representative is not entitled or authorized to recognize claims against FETL. But they can accept the deficiency reports and requests for the alternative arrangements during the travel and they can take care of alternative arrangements, which is possible in the context of the situation. Through the tour leader or local representative, FETL may announce the termination of the travel contract.

## **6. Liability**

### **6.1 For service disruptions, personal injury and property damage**

FETL is expressly not liable for services of third parties, which is communicated and marked expressly in the travel description as a third party service and are mediated by FETL in the name of the third party suppliers such as flights, services, travel insurance, excursions, car hire, theatre visits or exhibitions. Transport services which are arranged to and from the place of departure or destination and expressly identified in the travel and confirmation as a separate service are recognizable as not part of the travel service of FETL for the travel customers. The contract of the third party services will be put in writing between the customer and the third-party under the relevant statutory terms and conditions. FETL will also not be liable if its tour guide is attending. As a mediator of foreign services, FETL is only liable for the due mediation of the service, not for the performance of services in the mediated contract itself.

### **6.2 The contractual liability of FETL**

for damages other than personal injury is limited to three times the tour price, provided the damage is not caused intentionally or by gross negligence. The same applies if FETL is solely responsible for the damage because of culpability of a service provider.

**6.3 Contractual claims** must be made within one month after the contractually agreed end date of the journey, in writing to FETL. After this period, contractual claims can only be submitted if the traveler was prevented from complying with the time line through no fault of their own.

### **6.4 Tortious damages claims**

The liability of FETL for property damage, which is not caused by intent or gross negligence, is limited to the amount of three times of the travel price. The maximum liability amount applies in each case per travel customer and travel. Possible additional claims under international rules of the Montreal Convention remain unaffected by this limitation.

**6.5 Travel insurance** statutory provisions shall apply. In this context FETL recommends that the customer take out insurance in their own interest for travel cancellation, curtailment and medical including repatriation costs in case of accident or illness before departure. The detailed information

about cover repatriation costs in case of accident or illness can be taken from travel insurance companies and insurance brokers (e.g. European Travel Insurance AG, Rosenheimerstraße 116, 81669 Munich).

**6.6 The travel contract** between the client and FETL will not retain the services such as excursions, transportation services, sports activities or car hire in the destination country which is provided by the local tour guide, or from other people in their own organization and be booked on the spot on travel by the travel customers. For this reason, FETL will not be liable for such services. This also applies to excursions that are only suggested by FETL in their travel description as worth seeing.

### The tour operator is liable.

a. For services which include the transportation of the customer from the advertised place of departure to the advertised destination, interim transport during the journey and accommodation during the trip.

b. If the damage is a direct result by violation of information, advice and organizational requirements of FETL. A claim for damages against FETL is restricted or excluded as a result of international agreements or statutory provisions. Reference is made to the legal provisions.

No liability is accepted by FETL for mistakes and misprint in travel offers, brochures, and catalogues and on the website. Information on passport requirements, visa, customs, currency and health regulations are without guarantee. A liability for the accuracy of information or instructions issued consists not in accordance with the law. This does not apply if a specific contract referring to particular information has been issued.

## **7. Duty to Cooperate**

**7.1 The traveler** shall be obliged to immediately inform the local tour management of any complaints. This is to allow remediation, if possible. In case of booking of accommodation only, the traveler must notify his or her complaints to the front desk of the house. If a remediation is not done, the local tour guide from FETL or competent agency together with the travel customers must put the complaint in writing. In case of any voluntary failure of the customer to indicate the shortcomings, a claim reduction will not be entertained.

## **7.2 Damage to baggage and baggage delay**

FETL urgently recommends that damages to baggage or delays in air travel be reported immediately by the travel customer on the spot. A Property Irregularity Report (PIR) to the relevant airline should be submitted. Airlines usually refuse refunds from when the claim form has not been filled out. The damage notification must be submitted by handing in the form within 7 days and for a delay within 21 days. In addition should the loss, damage or the misdirection of baggage, be reported to the travel agent or to the local representative so they are aware and can try to assist.

## **7.3 Travel documents**

The travel customer has to inform FETL if he does not receive the necessary travel documents within the mentioned time period.

## **8. Exclusion and limitation periods for claims**

### **8.1 Limitation periods for claims.**

For the claims for non-contractual provision of the journey, the traveler has to give notice within one month of the contractual end of the trip to FETL to the address mentioned in Point 18. This should be made in writing. The time limit for claims of not delivering the travel service which is mentioned in the contract provision expires 6 months after the contractually agreed end of the journey.

After this period, the travel customer can only lodge a claim, if he was prevented from complying with the deadline without fault. There are special deadlines for the registration of baggage damage, delays in the baggage, and the baggage loss in connection with flights. These are for baggage damage within 7 days and delays damage within 21 days after delivery of luggage to be reported.

**8.2 Limitation:** For claims of travel customers arising from injury to life, body or health, based on a negligent breach of duty from FETL or an intentional or negligent breach of duty by a legal representative or vicarious agent of FETL, - the statute of limitations - is two years. This also applies to claims for compensation for other damages based on a grossly negligent breach of duty by FETL or a willful or grossly negligent breach of duty by a legal representative or vicarious agent of FETL.

All other claims under the provisions

expire after one year. The limitation under Section 8.1 and 8.2 begins with the contractually agreed date of travel end.

In case of pending situations on the negotiation of claims or the circumstances substantiating the claim between the customer and FETL the limitation period is suspended if the travel customer or FETL refuses to continue the negotiations. The limitation period shall expire no earlier than three months after the end of the suspension.

## **9. Passport, visa and health regulations**

**9.1** FETL strives to inform nationals of European Community countries in which the tour is offered about passport and visa regulations as well as any changes prior to departure. Nationals of other countries may obtain necessary information from their own relevant consulates and embassies. It is assumed that no peculiarities exist in the person of travelers (e.g. double citizenship, statelessness).

**9.2** The Traveler is obliged to inquire about special information about the entry and transit provisions at their own embassy. Each traveler shall be responsible for compliance with passport, visa, customs, currency and health regulations and other important travel regulations. All drawbacks, in particular the payment of cancellation fees, that arise from non-compliance with these regulations are to be borne by the traveler except if they are caused by culpably false or lack of information from FETL.

**9.3** For information on those provisions we assume German or equivalent EU citizenship at the time of booking (for bookings made from EU countries). The information reflects the current status at the time of booking. Because of the possibility of later changes, we encourage you to follow the news media and travel advice of your own Foreign Office, even if FETL, of course, endeavors as far as possible, to notify you about changes. Personal circumstances of the traveler can generally be considered only if an express reference or clear request is made at the time of booking.

**9.4** FETL is not liable for the timely issue and the access of necessary visas from the respective diplomatic representation if FETL was commissioned to procure these; unless the delay is the fault of FETL. The traveler should get information in good time about infections and vaccination protection measures and other

prophylactic measures for the relevant destination; where necessary, medical advice should be sought for thrombosis and other health risks.

Reference is given to the option of getting general information, especially from health authorities or experienced physicians in travel medicine, tropical institutions or the Federal Centre for Health Education.

**10. Other provisions and agreements** these conditions apply for all journeys unless the individual travel contract has been conducted with individual agreements.

**10.1** The above provisions are only valid if and so far as there is no change coming into force after the publication of statutory provisions.

**10.2** Provisions of the travel contract law are complementary, as far as German law is applicable and FETL is not only a mediator.

**10.3** The status of these conditions is confirmed as of September 2014.

## **11. Assignment clause**

The assignment of claims from customers of the travel against FETL to third parties is excluded. This prohibition does not apply for a family trip and family members traveling.

## **12. Choice of Law and Jurisdiction**

**12.1** For the contractual relationship and the travel contract between the customer and FETL the German law will be applicable. This also applies to the entire legal relationship. Insofar as the legal action of travel customers for the liability against FETL is abroad and is not applied on the base of German law, the legal consequences in particular with regard to the nature, extent and amount of claims of travel customers will exclusively be applied by German law.

**12.2** The jurisdiction of FETL is the company headquarters in Berkel en Rodenrijs / The Hague, Netherlands.

**12.3** For claims by FETL against travel customers, the residence of the travel customer is decisive. Jurisdiction over actions by FETL against travelers, or contractors of the travel contract, the merchants, legal persons under public or private law or persons who have their domicile or habitual residence abroad or whose domicile or habitual residence is unknown at the time that the action is brought, the office place of FETL, Berkel en Rodenrijs / Den Haag, Netherlands is the place of jurisdiction.

**12.4** The provisions on the choice of law and jurisdiction shall not apply if and to the extent that there is

contractually mandatory provisions of international agreements applicable to the travel contract between the passenger and FETL, something else for the benefit of the traveler or if and to the extent applicable to the travel contract and not subject to provisions in the EU Member State, which the traveler belongs, are more favorable to the traveler than the provisions in these booking terms and conditions or the applicable German regulations.

### **13. Insurance**

In the travel offered by FETL only the statutory insolvency insurance is included in the price. The additional travel insurance, especially travel cancellation insurance, etc. are not included in the price. FETL strongly recommends traveling customers to take out a travel cancellation, curtailment and medical insurance including repatriation costs in case of accident or illness prior to departure. Detailed information about cover of repatriation costs in case of accident or illness can be taken by the customer from travel insurance companies and insurance brokers. (e.g. European Travel Insurance AG, Rosenheimerstraße 116, 81669 Munich).

### **14. International Flight tickets**

FETL does not book international air tickets for its customers but can assist with the organization. In this context there is no liability on that part for FETL. The customer has to make his possible claims directly with the airline, which he himself selects for ticket booking. The existence and the contents of the flight ticket contract are subject to the relevant statutory terms and conditions of the contractual partner of the traveler. In this context FETL does not assume any liability for

cancellation or delays, thereby resulting in possible additional costs charged to the customer by FETL.

**Domestic flights and flights to / from Bhutan** are booked by our contract partner's in-country.

### **Information requirements on airlines for domestic flights and flights to / from Bhutan.**

According to EU Regulation no. 2111/2005 tour operators, travel agents and intermediaries shall be obliged to inform passengers/ customer about the identity of the operating airlines and all flight services to be provided during the booking of travel. In case the operating airline is not determined at the time of booking, FETL has an obligation to inform the travel customers about the airline (s) that will most likely operate the flight. FETL will inform the customer about the airline (s), operating the flight as soon as FETL is aware of it. In the case of changes in the afore-mentioned executing operating airline (s), FETL must immediately inform the travel customers by complying with the appropriate steps of the change. The information about the operating airline with regard to EU-VO Regulation 2111/2005 does not establish a contractual claim on the implementation of air transport with the afore -mentioned airlines and does not constitute an assurance, unless an assurance is specified in the travel contract. As soon as it is agreed by contract in a permissible way, the right to change an airline is expressly reserved by FETL.

On the basis of EC Regulation 2111/2005 the "blacklist" of airlines

banned as unsafe is published by the EU Commission, which is available on the website of FETL or directly via [http://ec.europa.eu/transport/modes/air/safety/air-ban/index\\_en.htm](http://ec.europa.eu/transport/modes/air/safety/air-ban/index_en.htm)

### **15. Data protection and general provisions**

The data provided to FETL (during the booking process) will be used and passed on to its partners for the purpose of the organization of the booked travel and customer care. These partners and employees of FETL are instructed by FETL not to disclose and transfer these data. Personal data are protected according to the Federal Data Protection Act. If you want your data not to be used for advertising, you can request that the data not be used at any time by notifying Flying Elephant Tours & Leisure, Havenstraat 61, 2652BR Berkel en Rodenrijs, Netherlands (per the Federal Data Protection Act) in writing.

### **16. Misprints**

Typographical and calculation errors entitle FETL to challenge the travel contract. All information has been verified as correct at the time of printing in July 2016.

### **17. Additional provisions**

In case a single provision of these conditions is found to be invalid this does not invalidate the entire terms and conditions.

### **18. Tour Operator**

Flying Elephant Tours and Leisure  
Havenstraat 61  
2652BR Berkel en Rodenrijs  
Netherlands  
Telefon: +31 6 15569209  
Owner: Dr. K.K. Bhardwaj  
Chamber of Commerce Registration:  
Den Haag, KvK-number 61282391

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