

# Terms and Conditions of Agency of Holiday Extras GmbH

The placement of services of **Holiday Extras GmbH**, hereinafter referred to as "**HEX**", by agencies is done based on the following General Terms and Conditions of Agency ("Terms and Conditions of Agency"). **HEX** provides what are called "ancillary travel services" to travel customers throughout Europe; these services include the placement and booking of hotel rooms and parking spaces at European airports and cruise ship harbours, as well as airport lounges. Other additional services that **HEX** includes in its product range will be regulated by an additional regulation.

## 1. Conclusion of a new agency contract

1.1. A new agency contract is concluded between the agency and **HEX** via application, with an agency

1. submitting a copy of the business registration,
2. and sending the fully completed **HEX** agency application. The application must, in particular, include information about the email address of the agency via which it can be reached on working days, and where applicable, the business premises numbers of the computer reservation systems (CRS) used by the agency,

and the subsequent issuing and award of an agency number by **HEX**.

1.2. **HEX** reserves the right to make both the initiation and the maintaining of the agency relationship dependent upon the provision of appropriate security and obtaining information at any time regarding the credit rating of the agency. The awarding of an agency number is solely at the discretion of **HEX**. The collaboration of the agency with **HEX** on the basis of these Terms and Conditions of Agency is established by the issuing and awarding of this agency number.

## 2. Work of the agency as a broker

2.1. The agency arranges individual services of contractual service providers for the end customers, which in turn are arranged by **HEX**. Accordingly, the agency brokers the respective services of the corresponding service providers advertised by **HEX** to its end customers. In doing so, the agency acts as intermediary on behalf of the end customers by way of agency, pursuant to §§675, 631 BGB (German Civil Code) via **HEX**, which in turn acts as an authorised intermediary of the service providers advertised by **HEX**.

2.2. No direct legal and contractual relationship is established between the agency and the respective service providers. Brokerage of service bookings made by the agency within the scope of this contract are done by the agency as the commissioned intermediary of the end customers rather than exclusively with **HEX** as the intermediary of the services advertised on the portal. The resulting service contracts are concluded directly between the respective end customer and the provider responsible for the service.

2.3. The confirmation will be made to the agency by **HEX** (by email or via CRS). Until confirmation from **HEX** is received, the agency may only forward a confirmation of the receipt of the booking ("booking receipt confirmation") to the customer.

2.4. Likewise, the agency shall be remunerated exclusively by means of commission payments made to the agency by **HEX**, in accordance with the provisions of this agreement.

2.5. When placing services, the agency has to take maximum care and is obligated to immediately forward declarations (among others, declarations of cancellation), notifications or information from **HEX** and/or from the customers to the other respective contractual party, and to ensure that the other respective contractual party also takes note of these. Any changes in performance are to be communicated to the customer immediately in an appropriate form. It is to be ensured in verifiable form that the customer gains knowledge of such changes in performance immediately.

2.6. **HEX** is entitled to ask the end customer about its level of satisfaction with the services placed by the agency.

2.7. **HEX** reserves the right to exclude certain products from individual sales channels if there is a justified interest in this.

2.8. The agency is obligated to immediately alert **HEX** of any obvious price or performance-related errors or other errors in the specifications, in the CRS system and/or the document, and where there is any doubt, to confirm the accuracy of information first before making a booking.

2.9. The agency is also liable in full for the obligations of the intermediaries who carry out bookings under the agency number of the contractually bound agency or have such bookings carried out via this agency.

## 3. Obligations of the agency when carrying out bookings

3.1. Before the contract is concluded, the agency has to demonstrably send the customer the current specifications of **HEX**, the notes and information for the customer and the current General Terms and Conditions of placement and/or contractual terms of **HEX** relating to the

service placed. With an online booking via an online website of the agency, the agency has to verifiably provide the customer with all the aforementioned information in the course of the booking before the contract is concluded, and ensure that a booking can only be made in accordance with the legally valid inclusion of the General Terms and Conditions of Brokerage or Terms and Conditions of travel of **HEX**.

3.2. The basis for the booking is solely the current performance specifications of **HEX** on the **HEX** website; otherwise via the computer reservation systems (CRS) or from the booking system and the booking confirmation received from **HEX** that makes reference to these. If the agency has been notified of corrections to the performance specifications, the agency has to forward this information to the customer, along with the performance specifications.

3.3. Any verbally discussed special agreements or assurances are only binding following written confirmation from **HEX** and are only to be declared to the customer after confirmation by **HEX**. The agency is not entitled to submit declarations to the customer on behalf of **HEX** without written confirmation from the **HEX**.

3.4. It is explicitly pointed out to the agency that the agency can itself become a tour operator by itself pooling several travel services to form a total price, for instance, by booking different services from different service providers pursuant to § 651a BGB. The agency can also become a tour operator if it arranges several different travel services under the conditions regulated in § 651b Para. 1 BGB and - in the case of online brokerage - under the conditions regulated in § 651c BGB. In addition, it is possible for the agency to become an intermediary for associated travel services if the agency offers a mediation of various travel services of different service providers under the conditions regulated in § 651w Para. 1 BGB.

3.5. When accepting a booking, the agency has to assure itself of the accuracy of the personal details and address provided by the customer.

3.6. The entry of place-holders or fictitious customer names instead of the customer's details is explicitly not permitted. Reference is made to Point 12.7. of the Terms and Conditions of Agency.

## 4. Payment handling & handing over of the contractual documents

4.1. Payment handling: Unless otherwise specified by **HEX** or agreed with the agency, the agency can select between agency collection and direct collection when entering the service.

4.2. In the case of direct collection by **HEX**, the entire payment transactions are made solely and directly between **HEX** and the customer. In this case, the agency is not entitled to accept monies from customers. In the case of direct collection, the agency has to apply maximum care in entering the account and/or credit card data. Where it is not possible to debit the amount from the account or credit card due to the erroneous entry of the bank or credit card details, **HEX** reserves the right to invoice any additional costs incurred to the agency.

4.3. Agency collection

a) For agencies newly created at **HEX** as of 01.07.2018, agency collection requires the agency to issue a SEPA mandate to **HEX**.

b) With agency collection, the invoicing is done via the agency to be forwarded to the customer. The service or individual price is paid via the agency. Irrespective of its obligations arising from the agreed agency collection, the agency will inform **HEX** immediately if the customer does not pay the travel or individual price, or not in full, to the agency. The agency receives the monies from the customer in a fiduciary capacity and forwards them to **HEX**.

c) In the case of agency collection, the agency has to ensure that the agreed price to be paid is paid and in full to the agency before the service is provided. In the event of a default on a receivable being due to a breach of the Terms and Conditions of Agency, the default risk for the payment lies with the agency.

4.4. Credit card payment via **HEX** (direct collection)

a) **HEX** accepts MasterCard and Visa as payment methods for credit card payments by the customer. During the booking or when the credit card is used, the first name and last name of the customer, the 15- or 16-digit card number and the expiry date of the card are to be indicated in all cases.

b) If the name of the card holder is not identical to the name of the registering customer, the name of the card holder and their address is to be noted and communicated to **HEX** if necessary. The agency is not entitled to accept the card data for cashless settlement of payment if, due to the accompanying circumstances of the legal transaction, the agency has doubts about the customer's entitlement to use the card data.

c) If the agency nevertheless accepts the payment, the agency is liable for the settlement of the claim if the credit card company does not make the payment or reverses it. A service fee invoiced by the credit card company is to be paid by the agency.

4.5. Due date with agency collection

a) For agency collections, all payments received from the customers, less commission, are to be forwarded to **HEX** approx. 28 days before start of performance if the agency has not already performed in advance for the customer.

b) If the agency has issued a corresponding SEPA mandate, the direct debit will ensue approx. 28 days before the start of performance.

c) Up to the point of forwarding / direct debit by **HEX**, the agency will manage the customer monies collected for **HEX** in a fiduciary capacity.

Use of the monies for the agency's own purposes is prohibited.

**d)** At all times, the agency must ensure sufficient funds in the agency account. If the direct debit is returned due to a lack of funds or for other reasons, a flat-rate handling fee of €15.00 plus the bank expenses and fees incurred is agreed. These fees and expenses will be invoiced to the agency and collected with the next direct debit.

**4.6.** If it is already established at the time of the direct debit that the service cannot be implemented due to withdrawal or for other reasons, the entitlement of HEX to forwarding of the monies collected lapses if the monies collected exceed the actual entitlement of the tour operator (e.g. flat-rate fees for cancellation). In this case, HEX will instruct the agency to immediately and directly reimburse all monies to the customer, if they exceed the actual entitlement.

**4.7.** When proceeding with the direct debit using a SEPA mandate, the deadline for the sending of the pre-notification for direct debits will be shortened by HEX to 2 days.

**4.8.** In the case of agencies who are liable for VAT, the respective valid VAT will be remunerated in addition to the commission. The entitlement to deduct input tax is to be confirmed in the agency questionnaire.

**4.9.** For agencies that have their registered office abroad, the reverse charge method applies.

## **5. Placement of online bookings via a partner link**

**5.1.** Upon request, HEX shall provide the partner with a link to the website and the Internet booking machine of HEX to be integrated into the partner's web page. This gives the partner's customers the possibility to book the ancillary travel services offered by HEX directly online. Currently, a partner link for the booking of parking spaces and hotels is available. The same regulations apply if additional ancillary travel services are added.

**5.2.** The link of HEX on the partner's website is designed in consultation with the partner.

**a)** Both the design of the link and the design of the web pages of HEX accessed by the customer via the link must be in line with the image and business objectives of the partner. In particular, they may not display any offensive, indecent, pornographic or racist content or designs, or any content or designs that are not compatible with the corporate policy or the business objectives of the partner.

**b)** HEX shall be responsible for ensuring that the link and websites accessible through the link satisfy all statutory and official requirements, and shall release the partner from any claims from or in connection with impermissible or illegal content or designs. The design of the link and the webpages of the partner may not display any offensive, indecent, pornographic or racist content or designs, or any content or designs that are not compatible with the corporate policy or the business objectives of HEX.

**c)** The partner shall be responsible for ensuring that the link and webpages accessible via it satisfy all statutory and official requirements and shall release HEX from any claims from or in connection with impermissible or illegal content or designs.

**d)** In particular, in the design of the link and also the websites accessed by the link, it must be ensured at all times that it is clearly identifiable to customers that the bookings they make using the link are arranged directly with HEX, and that no contractual relationship is established between the customer and the partner. In particular, pursuant to § 651b Para. 2 sentence 2 BGB, Hex will ensure that in the course of the forwarding of the customer from the website of the partner to the websites of HEX the appearance of a uniform Internet appearance is not justified for the customer [sic]. The parties will discuss and agree on the design and if the design does not correspond to these requirements, HEX is obligated, on the partner's instruction, to make corresponding changes to the design as soon as possible.

**e)** If the link does not meet the requirements of this contract, the partner is entitled to remove the link from its websites immediately.

**5.3.** The integration of the HEX link on the partner's website, including the internet booking engine, etc., will be carried out by the partner. HEX shall provide the partner with the internet booking engine developed by HEX free of charge, and give the partner the necessary support with integration.

**5.4.** The partner may not operate any paid search engine marketing for HEX or for brands or company trademarks used by HEX, not even via third parties. Exceptions to this can only be granted in writing by HEX. If the partner should deem other marketing measures necessary, the partner must bear the costs for this itself.

**5.5.** In the event of a booking via a link, the following applies for the contractual relationship between the customer and HEX:

**a)** HEX is the direct contractual partner of the placement contract for booking, contract conclusion and contractual execution of all the customer's legal transactions conducted through the link, and shall be liable for all claims and obligations arising out of or in connection with this contract with the customer. HEX shall indemnify the partner against all claims arising from or in connection with the bookings conducted using the link, including payment, warranty, contract performance, non-performance or inadequate performance, etc. HEX shall also indemnify the partner against liability for fines, financial penalties as well as other claims or sanctions or similar arising from or in connection with the booking of services using the link. Otherwise, the General Terms and

Conditions of HEX shall apply; these are available at [www.holidayextras.de/allgemeine-geschaeftsbedingungen](http://www.holidayextras.de/allgemeine-geschaeftsbedingungen).

**b)** HEX shall be responsible for undertaking all customer notifications, changes to bookings, cancellations, complaints, etc. and will do so as quickly as possible and properly. If, after booking, it is necessary to provide customers with information about changes in the scope of services or other notifications, HEX shall be solely responsible for informing the customer.

**5.6.** The partner shall not be authorised to make changes to the booking machine and contents provided by HEX.

## **6. Commission agreement**

**6.1.** The agency will receive an agency commission for the placement and all services associated with the handling. Placement solely means the successful conclusion of a contract for service brokerage within the meaning of section 2.1 between customers and HEX made via the agency. If the agency is subject to value-added tax, the agency commission is exclusive of statutory value-added tax.

**6.2.** Details on the commission can be found in the respectively valid commission regulations that are in Annex to these contractual Terms and Conditions.

**6.3.** The claim to a commission is created as soon as and to the extent that services placed have been provided. If the customer does not pay, the claim to a commission will also lapse.

**6.4.** The commission entitlement is due for payment at the end of the month following the month when performance commences, if and to the extent that the customer has paid the price of the travel.

**6.5.** If the customer, HEX or the service provider declares their withdrawal from the contract, the contract is cancelled by one of the parties for other reasons, the contract is rescinded by mutual agreement or becomes invalid for other reasons, is not verifiably legally watertight or is void, the claim to payment of the commission from the agreed calculation basis lapses. This also applies if the services cannot be carried out due to exceptional circumstances that are outside the sphere of influence of the contractual parties (e.g. natural disasters, war, unrest, epidemics).

**6.6.** If, however, pursuant to the General Terms and Conditions of Business, the customer has to pay compensation (cancellation fees) to HEX as the result of a withdrawal, the agency will receive the commission agreed in the Annexes for the service provided if the customer has actually paid the compensation sum to HEX. Commission already collected by the agency is to be reimbursed if it exceeds the actual commission entitlement.

**6.7.** The amount of the commission entitlement and the respective calculation basis as well as any super-commission, proportional commission or other commission entitlements result from the commission regulation announced by HEX in each case for a billing period defined beforehand. The respective date of the commencement of travel, not the date of booking, is decisive for the calculation of the commission entitlements.

**6.8.** The commission regulations will be adapted to the market circumstances and notified by HEX for departures in the future. If the agency is not in agreement with the new sales conditions, it must give written notice of this within 10 days. The agency relationship can then be ended. The existing commission agreement will be applied for the bookings already existing and with a departure date that falls in the new billing period.

**6.9.** The commission payment covers and settles all claims of the agency for placement and handling of the booking made, such as the forwarding of information regarding changes in booking, forwarding of the contractual documents, receipt and forwarding of the service fee, changes and notifications to the service partner and, if the collection activities as an intermediary are taken over, also these activities. If there is no commission entitlement, the payments made by HEX are to be reimbursed immediately. Commission entitlements become time-barred at the end of the calendar year (31.12.) following the contractually agreed calendar year in which the claim has arisen and the agency gained knowledge of the circumstances that establish the claim, or could have gained knowledge of them without gross negligence.

**6.10.** The agency confirms that HEX may issue it with VAT credit in regard to the commission settlement.

## **7. Payment difficulties of the agency/securities**

**7.1.** The agency must inform HEX immediately about any payment difficulties that occur or about insolvency and/or indebtedness that arises. In this case, the agency is prohibited from accepting further payments from customers for travel services from HEX.

**7.2.** It is explicitly pointed out to the agency that in the event of a breach against this obligation, punishable financial loss to the detriment of the customer or of HEX is possible.

**7.3.** In the event of payment difficulties on the part of the agency, HEX is entitled to change over entirely to the direct collection procedure.

**7.4.** Furthermore, HEX reserves the right to reject the acceptance of further bookings until the payment difficulties have been verifiably eliminated and all outstanding claims of HEX towards the agency have been settled. HEX can make the acceptance of further bookings dependent on the provision of an appropriate security by the agency.

**7.5.** This also applies in the event that a direct debit pursuant to Point 4.5.d)

of the Terms and Conditions of Agency is declined.

**7.6.** In the event that the agency does not provide any security within two weeks, reference is made to the regulations of Clause 12.6 of the Terms and Conditions of Agency.

#### **8. Exchange of information and obligations of notification**

**8.1.** All information is to be provided in writing. The agency and **HEX** also declare that they consent to the procurement of information by electronic means to the respective official main email address.

**8.2.** For existing bookings, **HEX** will inform the agency immediately about all product-related changes, if these are important to the agency and/or the customer.

**8.3.** If **HEX** is issued with a warning with regard to a product and/or advertising statement and is obligated in this regard to submit a declaration of discontinuance, the agency, after corresponding written or electronic information from **HEX**, is to assist **HEX** in meeting the obligation entered into.

**8.4.** The agency has to inform **HEX** immediately, without being requested to do so, about a change in the company management, the owner circumstances at the agency and a renaming of the company as well as a change in the account details, the email address, the fax or telephone number, a change in the location of business premises, and about changes in the valid business premises number at the connected computer reservation systems (CRS). The information must be provided in writing in each case.

**8.5.** The agency has to notify **HEX** of an official main email address that is checked on a daily basis.

**8.6.** The agency is obligated to provide its bank details in full and to keep them updated. These include information regarding IBAN and BIC (Swift), as well as all data related to SEPA.

**8.7.** If the agency makes a change to the account details, it has to notify **HEX** of this immediately, but at least 10 working days before the date of the change.

**8.8.** In the event of a change in ownership, the liability for all liabilities of the agency initially remains with the last owner announced to **HEX** within the framework of the agency relationship, and is not transferred to the new owner until the point in time when **HEX** has accepted the change in ownership, e.g. by the signing of a legally valid declaration of takeover by **HEX** or by the transfer of the agency to the new owner.

#### **9. Use of brands and logos by the agency**

**9.1.** The use of brands, logos and business trademarks of **HEX** by the agency requires a valid agency relationship with **HEX** and is limited to the use for advertising the services of **HEX**. Any use beyond this, in particular, use for purposes other than the aforementioned and/or the use of brands, logos and business trademarks of other **HEX** companies is explicitly prohibited and requires separate prior written consent from **HEX** in each case. **HEX** reserves the right to revoke the agency's rights of use at any time with future effect.

**9.2.** When the agency relationship ends, pursuant to Clause 9.1 the agency undertakes to transfer upon request all rights created within the framework of permissible use to word and/or image marks, domains and other trademarks with the element **HEX** or with business trademarks of **HEX**— even those that could only be mistaken for the actual mark or are based on it — with all and exclusive rights of use at the choice of **HEX** to **HEX** or a third party to be named by **HEX**, or to have them deleted permanently.

#### **10. Agreement on Data Protection**

Agreements on Data Protection can be found in Annex 3 to these Terms and Conditions of Agency.

#### **11. Validity of these Terms and Conditions of Agency**

In each case, the Terms and Conditions of Agency apply until the receipt of new Terms and Conditions of Agency (post, email, fax). Upon receipt of new Terms and Conditions of Agency, the respective prior Terms and Conditions of Agency or regulations regarding the agency relationship are no longer valid. Upon receipt of these Terms and Conditions of Agency, they are deemed to have been rescinded.

#### **12. Duration and/or termination of the agency contract**

**12.1.** The agency relationship is concluded for an indefinite period of time and can be terminated by the agency at any time by written notice.

**12.2.** **HEX** can terminate the agency relationship, giving a period of notice of 6 months.

**12.3.** Both contractual parties reserve the right to terminate the contract without notice for important grounds with immediate effect. Important grounds for **HEX** are in particular when the agency, contrary to the agreement, collects customer monies itself, falls into payment difficulties, or for other reasons the proper support and consulting of the customers as well as the handling of the bookings is no longer guaranteed. The existence of important grounds is assumed if more than one direct debit cannot be carried out in the direct debit procedure in the period of one tourism year.

**12.4.** **HEX** can terminate the agency relationship if **HEX** cannot objectively be reasonably expected to continue the agency relationship due to a change in the company management or the owner or shareholder circumstances of the agency.

**12.5.** **HEX** can freeze the agency relationship with immediate effect if there are important grounds to do so. If the agency relationship is blocked, it will be temporarily closed. The opening of the agency is at the discretion of **HEX**. If, after one month, the grounds that resulted in temporary freezing of the relationship have not been eliminated, **HEX** reserves the right to terminate the relationship for important grounds.

**12.6.** Important grounds for blocking the relationship exist, among others, if the agency does not settle charge-back fees, does not provide a required security within two weeks, or repeatedly enters placeholder data instead of customer data.

**12.7.** These Terms and Conditions of Agency as well as the commission regulations can be adapted at any time to meet the market conditions. The change is made by written notification by fax, email or by post. If the Terms and Conditions of Agency are changed by **HEX** and the agency does not wish to accept the change to the Terms and Conditions of Agency, the agency can give written notice of this in writing within 10 days and terminate the agency relationship. The Terms and Conditions of Agency then remain unchanged in this regard for bookings that already exist and have already been made.

### **13. Place of jurisdiction and applicable law**

**13.1.** The registered office of **HEX** is agreed as being the sole place of jurisdiction where the parties are merchants, or in the event that the agency does not have any general place of jurisdiction in the home country, or in the event that the party against whom claims are to be filed by means of legal action moves its residence or usual domicile outside of the scope of validity of this law or its residence or usual domicile is not known.

**13.2.** The law of the Federal Republic of Germany is agreed as the applicable law.

**HOLIDAY EXTRAS  
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Last updated: January 2023

# Annex 1 to the Holiday Extras Terms and Conditions of Agency

## Individual regulations regarding parking spaces and hotels at airports and cruise ports

Last updated: January 2023

### 1. Commission payments

1.1. The revenues generated under the respective agency number in a financial year, i.e. from 1 April to 31 March, applies when calculating the commission for parking spaces and hotels. The first day of the provision of service, not the booking date, is decisive here.

1.2. The partner is entitled to the following commission on the booking of parking spaces and hotels:

<u>Revenues from parking spaces and hotels in a financial year</u>	<u>Amount of the commission in % of revenues</u>
< €4,500	8%
≥ €4,500	9%
≥ €8,000	10%

1.3. New agencies commence with a basic commission of 8% and will receive the higher commission from the next financial year after attaining the corresponding revenue limits.

1.4. The total revenues of the previous year determine the classification for the amount of commission for the following year.

1.5. If different agreements have been made in individual cases (e.g. in the case of general contracts with sales systems), the corresponding regulations of the different agreements apply.

1.6. The commission agreed under Point 1.2 of this Annex shall be paid on cancellation and rebooking fees received. These revenues will be considered when calculating the amount of sales.

### 2. Payment methods and accounting

When booking parking spaces and hotels, agency and direct collection are available as payment methods.

# Annex 2 to the Holiday Extras Terms and Conditions of Agency

## Individual regulations regarding airport lounges

Last updated: January 2023

### **1. Commission payments**

- 1.1. The partner is entitled to the following commission on the booking of airport lounges: 8% + VAT
- 1.2. If different agreements have been made in individual cases (e.g. in the case of general contracts with sales systems), the corresponding regulations of the different agreements apply.
- 1.3. The commission agreed under Point 1.1 of this Annex shall be paid on cancellation and rebooking fees received.

### **2. Payment methods and accounting**

When booking airport lounges, agency and direct collection are available as payment methods.

# Annex 3 to the Holiday Extras Terms and Conditions of Agency

## Individual regulations for the brokerage of ferry transport services via the HEX booking portal

Last updated: January 2023

### **1. Agency access to ferry transport services via the HEX booking portal of ADAC Travel & Event Mittelrhein GmbH**

It is possible to arrange ferry transport services via the HEX booking portal. Unless expressly provided otherwise or additionally below, the provisions of the General Agency Terms and Conditions shall apply in all other respects.

### **2. Deviating or additional regulations and obligations when making bookings**

- 2.1. With regard to the agency's obligation pursuant to section 3.1 of the agency terms and conditions to demonstrably provide the customer with up-to-date service descriptions, notices and information prior to the conclusion of the contract, this applies accordingly to the service information provided in this respect within the scope of the booking section on the booking portal of HEX.
- 2.2. The agency is also obliged to demonstrably make the following contractual conditions available to the customers prior to the conclusion of the contract:
  - a) the General Terms and Conditions of Holiday Extras GmbH, to which reference is made at the end of the online booking section by means of a hyperlink and which are also available at [www.holidayextras.com/de/faehren/allgemeine-vermittlungsbedingungen](http://www.holidayextras.com/de/faehren/allgemeine-vermittlungsbedingungen),
  - b) as well as the General Terms and Conditions of the respective ferry transport service providers, to which reference is also made at the end of the online booking section by means of a hyperlink.

### **3. Deviating or additional regulations and obligations for payment processing**

Bookings via the online booking portal can only be made by agencies with a registered office in Germany by SEPA mandate for agency collection or credit card for direct collection. The ferry fare is charged directly to the booking customer's credit card. In all other respects, the relevant provisions of the Agency Terms and Conditions shall apply.

### **4. Commission agreement**

- 4.1. For calculating the commission of ferry transport service bookings via the booking portal, the turnover transacted under the respective agency number within a calendar month shall apply.
- 4.2. The applicable commission rate varies depending on the ferry transport service provider brokered. The ferry service providers available in each case during a contract year can be accessed online with the applicable commission rates at [www.holidayextras.com/de/reisebuero/faehre](http://www.holidayextras.com/de/reisebuero/faehre). This table forms part of these Agency Terms and Conditions and applies in each case to the calendar year in progress at the time of booking. The commissions are renegotiated with the ferry transport service providers on a calendar year basis and updated at the above link before the start of a new calendar year.
- 4.3. The basis for calculating the commission is the gross invoice amount paid by the end customer, less price components not subject to commission such as taxes, third-party fees and costs. (e.g. mooring fees, harbour dues, fuel surcharges).
- 4.4. Notwithstanding the provisions of the General Agency Terms and Conditions, no commission shall be paid on cancellation and rebooking fees incurred in connection with ferry transport services, and these sales shall not be taken into account for calculating sales levels.
- 4.5. HEX will issue statements each calendar month for the commissions due to the agency from the brokerage of ferry transport services, independent of the commission statement for airport parking spaces, hotels and lounges. The commission will be credited within 14 days of receipt of the statement.

### **5. Placement of online bookings via a partner link**

A booking procedure via a partner link corresponding to the regulations in section 5 of the Agency Terms and Conditions is not yet currently available for booking ferry transport services via the HEX booking portal.

# Annex 4 to the Holiday Extras Terms and Conditions of Agency

## Individual regulations on transfer payments

Last updated: January 2023

### 1. **Payment procedures: Direct collection only**

Notwithstanding the provisions in section 4 of the Agency Terms and Conditions, only direct collection (credit card and Sepa) is available in the course of the brokerage of transfer services.

### 2. **Booking confirmations and information on arranged transfer services**

With regard to the booking confirmation pursuant to section 3.2 of the Agency Terms and Conditions, it is pointed out that such a booking confirmation will only be sent to the Agency if the latter enters the Agency's own email address in the relevant field in addition to the email address of the brokered end customer. If only the email address of the end customer is entered here, the agency will receive neither the booking confirmation nor any other supplementary information on the booking.

### 3. **Provisions**

- 3.1 The revenues generated under the respective agency number in a financial year, i.e. from 1 April to 31 March, applies for the calculation of the commission for transfer services. The first day of the provision of service, not the booking date, is decisive here.
- 3.2 The partner is entitled to the following commission on the booking of transfer services. 10% + VAT.
- 3.3 If different agreements have been made in individual cases (e.g. in the case of general contracts with sales systems), the corresponding regulations of the different agreements apply.
- 3.4 The commission agreed under Point 3.3 of this Annex shall be paid on cancellation and rebooking fees received. These revenues will be considered when calculating the amount of sales.
- 3.5 HEX reserves the right to charge commission for transfer services separately from commission for other service brokerage.



# Annex 5 to the Holiday Extras Terms and Conditions of Agency

## Contract for order processing

This contract is concluded between the contracting agency and the contractor HEX.

### 1. Subject and duration of processing

- a) The contractor provides the following services for the contracting authority:
- Recording of the data of the contracting authority or associated travel agencies with the aim of enabling the contracting authority's booking of the contractor's products for the contracting authority's customers.
  - Carrying out all necessary steps to process these postings.

Within the scope of these services, the contractor processes personal data for the contracting authority on the basis of this contract.

- b) The term of this contract is linked to the term of the main contract between contracting authority and contractor via the primary (services) of the contractor.

### 2. Place of service provision

- a) The contractor provides services according to this contract exclusively in the territory of the Federal Republic of Germany, in a Member State of the European Union or in another Contracting State party to the Agreement on the European Economic Area.
- b) A transfer of the activity or parts of it to a third country in terms of Art 44 GDPR may only take place with the prior written consent of the contracting authority and must also fulfil the requirements of Article 44 GDPR. Consent must be given in writing (§ 126 BGB).

### 3. Nature and purpose of the processing

- a) Data shall be processed in the following manner within the meaning of Article 4 No. 2 GDPR and for the following purpose: Execution of bookings (collection, storage, readout, queries, use, disclosure by transmission, deletion)

### 4. Nature of data and categories of data subjects

- a) The following types of personal data within the meaning of Article 4 No. 1, 13, 14 and 15 GDPR are processed: Names of company/travel agency owners or office managers, email addresses, names, addresses, telephone numbers and vehicle data of customers
- b) The following categories of persons are affected:  
Company or travel agency owner/employee, customers

### 5. Responsible person; authority of the contracting authority to issue instructions

- a) The contracting authority is the person responsible within the meaning of Article 28 and Article 4 No. 7 GDPR. It is solely responsible for safeguarding the rights of the data subjects under Articles 12 to 22 of the GDPR.
- b) The contracting authority is entitled to issue instructions to the contractor with regard to the processing of the order within the scope of this contract. These must be issued in text form (§ 126b BGB). Oral instructions must be submitted immediately in writing.
- c) Persons authorised by the contracting authority with the power to issue instructions:  
Company or office managers and, if applicable, persons authorised by them, who are known to the contractor
- d) The individuals authorised to receive instructions for the contractor are:

The contractual contact persons of Holiday Extras GmbH vis-a-vis the contracting authority or the management of Holiday Extras GmbH.

- e) The contractor is obligated to inform the contracting authority immediately of any instructions which it considers to be contrary to data protection law. It must then wait until the contracting authority expressly issues a new instruction or adheres to the previous one.

### 6. Obligation to secrecy

Furthermore, the contractor ensures that the persons authorised to process the personal data have been committed to confidentiality, or are subject to an appropriate legal obligation to secrecy.

### 7. Security of processing the data

- a) The contracting authority and the contractor shall take technical and organisational measures which are suitable for minimising the risk of infringement of the rights and freedoms of the natural persons affected by the processing and for creating a level of protection appropriate to the risk. The state of the art, the implementation costs, the type, purpose and circumstances of processing as well as the probability of occurrence and severity of the risk must be taken into account.
- b) The measures referred to in paragraph 7 (a) shall include, inter alia:
- the pseudonymisation and encryption of personal data.
  - the ability to sustainably ensure the long-term confidentiality, integrity, availability and reliability of the systems and services related to the processing
  - the ability to rapidly restore the availability of and access to personal data in the event of a physical or technical incident
  - a procedure for periodic review, assessment, and evaluation of the effectiveness of technical and organisational measures for ensuring the security of processing
- c) The concrete measures are set out in sub-annex 1 to this contract.
- d) The contractor may adapt or modify the measures at any time, provided that it is ensured that the level of protection does not fall below the previous protection level. In particular, it can adapt the measures to meet new technical and organisational developments.

## **8. Hiring of subcontractors**

- a) The contracting authority shall grant general approval for the use of subcontractors by the contractor to the extent that they are contractually bound to the same extent with regard to order processing, taking into account the respective service, as the contractor guarantees vis-à-vis the contracting authority and the data protection regulations in accordance with the GDPR.
- b) The contractor only engages subcontractors domiciled in the territory of the Federal Republic of Germany, in a Member State of the European Union or in another Contracting State of the Agreement on the European Economic Area. Subcontractors domiciled in a third country within the meaning of Article 44 GDPR may only be used with the prior consent of the contracting authority; they must also fulfil the requirements of Article 44 GDPR.
- c) The subcontractors listed in sub-annex 2 are currently used to the extent described in each case. By signing this contract, the contracting authority agrees to their use; they are deemed to be approved.
- d) The contractor is entitled to replace the subcontractors mentioned in sub-annex 2 from similar companies, provided that the level of protection is not reduced.
- e) The contractor may use further subcontractors, which are necessary for the appropriate execution of its work, in addition to those already commissioned.
- f) The contractor shall inform the contracting authority of the intended use of new or additional subcontractors within the meaning of clauses 8 d) and e). The contracting authority may object to the use of the new subcontractor. The objection must be lodged in writing within seven days of receipt of the information unless the information letter specifies a time limit for lodging an objection. If the objection is not filed within the time limit and/or in due form, the use of the subcontractor concerned shall be deemed to have been approved.
- g) If the contracting authority objects in due time and suitable form, the contractor may terminate the contract with the contracting authority. The notice of termination must be in written form (§ 126 BGB) and must be given within a period of four weeks after receipt of the objection.
- h) Alternatively, the contractor may, at its discretion, offer to continue the contract using the previous subcontractor, provided that this does not require disproportionate effort. The contracting authority must then bear any additional costs. The contractor is not obliged to offer the continuation.

## **9. Obligation to notify in the event of disruptions and breach of the protection of personal data**

- a) The contractor shall immediately inform the contracting authority of any breaches of data protection regulations or the provisions of this contract caused by it or by persons it employs.
- b) The contractor shall immediately inform the contracting authority if irregularities occur in the processing of personal data.
- c) The contractor shall, as far as possible, assist the contracting authority in fulfilling its reporting and notification obligations under Articles 33 and 34 of the GDPR.

## **10. Other Obligations of the contractor**

- a) If possible, the contractor shall support the contracting authority with technical and organisational measures to enable it to fulfil its obligation to respond to requests from interested parties to exercise their rights under Section III of the GDPR.
- b) Upon request, the contractor shall provide the contracting authority with all necessary information, and shall provide information required to prove that it complies with the contractual and legal requirements.
- c) The contractor shall enable the contracting authority or its authorised inspectors to carry out inspections after consultation.
- d) The contractor shall assist the contracting authority in complying with its obligations under Article 32 to 36 of the GDPR, taking into account the type of processing and the information at its disposal.

## **11. Data deletion at the end of the contract**

The contractor is obliged to delete all personal data when this contract ends. This obligation does not exist if there is a legal obligation to store the data.

## **12. Other**

- a) Should the property of the contracting authority be at risk with the contractor as a result of seizure, confiscation, insolvency or composition proceedings or by other events and measures of third parties, the Contractor shall immediately inform the contracting authority about this.
- b) The following sub-annexes form part of this contract:
- c) Amendments and additions to this contract and its sub-annexes require the written form in order to be valid (§ 126 BGB). This also applies to any waiver of this written form requirement.
- d) For disputes arising from and in connection with this contract, the place of jurisdiction, which is determined in the main contract (cf. item 1b) between the parties, shall apply.

### **Sub-annexes:**

Sub-annex 1: Technical and organisational measures

Sub-annex 2: Subcontractors

## **Sub-annex 1 "Technical and organisational measures" to the contract on order processing**

The following technical and organisational measures have been taken in fulfilment of the obligations arising from item 7 of the contract for order processing:

### **(1) Organisational control**

The internal organisation is designed to meet the specific requirements of data protection. The following measures exist:

The responsibilities in the company are organisationally regulated by departments.

Employees are regularly made aware and trained, and the employees are bound to secrecy.

The contractor has appointed a Data Protection Officer.

Name: Mirko Tasch

Contact details: ituso GmbH, Industriestrasse 31, 82194 Groebenzell, Tel.: 08142-4205010, datenschutz@holidayextras.de

### **(2) Access control**

Measures designed to prevent the use of Data Processing Systems by unauthorised persons, such as denial of access by unauthorised persons to processing facilities within which the processing is carried out. The following measures exist:

Standard doors with security locks are installed in the HolidayExtras building at Aidenbachstrasse 52, Munich. These cannot be opened from outside even during business operations and can only be accessed by employees using RFT chips, so that visitors can only enter the business premises in the company of an employee.

Extended access authorisation via RFT chip is required for access to the server room.

The windows are standard windows without any further security. The windows are closed at the end of business operation and the privacy screen is lowered.

Video surveillance is installed in the entrance area of the building for security purposes. The person responsible is the leaseholder.

### **(3) Data carrier control**

Measures to prevent any unauthorised reading, copying, alteration or removal of data carriers.

Mobile transport of data carriers is not intended. Mobile devices are encrypted. The data carriers of the servers are first erased on the software, then rendered unusable. For mobile devices such as laptops, the data carriers are erased and then re-installed or rendered unusable. The printer buffers of all printers used externally are erased by IT staff.

### **(4) Memory control**

Measures to prevent unauthorised entry into the memory and unauthorised access to, modification or deletion of stored personal data. The following measures exist:

A password policy exists and is implemented. Access and role concepts are available on the server side (Active Directory). An authorisation concept is implemented.

### **(5) User control**

Measures to prevent Data Processing Systems from being used by unauthorised persons by means of devices for data transmission. The following measures exist:

A password policy exists and is implemented. Access and role concepts are available on the server. An authorisation concept is implemented.

### **(6) Access control**

Measures to ensure that the individuals authorised to use a Data Processing System can only access data that is subject to their access entitlement, and that personal data that is processed and used cannot be read, copied, modified or removed after being saved: The following measures exist:

Access rights are defined and checked using Active Directory. A logging of the changes in the documents is performed using Google Docs.

### **(7) Transfer control**

Measures to ensure that it can be verified and established where personal data has been or will be transferred or made available by means of data transmission facilities. The following measures exist:

Encryption and VPN for external access by employees is performed. The Holiday Extras website is SSL-encrypted with the HSTS header attachment.

### **(8) Input control**

Measures to ensure that it can be subsequently verified and established if and which personal data has been input into the data processing system by whom and at what point. The following measures exist:

Access and role concepts are available on the server (personal accounts) and are monitored by protocols.

### **(9) Transport control**

Measures to prevent the unauthorised reading, copying, modification or deletion of data during transfers of personal data or during transportation of data media. The following measures exist:

Mobile transport of data carriers is not intended. Mobile devices are encrypted. The printer buffers of all printers used externally are erased by IT staff. The Holiday Extras website is SSL-encrypted with the HSTS header attachment.

### **(10) Recoverability**

Measures to ensure that systems used can be restored in the event of a disruption. The following measures exist:

A data backup concept exists and is implemented. All systems are backed up daily via backup servers.

### **(11) Reliability**

Assurance that all functions of the system are available and any malfunctions that occur are reported. The following measures exist:

All systems are maintained on a regular basis; this maintenance is logged (ticket system). During this process, restore tests are also carried out. Systems monitoring is available.

**(12) Data integrity**

Measures to ensure that stored personal data cannot be damaged by malfunctions of the system. The following measures exist:

Logging of the systems is provided by the operating systems and is guaranteed by backups.

**(13) Order control**

Measures to ensure that personal data that is processed in the order can only be processed according to the instructions of the contracting authority. The following measures exist:

There is a clear contractual regulation for every customer. (GTC and acceptance of the contract) In addition, corresponding contracts for order processing are concluded with all service providers who process personal data in accordance with instructions.

**(14) Availability control**

Measures to ensure that personal data is protected against incidental destruction or loss. The following measures exist:

A data backup concept exists and is implemented. All servers run on a raid system. UPS systems for the servers are available to ensure availability and controlled system shut-down to prevent loss of integrity. Current firewall solutions are available on all operating systems (Server and Clients), in the same way as current virus protection.

**(15) Separation rule**

Measures to ensure that data collected for various reasons can be processed separately: The following measures exist:  
A client-capable system using a CHIP system (data processing programme) with its own clients.

**Annex 2 "Subcontractors" to the contract for order processing**

The contractor currently uses the following subcontractors:

Name:	<b>Holiday Extras Limited</b>
Address:	The Wave, Newingreen, Hythe, Kent CT21 4JF, Great Britain [sic]
Service/activity:	Web hosting, data storage, booking systems, development, data transfer, internal provision of infrastructure and programmes

Other service providers are not directly involved in order processing for the contracting authority.