



Charter Service

# General Terms and Conditions for Charter Cruises (GT&Cs)



## Charter Service

### 1. Subject-matter of the Charter Cruise Contract

1.1. The ordering of a minimum level of catering sales is a prerequisite for booking the ship and for the charter price agreed upon with KD. The minimum level of catering sales shall be calculated on the basis of the minimum number of participants agreed upon in the charter contract and on the provisions in subsection 5.1, unless otherwise expressly agreed.

1.2. The charter cruise shall consist of transportation, including use of the ship for preparation and wrap-up time. The maximum usage period is ten hours, including a maximum cruise period of eight hours. A charter cruise can start at 8 am at the earliest and should finish at 1 am at the latest. An extension by arrangement with KD shall be possible upon payment of an overtime rate or a package price.

Usage and transportation shall take place by way of Köln-Düsseldorfer Deutsche Rheinschiffahrt GmbH – hereinafter "KD" for short.

1.3. Additionally, a catering service shall be carried out by a subsidiary of KD, KD Europe S.à r.l. based in Luxembourg, or in the name of the respective caterer on board the ships.

### 2. Fare

Köln-Düsseldorfer Deutsche Rheinschiffahrt GmbH – hereinafter "KD" for short – charges a fare (charter price) for a charter cruise.

### 3. Catering Charge

All catering services on board shall be invoiced by KD Europe S.à r.l. or in the name of the respective caterer on board the ships. KD Europe S.à r.l. has appointed KD to collect payments KD shall carry out payment collection in the name of and by order of the catering firms also in all other respects.

### 4. Other Terms

4.1. The ships are based at specific locations. All prices for transportation are valid for the respective operational area of the ships, which is normally between Düsseldorf and Mainz/Frankfurt. Appropriate flat rates for empty trips shall be charged in the case of charter cruises outside of the respective operational area, unless otherwise agreed.

4.2. The gross charge for transportation, catering and other services includes value-added tax at the respective valid statutory rate.

4.3. KD expressly reserves the right to make price adjustments if the cost of fuel changes by more than 10% compared to the level at the time of the conclusion of the contract.

### 5. Catering

5.1. All ships have their own catering business. The catering services shall be carried out independently in the name of and by order of KD Europe S.à r.l., based in Luxembourg, or in the name of the respective caterer on board the ships. If possible, specific catering services should be ordered by no later than four weeks prior to the date of the event. KD shall be entitled to make catering agreements in the name of and by order of the respective caterers.

Only these agreements shall be binding for the on-board restaurant.

5.2. If a catering service has been firmly agreed upon in advance, the client/charter customer shall bindingly inform KD of the number of participants seven (7) calendar days prior to the start of the event at the latest. From this point in time onwards, it shall no longer be possible to reduce the binding number of participants. This shall also apply to catering services not firmly ordered in advance, e.g. à la carte meals/drinks, unless otherwise agreed.

As a rule, an increase in the number of participants shall, following consultation with KD, be possible up to seven (7) calendar days prior to the event at the latest, unless otherwise expressly agreed.

5.3. If the registered number of participations falls below this number in the case of services firmly ordered in advance, e.g. buffets, menus, finger food or event packages, and this is not communicated to KD seven business days before the start of the event at the latest, the full agreed charge shall be paid on the basis of the registered number of participations. If the registered number of participants is exceeded, the charge per person shall be additionally paid for the extra persons.



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5.4. Neither the client/charter customer nor individual participants shall be permitted to bring with them or distribute food and drinks or sell articles, products and the like on board.

### 6. Payment

6.1. All payments for the contractually agreed services shall be made to KD in Cologne without any deduction. KD shall carry out payment collection in the name of and by order of the catering firms. The following payment agreements shall apply:

6.2. After receipt of confirmation of the order and the deposit invoices, a deposit in the sum of 20 % of the total amount shown shall be due within twenty (20) calendar days or by the specified due date for payment.

6.3. After receipt of the invoice for the (gross) balance, this balance shall be paid, without any deductions, by no later than thirty (30) calendar days prior to the event.

6.4. The final settlement, if applicable, shall be made by way of invoicing by KD or the respective restaurant, KD Europe S.à r.l. or its authorised representative after the cruise has ended.

6.5. If the client/charter customer fails to transfer one or more of the contractually agreed amounts by the agreed dates, the client/charter customer shall be immediately in default without any further reminder ("Event of Default"), and KD shall be directly entitled to charge statutory default interest in accordance with the BGB [German Civil Code].

6.6. Moreover, KD shall, in the Event of Default, be entitled to rescind this charter contract or terminate it without prior notice after the client/charter customer has been set in writing a reasonable time limit for fully paying the outstanding amounts.

### 7. Cancellation

7.1. In the event of cancellation by the client/charter customer, cancellation fees calculated on the basis of the agreed gross charge shall become due. This shall also apply to event packages booked. Cancellation fees shall not be subject to VAT. As a rule, KD must be given written notification of cancellation.

7.2. Cancellation of the charter cruise as well as other services ordered (e.g. event technology and material costs) shall, in each individual case, be subject to the following cancellation fees, which are staggered as follows as a percentage of the respective agreed gross charge depending upon the time of cancellation. The date of receipt of the cancellation at KD shall be deemed to be the date of rescission.

Date of rescission (from the date of signing)	Fare	Event technology, material costs & miscellaneous
up to 365 calendar days prior to the event	20 %	inapplicable
364 to 180 calendar days prior to the event	30 %	10 %
179 to 90 calendar days prior to the event	50 %	20 %
89 to 21 calendar days prior to the event	70 %	40 %
20 to 1 calendar days prior to the event	80 %	80 %
In the event of no show, cancellation on the day of the event or subsequent cancellation	95 %	95 %

In the event of cancellation, KD shall attempt to use the ship elsewhere on the day of the event for the purposes of loss mitigation and, insofar as cost savings can be attained by doing so, credit these to the customer less an appropriate flatrate processing fee for the extra effort and expense.

However, KD points out that charter cruises are ordinarily booked well in advance, and it is only very rarely possible to conclude a (equivalent) substitute charter at short notice. Furthermore, KD points out that, even in the event of cancellation, KD has to pay for its own ship charter (unless the ship concerned is its own ship), insurance, permanently employed crew and other fixed costs, etc. The client/charter customer shall remain free to prove that KD made additional savings in the specific case concerned.

7.3. In detail, the following provisions shall apply to the cancellation of firmly ordered catering services:



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### 7.3.1. Provision regarding percentages

Date of rescission (from the date of signing)	Catering
up to 365 calendar days prior to the event	10 %
364 to 180 calendar days prior to the event	20 %
179 to 90 calendar days prior to the event	30 %
89 to 21 calendar days prior to the event	40 %
20 to 8 calendar days prior to the event	70 %
7 to 2 calendar days prior to the event (last day when the number of passengers under subsection 5.2 can be reduced and after the corresponding purchases have been made)	80 %
up to 1 calendar day prior to the event	90 %
In the event of no show, cancellation on the day of the event or subsequent cancellation	95 %

### 7.3.2. Basis of calculation

If a catering service has been firmly agreed upon, the corresponding charge shall be taken as a basis for calculating the flat-rate cancellation fee.

If a catering service was supposed to be firmly agreed upon in advance, but this agreement failed to materialise for reasons not attributable to KD, or if the arrangement concerned relates to à la carte meals/drinks, the cancellation fees shall be calculated on the basis of the number of participants specified in the charter contract, but at least the minimum number of participants specified in the charter contract. Per head sales shall be calculated for every participant. This amount shall be based on the lowest priced buffet and a lowest priced drinks package for the procurement of the drinks, which shall be usable elsewhere insofar as possible. The cancellation fees shall ensue by multiplying the number of participants by the per head sales, applying the staggered scales set out under subsection 7.3.1.

The client/charter customer shall remain free to prove that the catering firm made additional savings in the specific case concerned.

## 8. Liability and Force Majeure / Covid-19

8.1. The client/charter customer shall be liable for loss caused by participants or the charter customer itself or its authorised agents.

8.2. In the event of force majeure, such as in particular flooding or low water levels, serious damage to the ship through no fault of KD or hindrances to the cruise, e.g. suspension of shipping, defective/closed-off water locks, other external events of force majeure preventing the agreed ship berth being reached, strike, war, war-like events, insurrection, epidemics, pandemics, natural disasters, acts of terrorism, hindrances due to state sanctions or official travel warnings, the parties' rights and duties affected by this shall be automatically suspended. The parties shall jointly endeavour to take appropriate measures to nevertheless ensure, if possible, that this charter contract is carried out, even at a later point in time if necessary. If this is not possible with reasonable effort and expense, the rights and duties shall no longer apply.

8.3. In cases of force majeure, all liability shall cease to apply for the party who, on account of force majeure, is wholly or partly unable to fulfil its duties arising from this charter contract.

8.4. Where a charter cruise cannot be carried out by KD owing to Covid-19, the parties' rights and duties shall cease to apply also in this case. Where a charter cruise can only be carried out to a limited extent owing to Covid-19, for example because the relevant authorities have ordered that the number of persons be limited or that additional hygiene measures be taken, the charter shall nevertheless take place to the extent then still permitted, insofar as this is commercially possible for KD. The parties shall be free to agree upon a postponement. In this case, a change-of-booking charge at the flat rate of 10 % of the contractually agreed gross charter price, plus value-added tax at the statutory rate, shall apply.

## 9. Integral Part of the Contract

9.1. Bookings received via commercial agencies shall only be effective if confirmed in writing by KD in Cologne. **The commercial agencies shall not be entitled to collect payments.**



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9.2. KD reserves the right to use a different, structurally similar ship from the fleet to fulfil the obligations entered into in this charter contract.

9.3. KD represents and warrants that, upon the commencement of use and throughout the charter cruise, the ship shall be appropriately equipped, sufficient personnel shall be available, and the safety of the participants shall be ensured. The client/charter customer or its authorised agent shall be the point of contact for the participants and for KD.

9.4. If the event has to be registered for the payment of entertainment tax and with the regional head office of GEMA [Society for musical performing and mechanical reproduction rights], this shall be the client's/charter customer's responsibility.

9.5. Depending upon the event concept, the client/charter customer shall submit organiser's liability insurance to KD in advance and prove, on request, that competent security and medical staff have been appointed. The stipulations regarding the number shall be agreed upon by KD with the client/charter customer. The effecting of insurance with an adequate sum insured as well as a viable event/safety concept are key bases of the contract.

### 10. Ship Berth Approval

10.1. KD shall be responsible for obtaining from the appropriate port authorities – and any other relevant authorities – within a reasonable period after the signing of this charter contract the necessary approvals for use of the berth for the charter cruise.

10.2. If no approval under subsection 10.1 is granted for the ship berth wished for by the client/charter customer, KD shall, following consultation with the client/charter customer, attempt to obtain approval for an alternative appropriate and equivalent ship berth.

### 11. Safety

11.1 The passengers must always comply with the ship management's instructions, as these serve the safety of the ship and the passengers.

11.2. Before guests are admitted, the client/charter customer shall be informed of on-board safety-related issues by way of a brief safety meeting. The relevant emergency exits and escape routes for the customer or the event shall be

shown during this meeting. The captain or a specialist representative shall conduct this meeting on the part of KD, and a responsible representative of the client/charter customer may also attend.

11.3. The client/charter customer shall assist the KD ship personnel in ensuring that the emergency exits and escape routes are kept clear as mandatorily required. During landing and casting off, the client/charter customer shall assist the ship personnel in the entrance area insofar as possible to ensure that the guests board and disembark in an orderly manner.

11.4. Smoking is banned inside the ship. It is only permitted on the outside deck or in the outside areas designated for this.

11.5. Open flames are banned on board. Candles, lanterns etc. must not be used (with the exception of the fuel Kerzolin). The B1 certificate (flame-resistant, DIN 4102) must be presented for any decoration brought on board.

11.6. The use of so-called confetti shooters or smoke machines shall be subject to KD's approval in each individual case. Increased cleaning costs may arise, which shall be passed on accordingly.

### 12. Noise Pollution Control

12.1. In order to ensure the night-time peace of the residents, the noise level of the sound equipment used on the outside deck must be limited to the defined decibel level until 10 pm, and after 10 pm to the level corresponding to the measurement protocol. The levels must be ascertained individually for every event and be recorded in the measurement protocol. The notes in the protocol must be heeded. If complaints regarding breach of the peace are made to the regulatory authorities, this measure shall serve as proof that the guidance levels have been adhered to.

12.2. Music may be played on the outside deck within the limited decibel levels until midnight. Nevertheless, music on the outside deck must be limited to a sound level no higher than 65 dB 15 minutes before the scheduled landing time at the latest, or alternatively the music shall be turned off. This restriction shall also apply to on-board events taking place whilst the ship is at the landing stage, for example.



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12.3. Music below deck must not exceed an average noise level of 99 dB in the middle of the dance floor. The client/charter customer must inform the audience of a noise level of 85 dB or higher. Furthermore, the audience must be provided with hearing protectors in the case of a noise level of 95 dB or higher. The peak noise level for a short period of time must not exceed 135 dB.

12.4. KD or a partner authorised by KD shall be responsible for monitoring these levels and times.

12.5. A professional sound system is permanently installed on the event ships and is rented out from KD for the package price, including a technician.

If, however, the client/charter customer uses its own event technology on the outside deck, the client/charter customer shall independently prove the noise levels by means of measurements, record these in the separate measurement protocol for independent installations and hand over the protocol to the captain or his deputy. The notes in the protocol, just as the scheduling stipulations, must be heeded.

### 13. Marketing

13.1. The ship owner holds diverse trademark rights with the element "KD" as well as the copyrights in the advertising, promotional and other material made available to the client/charter customer. This material may be used by the client/charter customer for advertising and promotional purposes and shall be sent to the client/charter customer exclusively by KD.

13.2. Advertising and promotional material created by the client/charter customer in connection with the charter cruise shall bear exclusively the client's/charter customer's logo and may be used by the client/charter customer. Use of KD's logo shall be permitted only following specific examination and approval by KD.

### 14. Insurance

14.1. KD shall maintain the following insurance for the ship for the purposes, and the entire duration, of this charter contract:

hull & machinery insurance, including co-insurance of the client/charter customer, in each case with an insured sum corresponding to the insured value of the ship. Liability insurance, including cover for the risks associated with the

operation of the ship (P&I cover), with an insured sum of € 15,000,000.00 annually.

### 15. The Client's/Charter Customer's Obligation

15.1. The client/charter customer and KD hereby confirm that they are aware of all laws and regulations applicable to use of the ship as a charter ship and shall adhere to these at all times.

15.2. Any subleasing of the ship as a whole shall be subject to the provisions under Section 16 of this charter contract.

15.3. After the charter period has ended, the client/charter customer shall return the ship to KD in faultless condition, including fixtures, fittings and equipment.

15.4. The client/charter customer shall be liable for all alterations and damage in and to the ship caused with wrongful intent or negligence by the client/charter customer, its passengers or the personnel engaged by it. The client/charter customer undertakes to hold KD fully harmless in respect of damage to, and loss of, ship fixtures, fittings or equipment.

15.5. If participants assert claims of any kind against KD, whether judicially or extrajudicially, the client/charter customer shall hold KD fully harmless. This shall not apply if the loss or damage claimed is attributable to KD or any of its authorised agents.

15.6. Termination shall no longer be possible at any time after the charter contract has been signed by both parties.

### 16. Assignment of Rights and Duties

16.1. Transfer of this agreement or any right or duty contained herein shall only be valid with the other party's prior written consent. If such consent is given, the corresponding legal successor or the assignee shall be unconditionally bound by this charter contract.

16.2. Regardless of the above subsection 16.1, each party may, without the other party's consent, transfer rights and duties arising from this agreement to another Group company on condition that the transferring party shall be liable for a breach of contract by this Group company, in addition to the latter, to the same extent as if it had committed the breach of contract itself. The transferring party shall give the other party written notification of any transfer under this subsection 16.2 without delay.



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16.3. If the transferring party and the acquiring Group company are no longer part of the same Group, the transferring party shall ensure that the Group company transfers back to it without delay all rights and duties arising from this charter contract. Failing this, the respective other party may rescind this charter contract or terminate it without prior notice.

### 17. Severability Clause

If individual provisions in this charter contract are void, ineffective or inoperable, this shall not affect the effectiveness of the remaining provisions. To replace the void, ineffective or inoperable provision, the parties shall agree upon a provision that most closely reflects this provision commercially.

### 18. Notifications

18.1. Where notifications have to be made to the other Party under this charter contract, the notifying party shall draw these up in writing in German and hand them over personally or by registered letter or courier to the other party's address specified in this agreement.

18.2. The normal communication regarding the business transaction may take place by email.

18.3. A party may change the address for notifications by communicating the new address to the other party ten (10) days in advance.

### 19. Applicable Law and Place of Jurisdiction

19.1. Substantive German law, excluding the conflict-of-law standards, is exclusively applicable to this charter contract.

19.2. Where the client/charter customer is a merchant, the courts in Cologne (Germany) shall have exclusive jurisdiction over all disputes arising from and in connection with this charter contract.

The right to make changes is reserved.

**As of: 1 February 2021**

Older versions cease to be valid with immediate effect.