

General Business Conditions of Eurotours Ges.m.b.H. on-line picture archive (EOA)

I. General

- (1) Eurotours Ges.m.b.H. has compiled an on-line picture archive serving the availability of pictures by means of an Internet data bank.
- (2) Use in the sense of these General Business Conditions includes any form of publication of the picture material or a part thereof. It also applies to the layout, copying, projection, reproduction, offprint, scanning and storage of the picture material in electronic data carriers, even if this only relates to sections of pictures.
- (3) Use of Eurotours Ges.m.b.H. on-line picture archive (EOA) remains exclusively subject to alteration and is not exclusive, it is subject to the following conditions. Any of the user's business conditions deviating therefrom are herewith explicitly contradicted.
- (4) The user of the EOA declares explicitly that he/she consents to these General Business Conditions. User in the sense of these General Business Conditions is anyone who obtains access to the EOA by registration, irrespective of whether he/she downloads pictures from it or not.
- (5) Use of the picture files stored in the EOA is free of charge.
- (6) Downloaded digitally conveyed picture material as well as material transferred by Eurotours Ges.m.b.H. always remains the property of the author or Eurotours Ges.m.b.H.. Limitations of use as stipulated in paragraph 3 of these general business conditions apply to downloaded pictures as well as to pictures transferred by Eurotours Ges.m.b.H. whether the data will be sent electronically or by CD.
- (7) For access to the EOA any visitor must first register on-line. After successful registration the user will receive a user name and a password by e-mail. The user can look at pictures in the EOA and send a request.
- (8) The data for the access entitlement are to be treated confidentially by the user and are not to be passed on to third parties. Should the access data be misused by fault of the user, the latter will be liable for any damage thus resulting.
- (9) The user has no claim to permanent accessibility of the EOA. Eurotours Ges.m.b.H. is at any time free to switch off the server temporarily or permanently and to change, delete or supplement the contents stored there. The required Internet browser software must be procured by the user him/herself. The user him/herself bears the costs of provider and telecommunication fees arising from any downloading.

II. Liability

- (1) Eurotours Ges.m.b.H. bears no liability whatsoever for any flaws or defects in hardware and software arising during on-line research, data transmission, or use of the EOA.
- (2) Nor does Eurotours Ges.m.b.H. bear any responsibility for the suitability of a picture or the data amount of a picture for the user's intended purpose. Eurotours Ges.m.b.H. makes the on-line picture archive available as it is, i.e. with any eventual flaws.
- (3) Eurotours Ges.m.b.H. cannot guarantee that the Internet pages made available, the picture files to be found in the EOA and the compact discs provided are free from viruses, unauthorized program, Java or source codes or other eventual components interfering with function or business.
- (4) The user is liable for any use contradictory to these General Business Conditions and for any other misuse or illegal use of the EOA and the pictures provided there. Should the user nevertheless use the EOA or the pictures in an inadmissible manner, he/she undertakes to fully indemnify Eurotours Ges.m.b.H. for any damages arising in this way. Furthermore he/she

will in general indemnify Eurotours Ges.m.b.H. in respect of any claims made on Eurotours Ges.m.b.H. arising from any use, even when it is permitted.

III. Limitation of use

- (1) When registering, the user must supply his/her personal information as indicated in the online registration form. Only after registration does the user acquire access to the EOA.
- (2) The user can download pictures or have them transferred by Eurotours Ges.m.b.H.. A prior release by Eurotours Ges.m.b.H. at all modes of transfer is necessary.
- (3) Eurotours Ges.m.b.H. reserves the right not to transmit pictures if the proper use is not clear. In case of misuse of the picture material consent to use is to be regarded as not granted.
- (4) Use is permitted for advertising purposes (e.g. EOA picture in an advertising brochure) since in this case the pictures merely serve to market a product, but are not directly part of the product destined for sale (indirect commercial use).
- (5) The data from the on-line picture archive may not be used directly for commercial purposes, i.e. pictures from the EOA may not be part of a product destined for sale (e.g. T-shirt with a EOA picture).
- (6) It is pointed out in particular that pictures may only be used in direct connection with the promotion of a product, i.e. pictures assigned to a certain region in the EOA only may be used for the promotion of offers from this region.
- (7) No alterations of any kind are permitted, in particular the distortion of the pictures by copying, rephotographing, photocomposition, electronic aids or other means. Nor is it permitted to use parts of pictures. Pictures may thus only be used in their entirety and unaltered.
- (8) It is not permitted to pass the picture material on to third parties.
- (9) All EOA pictures are to be treated as originals. On principle, only the right of use of the photographic copyright is transferred. Eurotours Ges.m.b.H. explicitly requires an agency and copyright note (source reference) in such a manner that there is no doubt of its being attributed to the respective picture. The user has to exonerate Eurotours Ges.m.b.H. from claims of third parties arising from neglect of copyright notice.
- (10) In the case of inadmissible use of the EOA pictures in contravention of the paragraphs listed above, the user must in each individual case pay Eurotours Ges.m.b.H. a contractual penalty of € 3.000,- (in words: three thousand Euros) within 14 days of being called upon to do so, index linked according to the consumer price index 2000 (basis month October 2003). Any damages exceeding that amount can be asserted by Eurotours Ges.m.b.H., so can the prohibition of use.

IV. Legal venue, other

- (1) Subsidiary agreements to these contractual conditions must be made in writing in order to be legally effective. This also applies to any departure from, alteration to or termination of this written requirement.
- (2) Austrian substantive law is applicable for any disputes arising from the use of the EOA. The applicability of Austrian law is also agreed upon when the EOA is used by users abroad.
- (3) The court of law competent for 6353 Kitzbühel is agreed upon as the exclusive venue for any legal disputes arising from the agreed use of the EOA on the basis of these General Business Conditions. Eurotours Ges.m.b.H. can, however, prosecute the user at another legal venue in Austria or abroad.

- (4) In as much as any condition in these General Business Conditions is invalid, Eurotours Ges.m.b.H. and the user herewith explicitly undertake to arrange legally effective conditions which are as close an approximation as possible of the economic purpose of the invalid condition. The effectiveness of all other conditions is not affected by the ineffective condition.
- (5) All rights and obligations arising from these General Business Conditions devolve upon any legal successors of Eurotours Ges.m.b.H..