

## 2Birds Booking Terms and Conditions

### 1. Definitions

In these 2Birds Booking Terms and Conditions ("General Terms"), all terms not otherwise defined shall have the same meaning as set forth in the 2Birds Web Site ([www.2birdswinetasting.com](http://www.2birdswinetasting.com)) Terms of Use.

#### 1.1.

Certain terms are defined as follows:

<b>"Agreement"</b> All legal relationships between Customer and 2Birds to which these General Terms apply, including without limitation all terms set forth in the Booking.
<b>"Booking(s)"</b> An order for tours and/or the ordering of related products and/or services via the Booking Form of the 2Birds Site and these General Terms;
<b>"Customer"</b> The individual listed named, together with their contact information, on the Booking Form, together with all additional individuals within the group signing up for a particular Tour or experience (or contracting for related products and services).
<b>"Tour(s)"</b> The various wine tasting tours and experiences offered on the 2Birds Site shall individually and collectively sometimes be referred to as Tours.

### 2. Prices and Payment

- 2.1. The prices for Tours and related products and services are as set forth on the 2BirdsWebsite, as the same are confirmed or modified in the Booking; if there are any discrepancies between the terms/pricing on the 2BirdsWebsite and the Booking, the terms set forth in the Booking shall control. Unless agreed upon otherwise in writing, the agreed prices and rates are fixed and invariable and are stated in euros, excluding VAT and other levies imposed by the authorities. 2Birds shall add Spanish IVA to all pricing, which tax shall be for the account of Customer.
- 2.2. Unless specifically agreed otherwise in writing, the prices do not include: the costs of transport, customs clearance, insurance, and packaging.
- 2.3. Customer will pay 2Birds based upon the payment schedule set forth in the Booking.
- 2.4. If Customer challenges an invoice, 2Birds will reply as soon as reasonably possible. Subsequently, the parties will enter into discussion to resolve, in mutual agreement, possible differences of opinion regarding the indebtedness of the challenged invoice.
- 2.5. If Customer fails to comply with any of its obligations pursuant to the Agreement, 2Birds shall be entitled to immediately and without judicial intervention suspend the execution of any of its obligations pursuant to the Agreement, all of this without prejudice to 2Birds's right to exercise any other legal right.
- 2.6. Payment can be made through various payment methods 2Birds makes available, such as Visa, MasterCard or American Express cards. Payment cards (credit cards or debit cards) are subject to validation checks and authorization by Customer's card issuer. If 2Birds does not receive required authorization, 2Birds will not be liable for any delay, inability to complete a Booking or non-delivery of a Booking.

### 3. Cancellation and Refund Policy

- 3.1. **2Birds Right to Cancel Bookings.** If 2Birds has to cancel a Booking for any reason, all amounts paid by the Customer to 2Birds will be promptly refunded.
- 3.2. **Right to Cancel Booking for Late Payment.** 2Birds reserves the right to cancel Bookings in the event Customer does not complete a payment on time; in the event of such a cancellation, no refunds shall be due for any deposits or other payments previously made by Customer.

- 3.3. **Customer Cancellations.** Any Customer cancelling a Tour within 3 days of such Tour will be charged the full Tour price and will not be eligible for a refund. Additionally, a Customer will not be eligible for a refund in the event of a no-show/being more than 30 minutes late for a Tour.

3.3.1. If a Customer cancels a Tour, other than a Gran Reserva Tour, more than five (5) days before the Tour's scheduled date, then 2Birds will issue a 50% refund of amounts paid;

3.3.2. Gran Reserva Tour deposits are non-refundable. Additionally, if a Customer cancels a Gran Reserva Tour less than seven (7) days before its scheduled date, then Customer will be responsible for 100% of such tour costs not already paid.

- 3.4. **Potential Re-Scheduling (Not Guaranteed).** In case a Customer cancels a Tour after the date when a refund would be due (i.e., no refund due to late cancellation), subject to availability 2Birds may offer Customer an alternative date to reschedule; if Customer and 2Birds agree to a re-scheduled Tour date, any prior deposit or payment for the previously cancelled Tour shall be applied to the new Tour date; provided, that (i) 2Birds reserves the right to charge an additional rebooking fee equal to 10% of the full initial Tour fee plus any difference in cost between the original Tour and new Tour booked, which fees shall be due in full prior to any confirmation of a rebooking, and (ii) 2Birds is under no obligation to provide Customer a new date/rebooking with respect to any cancellation (late or otherwise) of a Tour. Please note that the price for rescheduled Tours may differ from original pricing due to Tour price changes, seasonal price variations, and availability of suppliers, vendors and locations.

- 3.5. Because most 2Birds Tours require advance planning, as well as in many instances confirming third party venues and/or service providers, cancellation policies are strict, and rescheduling in most instances cannot be accommodated.

### 4. Performance

- 4.1. Performance of booked Tours, and delivery of related products ordered and/or performance of related services shall be timely performed and completed, except in the event of force majeure.
- 4.2. 2Birds shall inform Customer immediately as soon as any delay is expected, without prejudice to the obligation to deliver the Tour(s) and related products and/or services within the agreed period. 2Birds shall endeavour to remedy any delays as quickly as possible, and if remedial action is not practical, shall advise Customer, if and as applicable, of cancellations, opportunities for rescheduling (if any), and refunds policies.

### 5. Customer Responsibilities/Code of Conduct on Tours

- 5.1. Customers should be aware that they assume several responsibilities beyond arriving on time for Tours. The following are responsibilities that Customers assume (for themselves, and for any individuals for whom they make a Booking):
  - 5.1.1. **Insurance.** Customers are responsible for having or contracting their own personal insurance policies to assist them in case of injury and/or death while taking a Tour. 2Birds recommends customer obtain relevant insurance (e.g., Travel, Cancellation, Medical). 2Birds will not absorb any costs, and does not accept responsibility for customers procuring applicable insurance in advance of Tours.
  - 5.1.2. **Health.** Tours may include moderate walking, food pairings, and consumption of alcoholic beverages (wine!). Customers are responsible for their own health precautions, and should take up-to-date

- health advice before any Tour or consuming any wine/product.
- 5.1.2.1. Customers are responsible for communicating any food allergies, and any physical or other applicable limitations to 2Birds prior to taking any Tour.
- 5.1.2.2. Customers are solely responsible for their medical issues, including storage and use of medicines during any Tours.
- 5.2. **Behaviour/Personal Items.** 2Birds often provides Tours at third party venues, some of which are not generally open to the public. Accordingly, Customers are "guests" and should act and treat property with the respect and decorum as would be customarily expected as a guest on a private estate/property. 2Birds reserves the right to stop Tours and require Customers to leave for inappropriate behavior at any private venue. Additionally, Customers are responsible for looking after their personal belongings during Tours (including during arranged transportation).
- 6. Intellectual Property Rights**
- 6.1. 2Birds shall own all rights, title, and interests, including, without limitation, all intellectual property rights in and to elements on its 2Birds Site, marketing materials, custom elements/materials/products created for Customer as part of any products ordered through Bookings or otherwise, as well in any other results of proceeds of the services performed relating to Tours ("2Birds Materials"). For avoidance of doubt, Customer shall not obtain any interest in 2Birds Materials, all of which are reserved exclusively by 2Birds.
- 7. Confidentiality**
- 7.1. For the purposes of the Agreement and/or the Booking, "**Confidential Information**" means all information of a confidential nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**") whether before or after the date of the Agreement and/or the Booking. For the avoidance of doubt, "Confidential Information" shall include:
- 7.1.1. the terms of the Booking;
- 7.1.2. all information whether of a technical nature or otherwise relating in any manner to the business or affairs of the Disclosing Party as may be communicated to the Receiving Party pursuant to the Agreement and/or the Booking; and
- 7.1.3. all know-how, techniques, ideas, principles and concepts which underlie any element of any of 2Birds's products and services, and which may be apparent by Customer's use, testing or examination of them.
- 7.2. During the term of the Agreement and/or the Booking and a period of three (3) years after termination of the Agreement each party shall:
- 7.2.1. keep the Confidential Information confidential;
- 7.2.2. not disclose the Confidential Information to any other Third Party other than with the prior written consent of the Disclosing Party, or in accordance with section 7.3 below; and
- 7.2.3. not use the Confidential Information for any purpose other than the performance of its obligations under the Agreement and/or the Booking.
- 7.3. Neither Party will disclose the Confidential Information, either partly or completely, to any Third Party (including but not limited to affiliated companies, customers, auditors) other than those employees, advisors or consultants of that Party to the extent necessary for the purpose of implementing the Agreement and/or the Booking. Each Party shall procure compliance with the provisions of this section by such persons and accepts full responsibility for any breach of the provisions of the Agreement and/or the Booking committed by any such person.
- 7.4. The obligations contained in sections 7.2 and 7.3 above shall not apply to any Confidential Information which:
- 7.4.1. is in the public domain, or which becomes generally available to Third Parties by publication or through no fault of the Receiving Party;
- 7.4.2. the Receiving Party is able to show to the reasonable satisfaction of the Disclosing Party was lawfully in its possession prior to such disclosure and was not acquired directly or indirectly from the Disclosing Party;
- 7.4.3. is lawfully obtained by the Receiving Party from any third party not similarly bound by such confidentiality obligations; or
- 7.4.4. is required to be disclosed by law or by any regulatory or governmental authority. In this event, the Receiving Party shall notify the Disclosing Party as promptly as practicable, and if possible prior to making any disclosure, and shall use its reasonable endeavours to seek confidential treatment of such information.
- 7.5. The parties accept that any breach of this section 7 by the Receiving Party could cause injury to the Disclosing Party and that in the event of such a breach, monetary damages would not necessarily be an adequate remedy. Accordingly, in the event of such a breach or threatened breach by the Receiving Party, the Disclosing Party shall be entitled to apply for injunctive relief in any court of competent jurisdiction, without prejudice to the other remedies available to the Disclosing Party for such breach or threatened breach.
- 8. Liability**
- 8.1. Customer agrees and confirms that the limitations on liability and damages detailed in the 2Birds Site Terms of Use shall equally apply to any Booking.
- 8.2. For avoidance of doubt, in no event shall either party be liable for lost profits, costs of procurement of substitute products or services or for any special, consequential, incidental, punitive or indirect damages arising out of or related to the Agreement, whether under theory of contract, tort or otherwise, regardless of whether or not such applicable party has been advised of the possibility of such damages.
- 8.3. Additionally, for avoidance of doubt, in no event shall 2Birds' aggregate liability to Customer arising out of or related to the Agreement exceed the greater of the amount paid by Customer to 2Birds during the six (6) month period prior to the cause of action or One Hundred Euros.
- 8.4. The limitations set forth in this section (i) shall apply to the maximum extent permitted by applicable law, (ii) shall apply even if an exclusive or limited remedy stated herein fails of its essential purpose and (iii) are an essential element of the basis of the bargain between the parties.
- 9. Waiver and Release; Representations Regarding Provision of Personal Information**
- 9.1. Customer acknowledges that not all risks can be eliminated without jeopardizing the essential qualities of the experience/Tour, and that participation in Tours is purely voluntary. Accordingly, Customer (including for avoidance of doubt, all group members taking a tour), on behalf of himself/herself, agrees to (i) accept and assume all of the risks existing in this activity/Tour ; (ii) release, forever discharge, and waive any and all claims, demands, or causes of action, which may arise from or in any way be connected with participation in the Tour, including any such claims which allege negligent acts or omissions of 2Birds; and (iii) assume the risk of any medical or physical condition Customer may have. The foregoing waiver and release, for avoidance of doubt, regarding 2Birds shall (i) include all 2Birds agents, owners, officers, volunteers, participants, employees, and all other persons or entities acting in any capacity on their behalf, and (ii) as regards Customer shall include Customer and Customer's relatives, heirs, assigns, personal representatives and estate.
- 9.2. To place a Booking Customer may be asked to supply certain information relevant to their order including, without limitation, their name, email, phone number, credit card number, expiration date of their credit card, billing address, and shipping information. Customer represents that (i) Customer has the legal right to use any credit or debit card(s) or other payment method(s) in connection with any Booking, and that (ii) the information Customer supplies to 2Birds is true, correct and complete. By submitting such information, Customer grants 2Birds the right to provide the information to payment processing third parties for purposes of facilitating the completion of their Booking.
- 10. Force majeure**
- 10.1. Neither party will be responsible for any failure or delay in its performance under this Agreement due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, lockdowns (pandemic or otherwise), internet or telecommunications failures, shortages of or inability to

obtain labor, energy, or supplies, war, terrorism, riot, acts of God or governmental action, and such performance shall be excused to the extent that it is prevented or delayed by reason of any of the foregoing.

#### **11. Breach and termination**

- 11.1. The Agreement may be terminated immediately by written notice to the other party –
  - 11.1.1. By 2Birds upon thirty (30) days prior written notice to Customer;
  - 11.1.2. By either party immediately upon written notice to the other party, in the event of a material breach of this Agreement by the other party which remains uncured for a period of thirty (10) days after receipt of written notice of such breach is provided to the breaching party;
- 11.2. Any termination of the Agreement shall not affect any other rights to which a party may be entitled hereunder or at law, including any accrued rights or liabilities of either party.
- 11.3. Upon the termination or expiration of the Agreement - for any cause whatever - both parties' confidentiality obligations shall remain in force.

#### **12. Miscellaneous**

- 12.1. Provisions that, due to their nature, are intended to remain applicable after the end of the Agreement shall survive the termination of the Agreement.
- 12.2. Any variation of or addition to the Agreement and/or the General Terms shall only be of any force or effect if mutually agreed and signed by both parties.
- 12.3. If any provision of the Agreement is found or held to be invalid unlawful or unenforceable, the validity of all the other provisions of the Agreement and/or the General Terms shall not be affected thereby.
- 12.4. In the event of any conflict between the terms and conditions of these General Terms (applicable to Bookings) and the 2Birds Website Terms of Use, the terms and conditions set forth in these General Terms shall control.
- 12.5. 2Birds is entitled to assign, cede or transfer or otherwise dispose of any of its rights and obligations under the Agreement and/or the Booking to third parties, provided that 2Birds shall give the Customer prompt written notice of such assignment, cession, transfer or disposal.
- 12.6. Customer does not have the right to make use directly of third parties utilized by 2Birds for Tours or otherwise in fulfilling this Agreement, either by subcontracting or by temporary hire of personnel, in the execution of the Agreement, without prior written permission from 2Birds.
- 12.7. A waiver by either party of a breach of any term or condition of the Agreement in any one instance shall be in writing and shall not be deemed as a continuing waiver or a waiver of any other or subsequent breach unless the written notice so provides.
- 12.8. Nothing in the Agreement shall be deemed to create any joint venture, partnership or principal and agent relationship between the parties.

#### **13. Governing law**

- 13.1. The Agreement and any Booking shall be governed by and construed in accordance with the laws of Spain, without reference to the choice of law provisions thereof.
- 13.2. Any action in law or equity arising out of or relating to this Agreement or any Booking will be filed only in the courts located in Mallorca, Spain, and Customer hereby consents and submits to the personal and exclusive jurisdiction of such courts for the purpose of litigating any such action.