

## THE DIFFERENT TRAVEL COMPANY TERMS & CONDITIONS FOR BESPOKE EVENTS

### Definitions

The following key phrases, which are listed below in alphabetical order, have the same meaning whenever they appear.

**Agreement** — means these terms and conditions and the Letter of Confirmation

**Applicable Laws** – means in relation to any undertaking and any circumstance all laws, regulations, standards determined by any governmental or regulatory authority and generally applicable industry or self-regulatory standards and codes of practice, whether the same are regional, national or international, which apply to such undertaking or to such circumstance, including but not limited to, all relevant health and safety legislation, the Data Protection Act 2018, the General Data Protection Regulation (GDPR) (EU) 2016/679, the Consumer Rights Act 2015 and the Consumer Protection Act 1987, the Bribery Act 2010, the Modern Slavery Act 2015, the Package Travel, Package Holidays and Package Tours Regulations 1992 and the Civil Aviation (Air Travel Organisers Licensing) Regulations 1995, in each case as amended, extended, re-enacted or replaced from time to time.

**ATOL** — Air Travel Organisers' Licence which is issued by the Civil Aviation Authority (CAA).

**Brochure** – The brochure for the Event, as produced by DTC and provided to the Partner (or produced by the Partner to be approved by DTC), including the information in Schedule 1 where relevant to the Event.

**CAA** – Civil Aviation Authority

**Confidential Information** - Any information belonging to or in the possession or control of a party that is of a confidential, proprietary or trade secret nature and that is furnished or disclosed to the other party. Confidential Information will remain the property of the disclosing party and the receiving party will not acquire any rights to that Confidential Information.

**DTC** — The Different Travel Company Limited, Company Number 05324268 (with registered address at 4 Downs Park Crescent, Totton, Southampton, Hampshire SO40 9GH).

**Event** — The trip itself as a whole, organised by DTC and summarised in the Letter of Confirmation which could include, without limitation, Project work, trekking, cycling or similar challenge activity or a combination of these particulars.

**Group** — The combined group of participants taking part in the Event.

**Letter of Confirmation** — A written declaration provided by DTC to the Partner including, but not limited to, confirmation of the specific components which form the Event, the Operational Costs, the name of the Event, the name of the Partner and the departure dates.

**Operational Costs** — Those costs (inclusive of VAT) which are specified in the Letter of Confirmation as "Tour Costs" and are the full and exclusive costs for the Services and stated in the Letter of Confirmation as "included" in the price quoted, such as flights, accommodation, transportation and so on.

**Participant(s)** — An individual or individuals who pay a Registration Fee and commit to take part in the Event organised by DTC.

**Partner** — The charity, hospice, organisation, school, private group, institution or other body that enters into an agreement to offer DTC Events to their supporters, contacts, staff and other individuals related to said body as set out in the Letter of Confirmation.

**Project(s)** — Places where volunteering is performed by the Participants, or places where charitable or not-for-profit activities can be seen in progress.

**Registration Fee** — An initial deposit payment made by a Participant to DTC (sometimes via the Partner) to confirm their commitment to taking part in the Event.

**Services** — The specific operational components which form the Event, and are organised by DTC, which could include, without limitation, flights, accommodation, meals, transfers, Project work, trekking or similar challenge activity, and/or a combination of all of these particulars as specified in the Letter of Confirmation.

**UK** — United Kingdom

**Us/We/Our** — The Different Travel Company Limited

## **1. FINANCIAL DETAILS: Applicable only for Events in which the Partner receives bookings directly and pays deposits to DTC**

**1.1** The Partner agrees to make an initial deposit payment of the Registration Fees, the value of which is specified in the Letter of Confirmation, as soon as the agreed minimum number of Participants has been reached. The minimum number of Participants is outlined in 4.3.1.

**1.2** Where additional bookings are taken by the Partner after the initial deposit of the Registration Fees for the minimum number of participants has been paid, a further deposit of the Registration Fees from the additional bookings will be payable by the Partner immediately upon receipt of the Participant's booking.

**1.2.1** If further bookings are taken within the timeframes outlined below, on the prior written notice by DTC a surcharge may be payable for the additional booking(s) to cover any increase in flight and/or Operational Costs but only where such an increase in costs is legitimately and reasonably incurred by DTC as a result and is supported by documentary evidence of such increases. The Partner may wish to pass this surcharge onto the Participant otherwise the Partner agrees to absorb this surcharge and make payment for this on their final invoice, or at the time of booking the new arrangements, as applicable.

**1.2.1.1** Overseas destinations (Africa, Asia, Europe, North America, South America): 9 months before departure.

**1.2.1.2** UK destinations: 6 months before departure.

**1.2.1.3** Land-only tours: 6 months before departure

**1.3** Subject to clauses 1.5 and 1.6, if the required minimum number of Participants has not been reached by a date no later than 9 months before departure, DTC reserves the right to review and/or cancel the Event.

**1.4** If the minimum number of Participants has not been reached, and thus Registration Fees have not been paid by the timeframe outlined below, Operational Costs will be reviewed by both parties and may increase if mutually agreed by DTC and the Partner. This is without prejudice to the right to cancel or amend the trip as per Clauses 1.5, 1.6 and 3.

**1.4.1** Overseas destinations (Africa, Asia, Europe, North America, South America): 9 months before departure.

**1.4.2** UK destinations: 6 months before departure.

**1.4.3** Land-only tours: 6 months before departure.

**1.5** In the event that the minimum number of Participants is not reached, and DTC and the Partner conclude that further bookings are unlikely to be achieved, DTC may recommend that two similar Events are combined in order to achieve minimum numbers, or to offer the opportunity to Participants registered on the Event to transfer to a similar Event, thus avoiding the necessity of cancellation and subsequent Participant disappointment. This is in accordance with Section 3.1

**1.5.1** If it agreed with the Partner that the Event is to be combined with a similar Event, the specific information such as departure dates, costs, itinerary and inclusions will be discussed with the Partner on a case by case basis. In general:

**1.5.1.1** If two or more Events are combined, the priority over itinerary, costs, and departure dates will usually fall to the Event which already has a higher number of Participants. A Letter of Amendment will be drafted for all parties with any new Event details.

**1.5.1.2** If two or more Events are combined and each Event has an equal number of Participants, the priority over itinerary, costs, and departure dates will be discussed with all parties until a mutually agreeable decision can be made. A Letter of Amendment will be drafted for all parties with any new Event details.

**1.5.1.3** If two or more Events are combined, DTC reserves the right to publicise and market the combined Event and take additional bookings on this Event from Participants who are not connected to the Partner(s) in order to increase Participant numbers.

**1.5.2** If Participants are transferred to another Event, the itinerary, costs, and departure dates of the alternative Event will apply and the Participant may be required to pay a supplement to match the new Registration Fee of the alternative Event.

**1.6** If the minimum number of Participants is not reached, and thus Registration Fees have not been paid to DTC by the timeframe outlined in sections 1.2 and 1.4, and it is agreed by DTC and the Partner that the Event should be cancelled, the Partner is required to refund the Registration Fee, and any other payment held for

the Participants' place(s) on the Event, within 10 working days of cancellation. This is without prejudice to the right of the Participant to transfer to another Event in Clause 1.5.2.

**1.7** The Partner agrees to make the final balance payment to DTC no later than ten weeks prior to the Group's departure, upon receipt of the final invoice.

**1.8** DTC's standard Terms and Conditions, entitled 'Booking Terms and Conditions for Participants' at the date of the Letter of Confirmation apply to each Participant making a booking with Us through the Partner or directly through DTC.

**1.9** DTC holds an Air Travel Organiser's Licence (ATOL number 6706) issued by the Civil Aviation Authority (CAA) and this shall be maintained. The maintenance of an ATOL means that We will provide the Participant with the Services listed on the ATOL Certificate (or a suitable alternative) and in the unlikely event of Our insolvency, the CAA will ensure that the Participant is not left stranded abroad or will arrange to refund any money the Participant has paid to Us for an advance booking. Where We are not able provide the Services for reasons of insolvency, an alternative ATOL holder may provide the Participant with the Services purchased or a suitable alternative (at no extra cost to the Participant or Partner). The Partner agrees to accept that in those circumstances the alternative ATOL holder will perform those obligations and the Partner agrees to pay any money outstanding under the contract to that alternative ATOL holder. However, the Partner also agrees that in some cases it will not be possible to appoint an alternative ATOL holder, in which case the Participants will be entitled to make a claim under the ATOL scheme. For further information, visit the ATOL website at [www.atol.org.uk](http://www.atol.org.uk).

**1.10** The Partner agrees to ringfence Registration Fees received from Participants for use only for their place on the Event for which they have registered until such a point that these Registration Fees are due to be paid to DTC.

**1.11** DTC agrees to ringfence payments received from Participants, whether paid to DTC directly or paid via the Partner, for use only for the Participant's place on the Event for which they have registered.

## **2. FINANCIAL DETAILS: Applicable only for Events where the Participant pays their deposit to, and books directly with, DTC**

**2.1** DTC will accept payment of the Registration Fee directly from the Participant at the time of their booking, the amount of which is specified in the Letter of Confirmation, or has been agreed with the Partner at the time of preparing Event documentation.

**2.2** If new bookings are taken by DTC within the timeframes outlined below, on the prior written notice by DTC a surcharge may be charged to the Participant for the additional booking(s) to cover any increase in flight and/or Operational Costs but only where such an increase in costs is legitimately and reasonably incurred by DTC as a result and is supported by documentary evidence of such increases. The Partner may wish to absorb this surcharge on behalf of the Participant and make payment for this on their final invoice, or at the time of booking the new arrangements, as applicable.

**2.2.1** Overseas destinations (Africa, Asia, Europe, North America, South America): 9 months before departure.

**2.2.2** UK destinations: 6 months before departure.

**2.2.3** Land-only tours: 6 months before departure.

**2.3** Subject to clause 2.5 and 2.6, if the required minimum number of Participants has not been reached by a date no later than 9 months before departure, DTC reserves the right to review and/or cancel the Event.

**2.4** If the minimum number of Participants is not reached, and thus Registration Fees have not been received by the timeframe outlined below, Operational Costs will be reviewed by both parties and may increase if mutually agreed by DTC and the Partner. This is without prejudice to the right to cancel in Clause 2.5, 2.6 and 3.

**2.4.1** Overseas destinations (Africa, Asia, Europe, North America, South America): 9 months before departure.

**2.4.2** UK destinations: 6 months before departure.

**2.4.3** Land-only tours: 6 months before departure.

**2.5** In the event that the minimum number of Participants is not reached, and DTC and the Partner conclude that further bookings are unlikely to be achieved, DTC may recommend that two similar Events are combined

in order to achieve minimum numbers, or to offer the opportunity to registered Participants on the Event to transfer to a similar Event, thus avoiding the necessity of cancellation and subsequent Participant disappointment. This is in accordance with Section 3.1

2.5.1 If it agreed with the Partner that the Event is to be combined with a similar Event, the specific information such as departure dates, costs, itinerary and inclusions will be discussed with the Partner on a case by case basis. In general:

2.5.1.1 If two or more Events are combined, the priority over itinerary, costs, and departure dates will usually fall on the Event which already has a higher number of Participants. A Letter of Amendment will be drafted for all parties with any new Event details.

2.5.1.2 If two or more Events are combined and each Event has an equal number of Participants, the priority over itinerary, costs, and departure dates will be discussed with all parties until a mutually agreeable decision can be made. A Letter of Amendment will be drafted for all parties with any new Event details.

2.5.1.3 If two or more Events are combined, DTC reserves the right to publicise and market the combined Event and take additional bookings on this Event from Participants who are not connected to the Partner(s) in order to increase Participant numbers.

2.5.2 If Participants are transferred to another Event, the itinerary, costs, and departure dates of the alternative Event will apply and the Participant may be required to pay a supplement to match the new Registration Fee of the alternative Event.

**2.6** If the minimum number of Participants is not reached, and thus Registration Fees have not been paid to DTC by the timeframe outlined in sections 2.2 and 2.4, and it is agreed by DTC and the Partner that the Event should be cancelled, DTC is required to refund the Registration Fee, and any other payment held for the Participants' place(s) on the Event, within 10 working days of cancellation. This is without prejudice to the right of the Participant to transfer to another Event in Clause 2.5.2.

**2.7** The Partner agrees to make the final balance payment to DTC no later than ten weeks prior to the Group's departure, upon receipt of the final invoice. If the Participant is to pay DTC their final balance directly, this payment must be made no later than ten weeks prior to the Group's departure.

**2.8** DTC's standard Terms and Conditions, entitled 'Booking Terms and Conditions for Participants' at the date of the Letter of Confirmation apply to each Participant making a booking with Us through the Partner or directly through DTC.

**2.9** DTC holds an Air Travel Organiser's Licence (ATOL number 6706) issued by the Civil Aviation Authority (CAA) and this shall be maintained. The maintenance of an ATOL means that We will provide the Participant with the Services listed on the ATOL Certificate (or a suitable alternative) and in the unlikely event of Our insolvency, the CAA will ensure that the Participant is not left stranded abroad or will arrange to refund any money the Participant has paid to Us for an advance booking. Where We are not able provide the Services for reasons of insolvency, an alternative ATOL holder may provide the Participant with the Services purchased or a suitable alternative (at no extra cost to the Participant or Partner). The Partner agrees to accept that in those circumstances the alternative ATOL holder will perform those obligations and the Partner agrees to pay any money outstanding under the contract to that alternative ATOL holder. However, the Partner also agrees that in some cases it will not be possible to appoint an alternative ATOL holder, in which case the Participants will be entitled to make a claim under the ATOL scheme. For further information, visit [www.caa.co.uk](http://www.caa.co.uk).

**2.10** DTC agrees to ringfence payments received from Participants, whether paid to DTC directly or paid via the Partner, for use only for the Participant's place on the Event for which they have registered.

### **3. SERVICES & FEES**

#### **3.1 Changes to Services**

Either DTC or the Partner may propose changes to the scope, nature or time schedule of the Services being performed under the Letter of Confirmation. The parties will mutually agree in writing to any proposed changes, including adjustments to Operational Costs as a result of any changes to the Services, before they are implemented.

3.1.1 DTC will communicate any proposed itinerary alterations which are considered necessary for the smooth running of the trip to the Partner at the earliest opportunity.

3.1.2 DTC will communicate any emergency one-off itinerary changes to the Partner as soon as it is aware that the changes are necessary and in advance of those changes being implemented whenever possible but

in any event no later than 2 working days prior to those changes being implemented unless it is not practical to do so.

3.1.3 In the event that DTC makes a material change to the itinerary, or requests cancellation of the Event, notwithstanding clause 3.2.3, the Partner may accept the changes, or they may cancel the Event at no cost to it and any related payments already made to DTC shall be returned within 28 days of such cancellation to the Partner or Participant(s) as applicable.

3.1.3.1 Reimbursement of payments already made to DTC will only to be paid for those Participant(s) who are confirmed members of the Group at the time the DTC changes or cancels the Event; Participants who cancelled their place before DTC changed or cancelled the Event will not be entitled to any reimbursement. Reimbursement includes, but is not limited to, the Participant Registration Fees, flight amendment fees, optional extension package charges etc. Reimbursement does not include expenses incurred by the Participant caused by their booking on the Event, such as, but not limited to, travel insurance premiums, airport parking or hotels, visa fees, vaccination costs, personal kit or equipment, transportation to airport, childcare or pet care fees etc.

3.1.4 In the event that the Partner requests a material change to the itinerary which leads to Participant(s) opting to cancel their place due to the change being unsatisfactory, or if the Partner requests cancellation of the Event, the Partner accepts responsibility for reimbursement of all fees paid by the Participant(s) for their place on the Event to the Partner and/or to DTC. DTC shall not be obliged to reimburse any part of the fees to the Partner or Participant(s).

3.1.4.1 Reimbursement of payments already made to the Partner and/or DTC will only to be paid for those Participant(s) who are confirmed members of the Group at the time the Partner changes or cancels the Event; Participants who cancelled their place before the Partner changed or cancelled the Event will not be entitled to any reimbursement. Reimbursement includes, but is not limited to, the Participant Registration Fees, flight amendment fees, optional extension package charges etc. Reimbursement does not include expenses incurred by the Participant caused by their booking on the Event, such as, but not limited to, travel insurance premiums, airport parking or hotels, visa fees, vaccination costs, personal kit or equipment, transportation to airport, childcare or pet care fees etc.

3.1.5 Where the Participant requests a change to their Event, such as an extension of their stay or alteration to flight dates, there shall be a minimum administration fee of £40 payable by that Participant plus any additional fees incurred such as flight fare increase, extension package, additional arrangements and so on.

3.1.6 Once changes to Services have been mutually agreed between DTC and the Partner, and applied to the Event, the Event shall, for the purposes of contractual obligations and Terms and Conditions be considered a brand new Event and therefore subject to all the standard Terms and Conditions stated here in this document. The individual Participant(s) obligations and Terms and Conditions are outlined in the 'Booking Terms and Conditions for Participants'.

## **3.2 Request to Amend Fees**

3.2.1 All costs for the final Group are confirmed ten weeks prior to departure.

3.2.2 If an increase in Operational Costs beyond DTC's control occurs more than ten weeks before departure, DTC will notify the Partner of the cost increase and any proposed change to fees to cover the rise in costs. Any change to fees must be agreed to in advance by the Partner, or the Participant where the Participant is self-funding. This clause does not oblige the Partner or the Participant to agree to any increase in fees.

3.2.3 Subject to Clause 3.2.6, any unanticipated increases in Operational Costs that are outside DTC's control and (i) exceed 2% of the total cost of your arrangements for an Event, will be chargeable to the Partner, or the Participant where the Participant is self-funding; or (ii) exceed 10% of the total cost of your arrangements for an Event then notwithstanding Clause 3.3, the Partner, or the Participant where the Participant is self-funding, will have the right to cancel and to receive a full refund of all monies paid within 28 days of cancellation.

3.2.4 In the event that the parties are not able to agree to any increase in fees of 10% or less, the Partner shall have the right to cancel all/any of its bookings subject to the cancellation schedule outlined in Clause 3.3

3.2.5 Any additional bookings that are taken after initial deposit of Registration Fees are paid, 9 months or less prior to departure are subject to availability and may be subject to a surcharge as outlined in Clause 1.2 and 2.2 and the applicable subsections of these clauses.

3.2.6 If an increase in Operational Costs beyond DTC's control occurs at ten weeks prior to departure, or after this date, no amendment of costs would apply.

3.2.7 If cancellation(s) by Participant(s) occurs after deposits are paid and after Services have been booked and confirmed by DTC, and such cancellation(s) result in the final group size being smaller than agreed and quoted for in the Letter of Confirmation, DTC reserves the right to review costs for the smaller group size. Any change to fees must be agreed to in advance by the Partner, or the Participant where the Participant is self-funding. This clause does not oblige the Partner or Participant to agree to any increase in fees.

If the Partner does not agree to an increase in fees and decides instead to cancel the Event, the Partner is responsible for fully reimbursing all fees paid by the Participant(s) for their place on the Event. Reimbursement is only to be paid to those Participant(s) who are confirmed members of the Group at the time the Partner cancels; Participants who cancelled their place before the Partner cancels the Event will not be entitled to any reimbursement.

Reimbursement includes, but is not limited to, the Participant Registration Fees, flight amendment fees, optional extension package charges etc. Reimbursement does not include expenses incurred by the Participant caused by their booking on the Event, such as, but not limited to, travel insurance premiums, airport parking or hotels, visa fees, vaccination costs, personal kit or equipment, transportation to airport, childcare or pet care fees etc.

Once cancellation is confirmed by the Partner, DTC will cancel all Services which they have booked and confirmed for the Event. DTC shall not be obliged to reimburse any part of the fees to the Partner or Participant(s).

### **3.3 Cancellation of Services by the Participant**

Notwithstanding clauses 1.5, 2.5, 3.1 and 3.2.3,

Cancellation can be made at no cost up to the point Registration Fees are received by DTC.

Cancellation between the point of Registration Fees being received and 70 days before departure — Loss of Registration Fee only.

69-49 days before departure - 60% of tour cost balance plus loss of Registration Fee

48-42 days before departure - 70% of tour cost balance plus loss of Registration Fee

41-28 days before departure - 90% of tour cost balance plus loss of Registration Fee

Less than 28 days —100% of tour cost balance plus loss of Registration Fee

### **3.4 Invoices**

Each DTC invoice will be in pounds sterling and will clearly state the Services performed including:

- (i) details of all trips
- (ii) passenger numbers
- (iii) applicable price
- (iv) applicable currency
- (v) net amount owing
- (vi) whether the Services are ATOL protected

### **Payment and credit terms**

All Operational Costs are to be paid to DTC, in the currency of the invoice, by bank transfer of funds to the following account:

**Account name:** The Different Travel Company

**UK Account Number:** 30139017

**Sort Code:** 20-79-29

**IBAN:** GB42 BUKB 20792930139017

**SWIFTBIC:** BUKBGB22

**Bank:** Barclays Bank (Southampton City Branch)

All invoices are payable within 15 days from the date of receipt of the invoice or on the date specified, whichever is soonest. Alternative payment methods may be accepted upon request from DTC.

### **3.5 Late Payment or Non-Payment of invoices**

In the event that the Partner or Participant fails to make any payment due to DTC under this Agreement by the date due for payment, then the Partner or Participant shall pay interest on the overdue amount at a rate of 3% per annum above the Bank of England base rate from time to time, starting 15 days after the due date, and ending once payment has been made, unless proof or guarantee of payment has been provided to DTC in writing. If proof or guarantee of payment cannot be provided or the Partner or Participant refuses to make payment, this will be considered a cancellation by the Partner or Participant and our standard cancellation terms apply.

In relation to any payments disputed in good faith, interest under this clause is payable by the Partner or Participant only after the dispute is resolved, on sums agreed to be due, from 15 days after the dispute is resolved until payment is made.

## **4. DUTIES AND RESPONSIBILITIES OF THE PARTNER**

### **4.1 Processing and authorisation of invoices**

The Partner and/or Participant undertakes to process and settle all undisputed and properly issued invoices by the due date.

### **4.2 Approvals, Support and Information**

The Partner will respond promptly to any requests from DTC to provide information, approvals, authorisations or decisions that are reasonably necessary for DTC to perform the Services and comply with ATOL terms, regulations or requirements.

### **4.3 Notification of Group Size**

4.3.1 The standard minimum Group size for a DTC Event is 10 Participants for an overseas event, and 15 Participants for a UK event. Any alterations to this will be specified in the Letter of Confirmation.

4.3.2 Where the Partner is accepting bookings and payments on behalf of DTC, the Partner agrees to inform DTC on a weekly basis of the number of received bookings, and to immediately inform DTC in writing by email of any cancellations. A full and final list of Participant data, including but not limited to passport information, travel insurance, dietary requirements, medical health information and so on, is to be sent to DTC no later than 12 weeks before departure.

4.3.3 Where DTC is accepting bookings and payments directly from the Participant(s), DTC agrees to inform the Partner on a weekly basis of the number of received bookings, and to immediately inform the Partner in writing by email of any cancellations. If a cancellation notification is made by the Participant to the Partner rather than to DTC, the Partner agrees to immediately inform DTC in writing by email about said cancellation.

### **4.4 Identification of the Partner as an Agent**

For flight-inclusive packages DTC appoints the Partner to act as its agent under ATOL regulation 12. DTC operates its Events in such a way that many of the logistical and administrative arrangements that would normally fall to the agent will be carried out by DTC. Below are some specific requirements that the Partner must adhere to in order to comply with the ATOL regulations. DTC shall be responsible for ensuring the Event complies with all requirements in the ATOL regulations and Applicable Laws not specified in clauses 4.6 – 4.8 below.

4.5 Subject to DTC providing the Partner with all necessary information and material, for flight-inclusive packages the Partner will identify DTC on all materials and website pages created by the Partner which reference the Event and clearly state that it acts as an agent for DTC. In addition, the Partner must clearly state DTC's name and ATOL number (6706). The approved wording for this can be found in Schedule 3 of this document 'The Different Travel Company Supplementary Agreement for Licensable Transactions', within ATOL Standard Term 1 AST1.1 (c) or AST1.2 (c) as applicable.

### **4.6 Identification of DTC on promotional materials**

4.6.1 For flight-inclusive packages, subject to DTC providing the Partner with all necessary information and material, the Partner must clearly state DTC's name and ATOL number (6706) on all documents which are created by the Partner and sent to the Participant and must clearly state DTC's name and ATOL number (6706) on any document which forms any kind of contractual agreement between the Participant and DTC including booking forms. The approved wording for this can be found in Schedule 3 of this document 'The Different Travel Company Supplementary Agreement for Licensable Transactions', within ATOL Standard Term 1 AST1.1 (c) or AST1.2 (c) as applicable.

4.6.2 DTC shall prepare a Brochure for the Event complying in all respects with Applicable Laws, and ensure all publicity materials comply with AST 1.1, AST 1.2, AST 1.3 and Agency Term 2.2.

4.6.3 If the Partner prepares a Brochure for the Event, the Partner must comply in all respects with Applicable Laws, and ensure all publicity materials comply with AST 1.1, AST 1.2, AST 1.3 and Agency Term 2.2.

4.6.4 DTC and the Partner shall be responsible for ensuring the Participants are provided with all information required by the Applicable Laws, including the Brochure.

#### **4.7 Issue of ATOL certificates**

For flight-inclusive packages, under ATOL regulation 22, the Partner (acting as an agent under the definition in ATOL regulation 12 and accepting payment of deposits) must issue an ATOL Certificate and ATOL Confirmation Invoice on behalf of the ATOL holder (DTC) to the Participant at the time payment of a Registration Fee for the Event is received. The Partner must not accept payment unless a certificate can be issued. If DTC receives Registration Fees directly from a Participant, DTC will issue an ATOL Certificate and ATOL Confirmation Invoice

### **5. WARRANTIES AND REMEDIES**

#### **5.1 Quality of Service**

5.1.1 DTC will provide the Services in accordance with this Agreement.

5.1.2 DTC warrants that:

5.1.2.1 the Services will be performed in a professional manner consistent with industry standards reasonably applicable to such Services;

5.1.2.2 the Services will be performed in accordance with all Applicable Laws (including observing all health and safety rules and regulations).

5.1.2.3 We shall co-operate with the Partner in all matters relating to the Services and comply with the reasonable instructions of the Participant;

5.1.2.4 We shall use personnel who are suitably skilled and experienced to perform the tasks assigned to them, and in sufficient number to ensure that Our obligations are fulfilled in accordance with this Agreement; and

5.1.2.5 We shall obtain and maintain for the duration of the Agreement, at Our own cost, all consents, authorisations, permissions and licences which we require and which are necessary for Us to provide and for the Partner and/or the Participants to receive the Services.

5.1.3 DTC will not bring the name or reputation of the Partner into disrepute, and shall immediately notify the Partner of any conduct (which it becomes aware of) of a Participant which may or is likely to bring the Partner into disrepute, and of any harm to a Participant occurring in relation to this Agreement or an Event, and of any legal actions, claims or proceedings made or threatened against DTC or any of its employees, contractors or personnel in relation to this Agreement or an Event.

5.1.4 If either (a) the Partner considers that a breach of the warranty under clause 5.1.2 has occurred and notifies DTC in writing stating the nature of the breach, or (b) DTC reasonably considers it has breached the warranty, (in which case it must immediately notify the Partner), DTC will urgently correct any affected Services in order that they comply with the warranty. In the event that such breach is not remedied within a reasonable time period of notification or discovery of the breach (and in any event no later than 14 working days following notification from the Partner, the Partner may cancel this Agreement at no cost.

5.1.5 The Partner's rights under this Agreement are in addition to the statutory terms implied in favour of the Partner by the Supply of Goods and Services Act 1982 and any other statute.

5.1.6 Without prejudice to the rights and obligations of the parties under this Agreement, DTC will immediately notify the Partner in writing if it suspends or terminates providing and/or performing the Services.

5.1.7 DTC shall indemnify the Partner in respect of all costs, claims, loss or liability whatsoever suffered by the Partner (including reasonable costs and disbursements) as a result of any breach by DTC of any of the terms of this Agreement or arising directly or indirectly out of the provision of the Services (whether to the Partner or the Participants) by DTC, its employees, agents and contractors.

#### **5.2 Travel Insurance**



The Participant is required to have full travel insurance which covers all activities which are included within the Event itinerary such as but not limited to, Project work, trekking, emergency evacuation, in addition to the standard level of cover that would be expected from a travel insurance policy such as Participant cancellation, lost baggage, theft, hospitalisation etc.

It is the responsibility of the Participant to ensure they have full travel insurance which offers an adequate level of cover and the Participant must check that their insurance policy provides them with the requisite level of cover, and arrange supplemental cover if their policy is inadequate. Any loss resulting from the Participant's failure to ensure that they are adequately covered for all activities involved in their Event is neither the responsibility of DTC nor the Partner.

DTC shall not allow any Participant to travel without confirmation from the Participant that they have obtained travel insurance, and details of that policy including policy number, insurance company name and insurance company 24 hour emergency medical assistance helpline for use while travelling. DTC nor the Partner are responsible for checking that the policy is suitable for the Participant's needs.

#### 5.2.1

If a circumstance occurs in which a Participant may need to lodge a travel insurance claim (e.g. baggage loss, hospitalisation, curtailment of the trip etc.) DTC with support of their in-country agent shall, assist the Participant with any logistical arrangements that may facilitate a resolution of the issue. Any and all costs relating to such circumstances are the responsibility of the Participant(s) and that Participant is personally responsible for submitting a claim to their travel insurance provider to seek reimbursement for any cost incurred, if desired.

For example, if a Participant loses their luggage, DTC with support of their in-country agent may arrange a local transfer or taxi and local guide services to visit necessary shops to buy essentials for the trip until such time that the lost luggage can be returned to the Participant. The Participant would be responsible for, but not limited to, expenses such as the local transfer or taxi fare, local guide services, replacement items required etc.

Or if the Participant is injured or becomes ill and requires medical treatment, DTC with support of their in-country agent shall transport them to the nearest suitable hospital, clinic or medical centre for treatment, having first sought approval for transport and treatment by the Participants' travel insurance provider. The Participant would be responsible for, but not limited to, expenses such as the local transfer or taxi fare, local guide services, medical treatment and tests, medication, hotel accommodation for convalescence, meals and drinks etc.

The Participant is advised to bring a credit card with them on the trip in case of any emergencies for which the resolution may require payment in advance.

### 5.3 Force Majeure

Except where otherwise expressly stated in these booking conditions, DTC will not be liable for, nor obligated to pay, compensation for any failure or delay in its performance under this Agreement due to reasons beyond its reasonable control as a result of Force Majeure. In these booking terms, Force Majeure means any event, series or events or circumstances which DTC or Our local partner could not, even with due care and consideration, foresee or avoid.

These types of events include, but are not limited to, acts of war or terrorism whether actual or threatened, acts of God, natural disasters such as earthquakes, floods, or weather conditions making it impossible to travel safely or remain safely in the destination, nuclear, chemical or biological disasters, riot, civil unrest, embargo, sabotage, government-imposed curfews or lockdowns, labour strikes, significant changes to political policy which restrict travel, health outbreaks, epidemics and pandemics (including but not limited to the ongoing effects of the COVID-19 pandemic) etc.

We follow the advice given by the Foreign, Commonwealth & Development Office (FCDO) which, in part, offers advice and guidance for British citizens travelling abroad. If the FCDO advises that travel to a certain country should not be undertaken, or advises that British citizens leave a country, this may constitute Force Majeure.

#### 5.3.1.

There is still uncertainty surrounding certain Events which may be affected by the UK's decision to leave the

European Union. Please rest assured that we will monitor and advise the Partner and/or the Participants as soon as possible should we become aware of circumstances which may affect the Event or Services for example, but not limited to, change or cancellation of certain flight routes, visa restrictions, airport closure etc. However as this situation is unprecedented and outside our control, any changes would be treated as Force Majeure and whilst we would endeavour to find a suitable alternative Event or provide refunds where possible, we shall not be liable to pay compensation.

#### **5.4 DTC Insurance**

DTC shall (at its own cost) maintain in force, with a reputable insurance company, as a minimum amount of cover for a single event or series of related events in a single calendar year during the term of this Agreement and for not less than 6 years thereafter, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with this Agreement and shall, on the Partner's written request, produce both the insurance certificate giving details of the cover and the receipt for the current year's premium in respect of each insurance.

#### **5A ATOL SUPPLEMENTARY AGREEMENT**

The parties agree that the provisions of Schedule 3 shall apply, with DTC as the principal ATOL holder and the Partner as the agent for flight-inclusive packages.

### **6. INTELLECTUAL PROPERTY RIGHTS, BRANDING & CONFIDENTIAL INFORMATION**

#### **6.1 Intellectual property rights**

6.1.1 Both parties acknowledge the intellectual property rights of the other party whether registered or not. In addition, artistic works, sound recordings, films, written copy about the Event, and documentation created by DTC and provided to the Partner intended to assist in the marketing and promotion of the Event is only to be used to promote DTC Events. For the avoidance of doubt, the Partner must not, without written permission from DTC, use these materials or documents to promote Events which are not operated by DTC.

6.1.2 DTC warrants and represents to the Partner that any copyright works or documents created or used by it in complying with the obligations in this Agreement or supplied to the Partner will not infringe the intellectual property rights of any other person.

6.1.3 DTC agrees not to use the name and/or logo of the Partner on any of its publicity material unless the prior written consent of the Partner has been obtained. Unless otherwise agreed in writing, all documents and materials bearing the name and logo of the Partner remain the property of the Partner.

#### **6.2 Confidentiality**

Both parties agree to keep confidential all information concerning the other party's business or its ideas, products, policies and systems, customers or services that could reasonably be considered Confidential Information.

The conditions of confidence referred to in this clause shall not apply to any Confidential Information which: is in the possession of and is at the free disposal of the receiving party; or is published or is otherwise in the public domain prior to receipt of such information by the receiving party, or becomes publicly available on a non-confidential basis through no fault of the receiving party; or is received in good faith by the receiving party from a third party who on reasonable enquiry by the receiving party claims to have no obligation of confidence to the other party in respect of it and imposes no obligations of confidence upon the receiving party.

#### **6.3 Research and Development**

Unless otherwise agreed in writing, where DTC conducts research on behalf of the Partner, for example development of new tour itineraries, the outcome of such research will remain the property of DTC.

#### **6.4 Branding**

DTC, in the delivery of its Services, will display limited branding as a condition of its service provision. For example staff t-shirts, welcome placards, buses and bikes may display the DTC or Our local partner's logo.

#### **6.5 Data Protection**

6.5.1 The parties recognise that it is both appropriate and a requirement under data protection law to have an agreement in place which regulates the processing of individuals' personal data by DTC on behalf of the Partner. This agreement is set out at Schedule 2 to this Agreement (the Data Processing Agreement).

The parties hereby agree that the Data Processing Agreement is incorporated into this Agreement and that, for the avoidance of doubt, DTC is the Data Controller and the Partner is the Data Processor, unless, as per Section 1, the Partner is receiving Registration Fees and booking data from the participant on behalf of DTC. If there is any conflict between the provisions of the Data Processing Agreement and this Agreement, the provisions of the Data Processing Agreement shall prevail.

6.5.2 DTC has measures in place to protect the personal booking information held by Us and shall take all necessary steps to ensure that data or information belonging to the Partner and/or Participant which comes into its possession or control in the course of providing the Services is protected. This applies to any sensitive information that Participants provide Us such as details of any disabilities, medical conditions and dietary or religious requirements.

DTC shall obtain all necessary consents, including from the Participants, required by law to process personal data and to provide such personal data to the Partner to allow the Partner to use the data in relation to Events and this Agreement, for marketing purposes, and in furtherance of the Partner's charitable objects and work, as necessary.

Examples of information which is passed to the relevant suppliers of travel arrangements include (but are not limited to) participant full name, passport details, date of birth, dietary requirements, allergies or medical conditions which are relevant to their undertaking of the Event.

This information will only be passed on to the principal and to the relevant suppliers of the Participant's travel arrangements for the purposes of performing this Agreement and only in accordance with instructions contained in this Agreement (or received from the Partner from time to time) such as (but not limited to) airlines, hotels, tour manager guides and ground handler. The information may also be provided to public authorities such as customs or immigration if required by them for the purposes of performing this Agreement, or as required by law. The information may also be stored, anonymised, for statistical analysis. The information provided to these suppliers will only be held for a reasonable time in order to provide travel services.

We will not otherwise modify, amend or alter the contents of the personal data or disclose or permit the disclosure of personal data to any third party unless specifically authorised in writing by the Partner and Participant.

If We cannot pass this information to the relevant suppliers of the Event, whether in the EEA or not, We will be unable to process the Participant's booking. In making a booking, the Participant consents to this information being passed on to the relevant person or authorities.

Where personal data is transferred outside the EEA, We shall comply with the obligations of a data controller under Articles 44 to 50 of the General Data Protection Regulation 2016. We shall provide appropriate privacy notices to Participants which set out and explain the purpose for which the personal data will be processed and any other information which is necessary in the circumstances, including the scope and nature of Our processing of their personal data.

## **7. GENERAL**

### **7.1 Standard of care**

Each party will act in good faith in the performance of its respective duties and responsibilities and will not unreasonably delay or unreasonably withhold the giving of consent or approval required for the other party under this Agreement. Each party will provide an acceptable standard of care in its dealings with the other party and its employees.

### **7.2 Assignment**

Neither party may assign or otherwise transfer this Agreement without the prior written consent of the other party. In the event that consent for assignment is given, the terms of this Agreement will be binding upon each party's respective successor.

### **7.3 Entire Agreement**

This Agreement constitutes the entire agreement between the parties in relation to, and supersedes all other prior agreements between the parties for, the provision of such Services.

#### **7.4 Severability**

The provisions of this Agreement shall be deemed severable, and the unenforceability of any one of the provisions shall not affect the enforceability of other provisions. In the event that a provision is found to be unenforceable, the parties shall substitute that provision with an enforceable provision that preserves the original intent and position of the parties.

#### **7.5 Changes to the Agreement**

All changes to this Agreement must be approved in writing by authorised officials of both parties.

#### **7.6 Bribery Act 2010**

DTC warrants to the Partner that it has in place adequate anti-bribery and anti-corruption procedures, including an appropriate code of conduct and training for its staff and DTC tour managers.

#### **7.7. Governing Law and Jurisdiction**

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

#### **7.8 No Partnership/Agency**

Nothing in this Agreement is intended to or shall operate to create a partnership or joint venture of any kind between the parties, or to authorise either party to act as agent for the other (except as expressly provided for in this Agreement), and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way other than as expressly provided for in this Agreement (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

#### **7.9 Dispute Resolution**

7.9.1 If any dispute arises in connection with this Agreement, the parties shall, within 20 days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.

7.9.2 If a dispute is not resolved by in accordance with clause 7.9.1 above, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. To initiate the mediation a party must give notice in writing (ADR notice) to the other party to the dispute requesting mediation. The mediation will start not later than 30 days after the date of the ADR notice.

7.9.3 No party may commence any court proceedings in relation to any dispute arising out of this Agreement until it has attempted to settle the dispute by mediation, and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

#### **7.10 Notices**

Any notice may be served by either party on the other by sending it by pre-paid, recorded delivery or registered post or by e-mail addressed to the receiving party at its above address (or such other address as the receiving party may have notified to the other for receipt of notices) and any notice so sent shall be deemed to have been received within 72 hours of posting or 48 hours if sent by e-mail to the correct address of the recipient with no bounce-back.

#### **7.11. Modern Slavery Act 2015**

DTC will not tolerate any form of slavery, servitude, forced or compulsory labour, human trafficking or exploitation as defined by the Modern Slavery Act 2015 within our business or supply chain.

### **8. ETHICS AND COMPANY VALUES**

As both an employer and provider of services, DTC is committed to promoting equality, valuing diversity and combating unfair treatment. The principles of tolerance, understanding and respect for others are central to DTC's ethos. Freedom from discrimination is a fundamental right and DTC will exercise leadership and commitment in promoting and safeguarding this right when in partnership with other companies.

DTC's staff and local representatives are intrinsic to the success of every trip and are entitled to be treated with respect, courtesy and equality by the Partner and Participants. As part of DTC's commitment to ensuring that its employees are treated with such respect while on tour, it is a condition of this partnership that all DTC tour guides, drivers, porters, crew etc. members are treated with due respect by the Partner's staff and Participants. Deviation from this ethos and policy by the partner company will be contrary to the spirit of this Agreement and deemed to be a serious breach of a partnership of understanding and mutual respect.

We are environmentally and socially conscious and aim to minimise our impact as much as possible to help protect, preserve and respect the destinations visited during our Events. Some such considerations include limiting damage to the environment, advising Participants on matters requiring political or social sensitivity, and minimising impact on culture or cultural heritage.

As a company we carefully select the local ground handler we work with in-country to ensure we are not contributing to the exploitation of either people or the environment; that we are participating in 'fair trade' practices which benefit those who work so hard to make our trips so great; that we are contributing to the sustainable economic development of the communities who host us; and that we are respectful towards and assist in the maintenance of local cultures.

We are proud to be a registered member of The International Mountain Explorers Connection (IMEC), an organisation which works tirelessly to transform the impact of tourism on Mount Kilimanjaro through the local initiative Kilimanjaro Porters Assistance Project (KPAP) and also supports the Nepal Porters Welfare Program through the Kathmandu Environmental Education Project (KEEP).

We commit not to sell, offer or promote venues or activities involving animal rides and shows and commit to offer only those with a high standard of animal welfare and conservation, with responsible viewing of said animals in wild or semi-wild habitats. We also commit to proactively communicating this commitment to animal welfare to our Participants to encourage animal-friendly tourism. In particular, we are proud to be partnered with Four Paws, a global animal welfare organisation for animals under direct human influence, which reveals suffering, rescues animals in need and protects them. You can read more about our pledge here: <https://www.four-paws.org.uk/our-stories/blog-news/the-different-travel-company-pledge>

We provide Participants with advice on responsible travel and encourage them to learn more about their destination in order to ensure awareness of, and respect for, the culture, beliefs and practices of the destination.

It is DTC's expectation that all its staff, Participants and Partners acknowledge these ethical considerations and ensure that they act in an ethical manner while engaged in a DTC Event or during the promotion of such Event to ensure the highest ethical standards.

## Schedule 1

Information to be provided to the Participant as a minimum:

1. the main characteristics of the travel services:
  - a. the travel destination(s), itinerary and periods of stay, with dates and, where accommodation is included, the number of nights included;
  - b. the means, characteristics and categories of transport, the points, dates and time of departure and return, the duration and places of intermediate stops and transport connections.  
Where the exact time is not yet determined, DTC and, where applicable, the Partner shall inform the traveller of the approximate time of departure and return;
  - c. the location, main features and, where applicable, tourist category of the accommodation under the rules of the country of destination;
  - d. the meal plan;
  - e. visits, excursion(s) or other services included in the total price agreed for the Event;
  - f. where it is not apparent from the context, whether any of the travel services will be provided to the Participant as part of a group and, if so, where possible, the approximate size of the group;
  - g. where the Participant's benefit from other tourist services depends on effective oral communication, the language in which those services will be carried out; and
  - h. whether the Event is generally suitable for persons with reduced mobility and, upon the Participant's request, precise information on the suitability of the trip taking into account the Participant's needs;
  - i. confirmation of whether the trip is ATOL protected
2. the trading name and geographical address of DTC and of the Partner, as well as their telephone number and e-mail address;
3. the total price of the Event inclusive of taxes and, where applicable, of all additional fees, charges and other costs or, where those costs cannot reasonably be calculated in advance of the conclusion of the contract, an indication of the type of additional costs which the Participant may still have to bear;
4. the arrangements for payment, including any amount or percentage of the price which is to be paid as a deposit and the timetable for payment of the balance, or financial guarantees to be paid or provided by the Participant;
5. the minimum number of persons required for the Event to take place and the time-limit before the start of the Event for the possible termination of the contract if that number is not reached;
6. general information on passport and visa requirements, including approximate periods for obtaining visas and information on health formalities, of the country of destination;
7. information that the Participant may cancel at any time before the start of the Event in return for payment of an appropriate cancellation fee, or, where applicable, the standardised cancellation fees requested by DTC;
8. information on compulsory travel insurance to cover the cost of cancellation of the Participant's place on the Event or the cost of assistance, including but not limited to, luggage loss, hospitalisation, curtailment or repatriation in the event of accident, illness or death etc.

## Schedule 2

### Data Processing Agreement

#### Background

- (A) For the purposes of this agreement, the parties hereby agree that DTC is the Data Controller and the Partner is the Data Processor, unless, as per Section 1, the Partner is receiving Registration Fees and booking data from the participant on behalf of DTC.
- (B) The Data Controller uses the services of the Data Processor for the organisation and provision of Events.
- (C) The parties have agreed to enter into this agreement to ensure compliance with data protection law in relation to all such processing.
- (D) The terms of this agreement are to apply to all data processing carried out for the Data Controller by the Data Processor, or vice versa, and to all personal data held by the Data Processor in relation to all such processing whether such personal data is held at the date of this Agreement or received afterwards.
- (E) As of the date of this Agreement, data protection law in the UK is governed by the Data Protection Act 2018 and General Data Protection Regulation (EU) 2016/679, this Agreement shall be construed in accordance with the requirements of this legislation.
- (F) The types of Personal Data shall include, but not be limited to, Name, Contact details, Passport details, Date of birth, Dietary requirements and Medical information.
- (G) The categories of Data Subject shall be Event Participants.

#### 1. Interpretation

The terms and expressions set out in this Agreement shall have the following meanings:

"Act" means the Data Protection Act 2018;

"Contract" the service agreement between the parties dated on the Letter of Confirmation;

"Data Controller", "Data Processor", "Data Subject" and "processing" shall have the meanings given to them in the Act;

"GDPR" means the General Data Protection Regulation (EU) 2016/679 adopted by the European Parliament on 14 April 2016;

"ICO" means the Information Commissioner's Office;

"Legislation" means:

- (a) the Act or the GDPR, to the extent to which either is in force in the UK at the relevant time;
- (b) all other applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner or any other supervisory authority;

"personal data" shall include all data relating to individuals which are processed by the Data Processor on behalf of the Data Controller in accordance with this Agreement;

It is agreed as follows:

- 2. This Agreement sets out various obligations in relation to the processing of data under the Contract. If there is a conflict between the provisions of the Contract and this Agreement, the provisions of this Agreement shall prevail.
- 3. The Data Processor is to carry out the services described in the Contract above, and shall process personal data received from the Data Controller only on the express instructions of designated contacts at the Data Controller. These may be specific instructions or instructions of a general nature as set out in:
  - 3.1 the Contract; and/or
  - 3.2 as otherwise notified by the Data Controller to the Data Processor during the term of this Agreement.

4. The Data Processor shall and shall ensure that its employees and agents comply at all times with the Legislation as if it was a Data Controller (in addition to complying with any obligations placed on it as a Data Processor), and shall not perform its obligations under this Agreement or the Contract in such way as to cause the Data Controller to breach any of its applicable obligations under the Legislation.
5. All personal data provided to the Data Processor by the Data Controller or obtained by the Data Processor in the course of its work with the Data Controller is strictly confidential and may not be copied, disclosed or processed in any way without the express authority of the Data Controller or as required by law or appropriate regulatory body. Information shall not be confidential if:
  - 5.1 it has become public knowledge other than through the fault of the Data Processor, or an employee or director of the Data Processor;
  - 5.2 it was already known to the Data Processor prior to its receipt of the information from the Data Controller; or
  - 5.3 it has been received by the Data Processor from a third party who neither acquired it in confidence from the other party, nor owed the other party a duty of confidence in respect of it.
6. The Data Processor shall ensure that all individuals whom it authorises to process the Personal Data undertake to protect the confidentiality of the Personal Data in accordance with the requirements of clause 5 above.
7. The Data Processor agrees to comply with any reasonable measures required by the Data Controller to ensure that its obligations under this Agreement are satisfactorily performed in accordance with all applicable legislation from time to time in force and any best practice guidance issued by the ICO. It also agrees to immediately inform the Data Controller if, in its opinion, an instruction issued to it breaches data protection law.
8. Where the Data Processor processes personal data (whether stored in the form of physical or electronic records) on behalf of the Data Controller it shall:
  - 8.1 process the personal data only to the extent, and in such manner, as is necessary in order to comply with its obligations under the Contract or this Agreement or as is required by law or any regulatory body including but not limited to the ICO (in which case, the Data Processor shall inform the controller of the relevant legal requirement before processing the data, unless that law prohibits it from doing so on important grounds of public interest);
  - 8.2 implement appropriate technical and organisational measures and take all steps necessary to protect the personal data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure in compliance with the obligations set out in the Legislation, including, where appropriate:
    - (a) The pseudonymisation or encryption of personal data;
    - (b) Ensuring ongoing confidentiality, integrity, availability and resilience of processing systems and services;
    - (c) Restoring the availability and access to personal data in the event of a physical or technical incident
    - (d) Regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring security of the processing
  - 8.3 and promptly supply details of such measures as requested from the Data Controller;
  - 8.4 if so requested by the Data Controller (and within the timescales required by the Data Controller) supply details of the technical and organisational systems in place to safeguard the security of the personal data held and to prevent unauthorised disclosure or access, and otherwise make available to the Data Controller all information necessary to demonstrate compliance with the obligations laid down in this Agreement and/or the Legislation;
  - 8.5 on reasonable prior notice, permit persons authorised by the Data Controller to enter into any premises on which personal data provided by the Data Controller to the Data Processor is processed and to inspect the Data Processor's systems to ensure that sufficient security measures are in place (noting that, without prejudice to the rest of this Agreement, this clause will survive its termination);



- 8.6 take such other steps as are reasonably requested by the Data Controller to assist it to comply with its data security obligations under the Legislation;
- 8.7 notify the Data Controller within two working days if it receives:
  - 8.7.1 a request from a data subject to have access to that person's personal data; or
  - 8.7.2 a complaint or request relating to the Data Controller's obligations under the Legislation;
- 8.8 provide the Data Controller with full co-operation and assistance in relation to any complaint or request made, including by:
  - 8.8.1 promptly providing the Data Controller with full details of the complaint or request and any additional information reasonably requested by the Data Controller;
  - 8.8.2 taking all steps necessary to enable the Data Controller to comply with a data access request within the relevant timescale set out in the Legislation and in accordance with the Data Controller's instructions;
  - 8.8.3 providing the Data Controller with any personal data it holds in relation to a data subject (within the timescales reasonably required by the Data Controller);
  - 8.8.4 using appropriate technical and organisational measures as far as this is possible, to assist the Data Controller to respond to requests from data subjects to exercise their rights.
- 8.9 not process personal data outside the European Economic Area without the prior written consent of the Data Controller and, where the Data Controller consents to a transfer, to comply with the obligations of a Data Controller under the under the Legislation (in addition to any obligations placed on a data processor under the Legislation) by ensuring an adequate level of protection to any personal data that is transferred;
- 8.10 not transfer any personal data provided to it by the Data Controller to any third party or sub-contract any processing without the Data Controller's consent (and for the avoidance of doubt, not to add or replace any sub-contractor without the Data Controller's consent) and ensure that any third party to which it sub-contracts any processing has entered into a written contract with the Data Processor which; contains all the obligations that are contained in this Agreement, permits both the Data Processor and the Data Controller to enforce those obligations, is governed by UK law and automatically terminates upon termination of this Agreement; and
- 8.11 keep a record of all processing of Personal Data carried out in connection with this Agreement.
9. The Data Processor shall appoint a Data Protection Officer if required to do so under the terms of the Legislation.
10. The Data Processor shall be liable for and shall indemnify (and keep indemnified) the Data Controller against each and every action, proceeding, liability, cost, claim, loss, expense (including reasonable legal fees and disbursements on a solicitor and client basis) and demand incurred by the Data Controller which arise directly or in connection with the Data Processor's data processing activities under this Agreement, including without limitation those arising out of any third party demand, claim or action, or any breach of contract, negligence, fraud, wilful misconduct, breach of statutory duty or non-compliance with any part of this Agreement by the Data Processor or its employees, servants agents or sub-contractors.
11. This Agreement terminates when the Contract terminates, or when the Data Controller requests that the Data Processor stops processing the Personal Data, whichever is sooner.
12. The Data Processor agrees that in the event that it is notified by the Data Controller that it is not required to provide any further services to the Data Controller under this Agreement, or the Agreement is terminated, or (if sooner) within 2 months of an Event, the Data Processor shall transfer a copy of all information (including personal data) held by it in relation to this Agreement to the Data Controller in a format chosen by the Data Controller and/or, at the Data Controller's request, destroy all such information using a secure method which ensures that it cannot be accessed by any third party (unless otherwise required by applicable law) and shall issue the Data Controller with a written confirmation of secure disposal.
13. All copyright, database rights and other intellectual property rights in any personal data processed under this Agreement and the Contract (including but not limited to any updates, amendments or adaptations to the personal data by either the Data Controller or the Data Processor) but, for the

avoidance of doubt, not including any proprietary software developed by the Data Processor shall belong to the Data Controller. The Data Processor shall also execute such documents and confirmations and take such further steps as the Data Controller shall require to give effect to this clause. The Data Processor is licensed to use such data only for the term of and in accordance with this Agreement.

14. The Data Processor accepts the obligations in this Agreement in consideration of the Data Controller continuing to use its services.
15. The parties agree that this Agreement may be varied by the Data Controller from time to time to ensure compliance with the Legislation (including any changes thereto).

### Schedule 3

## THE DIFFERENT TRAVEL COMPANY SUPPLEMENTARY AGREEMENT FOR LICENSABLE TRANSACTIONS

AGREEMENT BETWEEN THE PARTNER AND THE DIFFERENT TRAVEL COMPANY APPOINTING THE PARTNER AS THE DIFFERENT TRAVEL COMPANY'S AGENT PURSUANT TO ATOL REGULATIONS 12 AND 22

**Definitions** The definitions used in this agreement have the same meaning as those used in the ATOL Regulations 2012 (as amended).

Additionally, 'Licensable Transaction' means an offer made by a consumer (or their agent) to purchase flight accommodation for one or more persons on a flight which is accepted by an air travel organiser and constitutes an activity in respect of which that air travel organiser is required to hold an ATOL.

#### **Duration of Agreement**

Agency Terms 3, 5, 8, 9 and 13 remain binding on the agent even if the principal ATOL holder has failed.

**Extent of obligations** The obligations of all parties to this agreement extend only to the parties' conduct in respect of licensable transactions.

#### **Priority of Agency terms published by CAA**

Pursuant to AST 2.2 and Agency Term 1 no agency term negotiated between the principal ATOL holder and the agent may contradict or purport to contradict the CAA's mandated terms and any that do so will be void.

#### **Agency Term 1**

By making available flight accommodation to consumers in the capacity of an agent, in accordance with ATOL Regulations 9, 10 and 12 the agent is deemed to have agreed to the terms of the written agency agreement between the principal ATOL holder and its agent.

The terms of the agency agreement include terms mandated by the CAA to be agreed between principal ATOL holders and agents for principal ATOL holders making available flight accommodation as agents of that principal ATOL holder.

Principal ATOL holders and agents cannot agree, whether in writing, by conduct or otherwise, any terms which contradict, or purport to contradict the terms mandated by the CAA. The agent must keep a copy of this agency agreement for the period it is in force and for 12 months after it expires or is terminated.

#### **Agency Term 2.1**

Agents must comply with ATOL Standard Term 1 as if they applied directly to the agent (as applicable) and any requirements to set out the principal ATOL holder's name and number should be read as requirements to set out the principal's name and ATOL number.

For the avoidance of doubt, agents are not permitted to use the ATOL logo without the permission of the CAA.

#### **Agency Term 2.2**

The agent must at all times identify the selling, protecting principal ATOL holder on all publicity material (including websites and brochures) that identify a flight or flight inclusive package which the agent is holding out it can make available to consumers.

#### **Agency Term 2.3**

Where the agent produces a receipt for money paid by a consumer the agent must identify which part of that money is protected by the principal ATOL holder's ATOL and which, if any, is not.

#### **Agency Term 3**

The agent will, if requested by the CAA, report to the principal ATOL holder the unique reference number of each ATOL Certificate supplied by it, along with the corresponding ATOL holder's reference number, where it acts as agent for the principal ATOL holder and where the transaction with the consumer was a Flight-Only or

a package. If requested to do so by the CAA at any time, and including after the failure of the principal ATOL holder, the agent will provide this information to the CAA.

#### **Agency Term 4**

The agent will provide any information requested by the principal ATOL holder necessary to enable the principal ATOL holder to comply with the ATOL Standard Terms or any term of its ATOL.

#### **Agency Term 5**

Any payment received by the agent from consumers, for services owed by the principal ATOL holder to the consumer, is received and held by the agent on behalf of and for the benefit of the Trustees of the Air Travel Trust but subject to the agent's right and obligation to make payment to the principal ATOL holder for so long as the principal ATOL holder does not fail. If the principal ATOL holder fails, the agent confirms it will continue to hold consumer payments on behalf of the Trustees of the Air Travel Trust and without any right or obligation to pay the same to the principal ATOL holder.

#### **Agency Term 6.1**

Where an agent makes available flight accommodation as the agent of a principal ATOL holder, the agent must ensure an ATOL Certificate is supplied to the consumer immediately and in accordance with ATOL Regulation 17, regardless of whether the ATOL Certificate is produced by the principal ATOL holder or produced by the agent on behalf of the principal ATOL holder. However, if an agent organises a package which includes that flight accommodation, the agent must immediately supply a package ATOL Certificate to the consumer in the agent's own name.

#### **Agency Term 6.2**

Where an agent makes available a package as agent of a principal ATOL holder, the agent must additionally obtain a Confirmation (see AST 1.11) from the ATOL holder and, once obtained, pass it immediately to the consumer by the method set out below. Where an agent receives any revised Confirmation from the principal ATOL holder, it will immediately pass it to the consumer by the method set out below.

Note: The method for the supply of a Confirmation means:

- a) in the case of a consumer who is present at the time the agent receives the Confirmation, immediately handing it to that consumer or sending it to that consumer by electronic communication;
- b) in the case of a consumer who is not present at the time the agent receives the Confirmation, immediately sending it to that consumer by electronic communication or by post.

#### **Agency Term 7**

When accepting payments in respect of transactions the agent would need an ATOL to transact if the agent were not the agent of the principal ATOL holder, agents may only accept payment from consumers as defined in the ATOL Regulations 2012.

#### **Agency Term 8**

Immediately upon the failure of the principal ATOL holder, the agent will provide the CAA with information on:

- a) money paid to it by consumers, in respect of services to be provided for future travel by the principal ATOL holder to consumers; and
- b) the ATOL Certificate unique reference numbers issued by that agent which apply to that failed ATOL holder, in a form acceptable to the CAA.

#### **Agency Term 9**

The rights of the CAA and the Trustees of the Air Travel Trust to enforce any obligations under this agreement on either party are not excluded. For the avoidance of doubt, they may be enforced by the CAA and the Trustees of the Air Travel Trust.

#### **Agency Term 10**

The agent may appoint a sub-agent to perform its obligations as the ATOL holder's agent and to bind the principal ATOL holder into obligations with consumers or buying ATOL holders. However, the agent may only do so if it enters the ATOL holder into a written agency agreement that contains all the rights and obligations in the agreement that are required by the CAA and published in the CAA's Official Record Series 3. Any sub-agent of the agent that does not have the benefit of a written agency agreement with the ATOL holder is not

authorised to act on the ATOL holder's behalf. As a consequence, the agent will be responsible to the consumer (or buying ATOL holder) for any acts or omissions of the sub-agent.

Note: In these circumstances, as well as the agent being liable to the consumer as a principal, both the 'agent' and 'sub-agent' would be acting in breach of the ATOL Regulations 2012.

### **Agency Term 11**

If a new or revised Schedule of Agency Terms is published by the CAA in its Official Record Series 3 those new or revised terms will immediately take effect and must be included in the terms of the agency agreement between the principal ATOL holder and the agent within 3 calendar months of the publication date.

### **Agency Term 12**

If the principal ATOL holder fails to comply with its obligations to a consumer and by reason thereof the agent incurs a liability or obligation to the consumer, the agent shall be indemnified by the principal ATOL holder against all consequences following from such a failure.

### **Agency Term 13**

If requested by the CAA the agent will provide any information regarding the principal ATOL holder referred to in AST 4 which it holds to the CAA on demand.

## **ATOL Standard Term 1**

### **AST1.1**

The ATOL holder must (and the ATOL holder must ensure that its agents and AB members) ensure that:

- a) the name shown on its ATOL (or a trading name notified to the CAA), its ATOL Number and the ATOL Logo; or
- b) for Accredited Body Members, the statement "(Accredited Body Member trading name as notified to the CAA) is an Accredited Body Member of (Name of Accredited Body)", and the Accredited Body's ATOL number and the ATOL logo; and
- c) the Statement:

*"All the flights and flight-inclusive trips in this brochure/on this website (delete as appropriate) are financially protected by the ATOL scheme. When you pay you will be supplied with an ATOL Certificate. Please ask for it and check to ensure that everything you booked (flights, hotels and other services) is listed on it. Please see our booking conditions for further information or for more information about financial protection and the ATOL Certificate go to: [www.caa.co.uk](http://www.caa.co.uk)"*

is stated clearly on all publicity material (including websites and brochures).

### **AST1.2**

The ATOL holder must (and the ATOL holder must ensure that its agents and AB members) ensure that:

- a) the name shown on its ATOL (or a trading name notified to the CAA), its ATOL Number and the ATOL Logo; or
- b) for Accredited Body Members, the statement "(Accredited Body Member trading name as notified to the CAA) is an Accredited Body Member of (Name of Accredited Body)", and the Accredited Body's ATOL number and the ATOL logo; and
- c) the Statement:

*"Some of the flights and flight-inclusive trips in this brochure/on this website (delete as appropriate) are financially protected by the ATOL scheme. But ATOL protection does not apply to all trip and travel services listed in this brochure/on this website (delete as appropriate). This brochure shows you the protection that applies in the case of each trip and travel service offered. This website will provide you with information on the protection that applies in the case of each trip and travel service offered before you make your booking. (delete as appropriate) If you do not receive an ATOL Certificate then the booking will not be ATOL protected. If you do receive an ATOL Certificate but all the parts of your trip are not listed on it, those parts will not be ATOL protected. Please see our booking conditions for information, or for more information about financial protection and the ATOL Certificate go to: [www.caa.co.uk](http://www.caa.co.uk)"*

is stated clearly on all publicity material (including websites and brochures).

### **AST1.3**

ATOL holders that advertise ATOL protected services in broadcast media (television/radio/cinema etc.) must, unless the CAA agrees an alternative that achieves equivalent consumer clarity, ensure that the advert contains audible words “ATOL protected” and that the ATOL protected logo and ATOL number are shown during the broadcast.

#### **Information to be provided to customers before a contract is concluded**

**AST1.4A** Wherever a consumer is invited to choose from a service that is ATOL protected or is available to be combined into an ATOL protected service the ATOL holder must (and the ATOL holder must ensure that its agents and AB members) ensure that the consumer is made aware, by means of information displayed clearly and transparently and in close proximity to the display of the price of the service, that the service is ATOL protected.

Where that licensable transaction constitutes a Single-contract Package this information must be provided as soon as the consumer is invited to choose that package. Where that licensable transaction constitutes a Multi-contract Package this information must be provided as soon as the selections made by the consumer mean that the consumer is being invited to choose that package. Where that licensable transaction is a Flight-Only, this information must be provided as soon as the consumer has selected a date, origin and destination of a flight or flights.

**AST1.4B** Wherever a consumer is invited to choose from a service that is ATOL protected or is available to be combined into an ATOL protected service, the ATOL holder must (and the ATOL holder must ensure that its agents and AB members) ensure that the consumer is made aware, where this information is known to the ATOL holder at the time:

- a) flight dates and departures and arrival times
- b) departure and arrival airports (including any connecting airport if the flight is indirect);
- c) whether the flight is direct or indirect;
- d) the name of the airline;
- e) whether hold luggage forms part of the ATOL protected booking;
- f) whether transfer services form part of the ATOL protected package; and
- g) details, including price, of extra hold luggage allowance or transfer services that can also be purchased.

This information must be displayed clearly, transparently and prominently. ATOL holders are responsible for ensuring that its agent and AB members comply with this term.

Where that licensable transaction constitutes a Single-contract Package this information must be provided as soon as the consumer is invited to choose that package. Where that licensable transaction constitutes a Multi-contract Package this information must be provided as soon as the selections made by the consumer mean that the consumer is being invited to choose that package. Where that licensable transaction is a Flight-Only, this information must be provided as soon as the consumer has selected a date, origin and destination of a flight or flights.

**AST 1.4C** As soon as reasonably practicable and in any event before a consumer concludes their offer to buy an ATOL protected service or services the ATOL holder must (and the ATOL holder must ensure that its agents and AB members) ensure that the consumer is made aware, by means of information displayed clearly transparently and prominently, that the service is ATOL protected and the name of the ATOL holder (or its trading name notified to the CAA) and its ATOL number.

Where that licensable transaction constitutes a Single-contract Package this information must be provided as soon as the consumer is invited to choose that package. Where that licensable transaction constitutes a Multi-contract Package this information must be provided as soon as the selections made by the consumer mean that the consumer is being invited to choose that package. Where that licensable transaction is a Flight-Only, this information must be provided as soon as the consumer has selected a date, origin and destination of a flight or flights.

**AST1.4D** When an ATOL holder advertises travel services through a website operated by a third party the ATOL holder must ensure that the information required by ASTs 1.4, 1.4A, 1.4B and 1.4C is provided to the consumer as soon as the consumer was invited to choose those travel services and in any event before the contract with the consumer is concluded.

## **ATOL holder's terms and conditions of booking, information relating to payment requests (Invoices) and information relating to payment acknowledgment (Receipts)**

### **AST1.5**

The ATOL holder (or its agent or AB member on its behalf) must ensure that:

- a) the terms and conditions upon which the ATOL holder enters into a licensable transaction;
- b) the terms and conditions which the ATOL holder holds out as terms upon which it will enter into a licensable transaction; and
- c) any receipts or invoices supplied by the ATOL holder for a licensable transaction

each contain the ATOL holder's name as shown on its ATOL (or trading name notified to the CAA), ATOL Number and a statement in the following form:

"Your Financial Protection. When you buy an ATOL protected flight or flight inclusive package from us you will receive an ATOL Certificate. This lists what is financially protected, where you can get information on what this means for you and who to contact if things go wrong."

Where an ATOL holder produces a receipt for money paid by a consumer the ATOL holder must identify which part of that money is protected by ATOL and which, if any, is not.

## **ATOL Certificates — changes to information**

### **AST1.6**

Where the information entered on an ATOL Certificate changes more than 72 hours before the consumer is due to travel, the ATOL holder must (and the ATOL holder must ensure that its agents and AB members) supply a new ATOL Certificate containing the up to date information to the consumer as soon as possible and update this information on its business systems. Where the information entered on an ATOL Certificate changes less than 72 hours before the consumer is due to travel, the ATOL holder must (and the ATOL holder must ensure that its agents and AB members) update and record those changes on their business systems.

## **Agreement with Consumer about form of ATOL protection**

### **AST1.7A**

The following term applies where the ATOL holder has a contractual or statutory obligation (including as an organiser of a package) to provide a flight (and where applicable other travel services) to a consumer whether concluded direct or through an agent or AB member. The ATOL holder must ensure the terms of its agreements with its consumers requires the consumer to accept and agree that if the ATOL holder fails, services to be provided by the ATOL holder pursuant to a licensable transaction may, with the CAA's prior agreement, be provided by another ATOL holder or the consumer may be required to claim a refund under the ATOL scheme. The following wording should be included in the ATOL holder's terms of business with consumers;

"We, or the suppliers identified on your ATOL Certificate, will provide you with the services listed on the ATOL Certificate (or a suitable alternative). In some cases, where neither we nor the supplier are able to do so for reasons of insolvency, an alternative ATOL holder may provide you with the services you have bought or a suitable alternative (at no extra cost to you). You agree to accept that in those circumstances the alternative ATOL holder will perform those obligations and you agree to pay any money outstanding to be paid by you under your contract to that alternative ATOL holder. However, you also agree that in some cases it will not be possible to appoint an alternative ATOL holder, in which case you will be entitled to make a claim under the ATOL scheme (or your credit card issuer where applicable)."

## **Prohibition on transferring obligations under agreements with consumers without agreement of the CAA**

### **AST1.7A2**

Other than the clause required as set out in AST1.7A, the ATOL holder must not include a clause in its terms of its agreement with consumers that enables, or purports to enable, the ATOL holder to transfer its obligations to consumers in respect of a licensable transaction to another person (whether or not that person is an ATOL holder) without the prior agreement of the CAA.

## **Agreement with Consumers of assignment of consumer's claim where consumer receives a benefit from the Air Travel Trust**

### **AST1.7B**

The following term applies where the ATOL holder has a contractual or statutory obligation (including as an organiser of a package) to provide a flight (and where applicable other travel services) to a consumer whether concluded direct or through an agent or AB member.

The ATOL holder must ensure the terms of its agreement with the consumer require the consumer to accept and agree that, if the ATOL holder fails and the consumer receives a payment or benefit under the ATOL scheme, then receipt of such payment or benefit from the Trustees of the Air Travel Trust is in return for assignment absolutely of the consumer's claim against the ATOL holder.

The following wording should be included in the ATOL holder's terms of business with consumers; "If we, or the suppliers identified on your ATOL certificate, are unable to provide the services listed (or a suitable alternative, through an alternative ATOL holder or otherwise) for reasons of insolvency, the Trustees of the Air Travel Trust may make a payment to (or confer a benefit on) you under the ATOL scheme. You agree that in return for such a payment or benefit you assign absolutely to those Trustees any claims which you have or may have arising out of or relating to the non-provision of the services, including any claim against us, the travel agent (or your credit card issuer where applicable). You also agree that any such claims may be re-assigned to another body, if that other body has paid sums you have claimed under the ATOL scheme."

### **Packages — Confirmation**

**AST1.11** An ATOL holder that sells a package (whether direct or via an agent or AB member) must produce a 'Confirmation'. The Confirmation must contain:

- Lead name
- Flight times
- Flight numbers
- Departure and arrival airports
- Name of air carrier (i.e. airline)
- Name and location of accommodation
- Other ground arrangements e.g. car hire, transfer, tours, entrance tickets
- Total price of package
- The unique reference number of the relevant ATOL Certificate

except to the extent that these have already been given to the consumer pursuant to the organiser's obligations under the Package Travel and Linked Travel Arrangements Regulations 2018.

Where an ATOL holder sells a package via an agent or AB member, whether or not that agent or AB member organises its own package incorporating that package, or facilitates a Linked Travel Arrangement incorporating that package, the ATOL holder must supply the Confirmation to the agent or AB member, who must supply it to the consumer.

The Confirmation must be sent to the consumer in order that it is received within 3 days of payment by the consumer being accepted.

### **AST1.12**

If any of the information on the 'Confirmation' changes, the ATOL holder must produce a revised Confirmation which must be received by the consumer as soon as possible. The Confirmation must make it clear that it is a revised Confirmation.

### **Status of money held by Agents of ATOL holders and Members of Accredited Bodies**

#### **AST1.13**

ATOL holders must ensure that it is a term of their agreement with their consumer, that:

- a) money accepted by their agent or AB member from the consumer is held by that agent or AB member on behalf and for the benefit of the Trustees of the Air Travel Trust at all times, but subject to the agent or AB member's obligation to pay it to the ATOL holder for so long as the ATOL holder does not fail; and





b) if the ATOL holder fails, any money held at that time by the agent or AB member, or subsequently accepted from the consumer by their agent or AB member, is and continues to be held by that agent or AB member on behalf of and for the benefit of the Trustees of the Air Travel Trust without any obligation to pay that money to the principal ATOL holder.

Reviewed and updated 1 December 2020