

RAPID TRAVEL GROUP LIMITED – SUPPLIER TERMS AND CONDITIONS OF TRADING (v4 – updated 14/03/19)

The Suppliers attention is particularly drawn to the provisions of clause 19.

1. INTERPRETATION

1.1 Definitions. In these Conditions, the following definitions apply:

Travel Provider: the person or persons or other legal entity providing Travel Provider Services pursuant to an Travel Provider Contract procured on behalf of the Customer by Rapid Travel Group Limited as the agent for and on behalf of the Customer pursuant to a Contract and subject to these Terms and Conditions.

Travel Provider Charges: the charges becoming payable to the Travel Provider pursuant to a Travel Provider Contract at the time of the formation of the Travel Provider Contract.

Travel Provider Contract: a contract between the Customer and the Travel Provider for the provision of Travel Provider Services entered into by Rapid Travel Group Limited as agent for and on behalf of the Customer as part of the Services provided pursuant to a Contract and subject to these Terms and Conditions and where applicable the Customer Terms and Conditions.

Travel Provider Services: the provision of Passenger Transport, Events, Conferences, Accommodation or other similar types of services for the Customer and / or its employees, agents and / or others for or on behalf of the Customer.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 16.

Commencement Date: has the meaning set out in clause 13.3.

Conditions: these terms and conditions as amended from time to time in accordance with clause 22.8.

Contract: a contract between Rapid Travel Group Limited and the Customer for the supply of Services.

Customer: the person or firm who purchases Services from Rapid Travel Group Limited pursuant to a Contract.

Customer Terms and Conditions: the terms and conditions applicable to each Contract and set out in the schedule at the end of these conditions.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Order: the Customer's order for Services to be provided by Rapid Travel Group Limited.

Rapid Travel Group: RAPID TRAVEL GROUP LIMITED registered in England and Wales with company number 08074002 whose registered office is at 127 Cleethorpe Road, Grimsby, DN31 3EW.

Rapid Travel Group Order: an order for the provision of Travel Provider Services placed with the Travel Provider by Rapid Travel Group pursuant to a Contract and as agent for and on behalf of a Customer.

Services: the services, supplied by Rapid Travel Group to the Customer pursuant to a Contract comprising the procurement of Travel Provider Services to be provided by the Travel Provider pursuant to a Travel Provider Contract entered into by Rapid Travel Group as agent for and on behalf of the Customer pursuant to an Order and such other services (if any) that Rapid Travel Group agrees to provide to the Customer.

1.2 **Construction:** In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) subject to clause 11.3 (c) a reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT AND AGENCY

2.1 Each Rapid Travel Group Order constitutes a separate invitation to treat by the Customer to purchase Travel Provider Services pursuant to a Travel Provider Contract which Rapid Travel Group may enter into with the Travel Provider as agent for and on behalf of the Customer.

2.2 A Travel Provider Contract shall only be deemed to be entered into when Rapid Travel Group issues written or other acceptance to the Travel Provider of an offer by the Travel Provider to provide Travel Provider Services pursuant to a Rapid Travel Group Order at which point and on which date a Travel Provider Contract shall come into existence (**Commencement Date**) in relation to the subject matter of the Rapid Travel Group Order. Each Travel Provider Contract will form a separate Contract.

2.3 Each Travel Provider Contract and these conditions constitute the entire agreement between the Travel Provider and Rapid Travel Group and the Customer. The Travel Provider acknowledges that it will not rely upon any statement, promise or representation made or given by or on behalf of either the Customer or Rapid Travel Group which is not set out in the Travel Provider Contract.

2.4 Any descriptive matter or advertising issued by Rapid Travel Group, and any descriptions or illustrations contained in Rapid Travel Group's catalogues or brochures or on a website, are issued or published for the sole purpose of giving an approximate idea of the services described in them. They shall not form part of an Travel Provider Contract or have any contractual force.

- 2.5 The Travel Provider will fully and effectively indemnify Rapid Travel Group on a full indemnity basis against any liabilities or losses which Rapid Travel Group may incur as a result of acting with reasonable care and skill within the scope of its authority pursuant to, a Travel Provider Contract, a Contract or as agent for the Customer such indemnity to extend but without limitation to all costs incurred by Rapid Travel Group with its professional advisers in resisting the application of any such liabilities or losses and in particular but again without limitation any liabilities or losses arising out of a Travel Provider Contract.
- 2.6 These Conditions apply to each Travel Provider Contract to the exclusion of any other terms that the Travel Provider seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.7 Customer Terms and Conditions also apply to each Travel Provider Contract as far as the circumstances allow and to the exclusion of any other terms that the Travel Provider seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing but in the event of a conflict between them and these conditions these conditions will prevail.

3. SUPPLY OF SERVICES

- 3.1 Rapid Travel Group shall supply the Services to the Customer to the best of its ability using reasonable care and skill.
- 3.2 Rapid Travel Group shall have the right to make any changes to the Travel Provider Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Travel Provider Services, and Rapid Travel Group shall notify the Travel Provider and in writing if time permits if any such event occurs.
- 3.3 The Travel Provider shall supply the Travel Provider Services to both the Customer and to Rapid Travel Group to a reasonable standard and to the best of its ability using reasonable care and skill.
- 3.4 The Travel Provider shall have the right to make any changes to the Travel Provider Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Travel Provider Services, and the Travel Provider shall notify both the Customer and Rapid Travel Group and in writing if time permits if any such event occurs.

4. TRAVEL PROVIDER'S OBLIGATIONS

- 4.1 The Travel Provider shall:
- (a) ensure that any information it provides is both complete and accurate
 - (b) ensure that the terms of the Travel Provider Contract are complied with;
 - (c) co-operate both with Rapid Travel Group and the Customer in all matters relating to both the Services and the Travel Provider Services;

- (d) provide both Rapid Travel Group and the Customer with such information as Rapid Travel Group or the Customer may reasonably require in order to supply either the Services or the Travel Provider Services, and ensure that such information is complete and accurate in all material respects;
- (e) obtain and maintain all necessary licences, permissions and consents (if any) which may be required in connection with the Travel Provider Services before the date on which the Travel Provider Services are to be provided;
- (f) fully and effectively indemnify Rapid Travel Group on a full indemnity basis against all losses incurred for whatever reason arising from any failure on the part of the Travel Provider to fulfil its obligations pursuant to an Travel Provider Contract or these Terms and Conditions; and
- (g) make all payments due (if any) under the terms of the Travel Provider Contract or arising from one expeditiously and in any event (with time being of the essence) within 5 Business Days of any such payment becoming due.

5. CHARGES AND PAYMENT

- 5.1 The Travel Provider Charges pursuant to each Travel Provider Contract are intended to be paid by the Customer to Rapid Travel Group who will then as agent for the Customer pay the amount of the Travel Provider Charges to the Travel Provider. Any secondary or further charge or charges payable to the Travel Provider pursuant to a Travel Provider Contract and in addition to the Travel Provider Charges will be payable by the Customer to the Travel Provider unless Rapid Travel Group otherwise agrees in writing.
- 5.2 The Travel Provider will invoice Rapid Travel Group as agent for the Customer for the Travel Provider Charges on completion of provision of the Travel Provider Services to be provided pursuant to the Travel Provider Contract or sooner if Rapid Travel Group so requires.
- 5.3 Unless previously paid and unless otherwise agreed in writing Rapid Travel Group as agent for the Customer they will pay each invoice submitted by the Travel Provider for Travel Provider Charges:
- (a) within 14 days of the date of the invoice; and
 - (b) if so requested in full and in cleared funds to a bank account nominated in writing by the Travel Provider.
- 5.4 All amounts payable pursuant to the Travel Provider Contract are inclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Travel Provider Contract, the Travel Provider shall provide Rapid Travel Group with a valid VAT invoice in relation thereto.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 All Intellectual Property Rights in or arising out of or in connection with the Services, a Contract, a Travel Provider Contract and the matters provided for in these conditions shall be owned by Rapid Travel Group.

6.2 The Travel Provider acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on Rapid Travel Group obtaining a written licence from the relevant licensor on such terms as will entitle Rapid Travel Group to licence such rights to the Travel Provider.

7. CONFIDENTIALITY

A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain including but without limitation information relating to banking accounts. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 18 shall survive termination of the Contract.

8. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

8.1 Nothing in these Conditions shall limit or exclude Rapid Travel Group's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

8.2 Subject to clause 19.1 Rapid Travel Group shall have no liability to the Customer or the Travel Provider in respect of all losses arising under or in connection with the Travel Provider Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise.

8.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from each Contract and each Travel Provider Contract.

8.4 This clause 19 shall survive termination of each Contract and each Travel Provider Contract.

9. TERMINATION

9.1 Without limiting its other rights or remedies, each party may terminate a Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within a reasonable time of that party being notified in writing of the breach and in any event within five Business Days;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) a floating charge holder over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 20.1(b) to clause 20.1(i) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

9.2 Without limiting its other rights or remedies, Rapid Travel Group may terminate a Travel Provider Contract with immediate effect by giving written notice to the Travel Provider if the Customer fails to pay any amount due under any Contract or any Travel Provider Contract on the due date for payment.

9.3 Without limiting its other rights or remedies, Rapid Travel Group shall have the right to terminate a Travel Provider Contract by giving the Travel Provider 5 Business Days written notice.

10. CONSEQUENCES OF TERMINATION

On termination of an Travel Provider Contract for any reason clauses which expressly or by implication have effect after termination shall continue in full force and effect.

11. GENERAL

11.1 Assignment and subcontracting:

- (a) The Customer shall not, without the prior written consent of Rapid Travel Group, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under a Travel Provider Contract or these terms and conditions.

11.2 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with a Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number or by email or by more than one of these methods of delivery.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.
- (c) This clause 2 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause 11.2, "writing" shall not include e-mails and for the avoidance of doubt notice given under a Contract shall not be validly served if sent by e-mail.

11.3 Waiver:

- (a) A waiver of any right under a Travel Provider Contract or these terms and conditions is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under a Travel Provider Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- (b) Unless specifically provided otherwise, rights arising under a Travel Provider Contract are cumulative and do not exclude rights provided by law.

- 11.4 Severance:
- (a) If a court or any other competent authority finds that any provision of an Travel Provider Contract or these terms and conditions (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of a Travel Provider Contract shall not be affected.
 - (b) If any invalid, unenforceable or illegal provision of an Travel Provider Contract or these terms and conditions would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 11.5 No partnership: Nothing in a Contract or these terms and conditions is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties.
- 11.6 Third parties: A person who is not a party to a Contract shall not have any rights under or in connection with it.
- 11.7 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to a Travel Provider Contract or these terms and conditions, shall only be binding when agreed in writing by Rapid Travel Group.
- 11.8 Governing law and jurisdiction: Each Travel Provider Contract, 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, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

SCHEDULE

RAPID TRAVEL GROUP LIMITED – CUSTOMER TERMS AND CONDITIONS OF TRADING (v4 – updated 14/03/19)

The Customer's attention is particularly drawn to the provisions of clause 19.

12. INTERPRETATION

12.1 Definitions. In these Conditions, the following definitions apply:

Travel Provider: the person or persons or other legal entity providing Travel Provider Services pursuant to a Travel Provider Contract procured on behalf of the Customer by the Supplier as the agent for and on behalf of the Customer pursuant to the Contract and subject to these Terms and Conditions.

Travel Provider Contract: a contract between the Customer and a Travel Provider for the provision of Travel Provider Services entered into by the Supplier as agent for the Customer as part of the Services pursuant to the Contract and subject to these Terms and Conditions.

Travel Provider Services: the provision of Passenger Transport, Events, Conferences, Accommodation or other similar types of services for the Customer and / or its employees, agents and / or others for or on behalf of the Customer.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services in accordance with clause 16.

Commencement Date: has the meaning set out in clause 13.3.

Conditions: these terms and conditions as amended from time to time in accordance with clause 22.8.

Contract: a contract between the Supplier and the Customer for the supply of Services in accordance with these Conditions.

Customer: the person or firm who purchases Services from the Supplier pursuant to a Contract.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Order: the Customer's order for Services however such order is delivered to the Supplier.

Services: the services, supplied by the Supplier to the Customer comprising the procurement of Travel Provider Services to be provided by an Travel Provider pursuant to an Travel Provider Contract entered into by the Supplier as agent for and on behalf of the Customer pursuant to an Order.

Supplier: RAPID TRAVEL GROUP LIMITED registered in England and Wales with company number 08074002 whose registered office is at 127 Cleethorpe Road, Grimsby, DN31 3EW.

12.2 **Construction:** In these Conditions, the following rules apply:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) any phrase introduced by the terms **including, include, in particular** or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
- (e) subject to clause 11.3 (c) a reference to **writing** or **written** includes faxes and e-mails.

13. BASIS OF CONTRACT AND AGENCY

- 13.1 Each Order constitutes a separate offer by the Customer to purchase Services in accordance with these Conditions and to appoint the Supplier as its agent in connection with the procurement of the Travel Provider Services to which the Order relates.
- 13.2 The Customer will fully and effectively indemnify the Supplier on a full indemnity basis against any liabilities or losses which the Supplier may incur as a result of acting with reasonable care and skill within the scope of its authority under this agreement and as agent for the Customer such indemnity to extend but without limitation to all costs incurred by the Supplier with its professional advisers in resisting the application of any such liabilities or losses and in particular but again without limitation any liabilities or losses arising out of a Travel Provider Contract.
- 13.3 An Order shall only be deemed to be accepted when the Supplier issues written or other acceptance of the Order at which point and on which date a Contract shall come into existence (**Commencement Date**) in relation to the subject matter of that Order. Each Order if accepted by the Supplier will form a separate Contract. Each Contract will be subject to these Conditions.
- 13.4 Pursuant to each Contract the Supplier acting as agent for and on behalf of the Customer will seek to procure the services of an Travel Provider or more than one Travel Provider to provide Travel Provider Services and upon the basis that each contract for the provision of Travel Provider Services is made between the Customer and the Travel Provider as a consequence of the Suppliers agency.
- 13.5 Each Contract constitutes the entire agreement between the parties. The Customer acknowledges that it will not rely upon any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.
- 13.6 Any descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the Supplier's catalogues or brochures, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of a Contract or have any contractual force.

13.7 These Conditions apply to each Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

13.8 Any quotation or estimate given by the Supplier shall not constitute an offer.

14. SUPPLY OF SERVICES

14.1 The Supplier shall supply the Services to the Customer to the best of its ability using reasonable care and skill.

14.2 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and if time permits the Supplier shall notify the Customer in writing if any such event occurs.

15. CUSTOMER'S OBLIGATIONS

15.1 The Customer shall:

- (a) ensure that the terms of the Order and any other information it provides are complete and accurate;
- (b) co-operate both with the Supplier and the Travel Provider in all matters relating to both the Services and the Travel Provider Services;
- (c) provide both the Supplier and the Travel Provider with such information as the Supplier may reasonably require in order to supply both the Services and the Travel Provider Services, and ensure that such information is accurate in all material respects;
- (d) obtain and maintain all necessary licences, permissions and consents (if any) which may be required before the date on which the Services and / or the Travel Provider Services are to be provided; and
- (e) make the payments provided for in clause 5.

15.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**) then:

- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- (b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this clause 15.2; and
- (c) the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

16. CHARGES AND PAYMENT

- 16.1 The Charges payable by the Customer to the Supplier for the Services shall be the difference between the charges payable to the Travel Provider pursuant to the Travel Provider Contract or Travel Provider Contracts entered into pursuant to the Contract and the amount or amounts which the Customer has agreed to pay the Supplier for the provision by the Travel Provider of the Travel Provider Services to which that Travel Provider Contract or those Travel Provider Contracts relate.
- 16.2 The initial charges payable to the Travel Provider pursuant to each Travel Provider Contract shall be paid by the Customer to the Supplier who will as agent for the Customer pay the amount of such charge to the Travel Provider after deducting the Charges relating to that Travel Provider Contract. Any secondary or further charge or charges payable to the Travel Provider pursuant to each Travel Provider Contract will be payable by the Customer to the Travel Provider unless the Supplier otherwise agrees in writing.
- 16.3 The Supplier shall invoice the Customer for both the Charges and the initial charge payable in connection with each Travel Provider Contract on completion of provision of the Services to be provided pursuant to the Contract or sooner if the Supplier so determines.
- 16.4 Unless previously paid or otherwise agreed in writing by the Supplier the Customer shall pay each invoice submitted by the Supplier:
- (a) within 14 days of the date of the invoice; and
 - (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and time for payment shall be of the essence of the Contract.
- 16.5 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services and the Supplier will provide the Customer with a valid VAT invoice in relation thereto.
- 16.6 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment (**Due Date**), the Supplier shall have the right to charge interest on the overdue amount at the rate of ten per cent per annum above the then current base rate of Lloyds Bank plc accruing on a daily basis from the Due Date until the date of actual payment of the overdue amount compounding quarterly, whether before or after judgment.
- 16.7 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

17. INTELLECTUAL PROPERTY RIGHTS

- 17.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by the Supplier.
- 17.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to licence such rights to the Customer.

18. CONFIDENTIALITY

A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 18 shall survive termination of the Contract.

19. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE

- 19.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:
- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 19.2 Subject to clause 19.1:
- (a) having complied with its obligations pursuant to clause 3.1 the Supplier will have no liability to the Customer if it fails to procure in connection with any Contract a Travel Provider Contract in connection with all or some of the Travel Provider Services intended to be the subject of that Contract;
 - (b) the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with either the Contract or a Travel Provider Contract;
 - (c) the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with a Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the amount of the Charges applicable to that Contract whether paid to the Supplier or not; and

- (d) the Supplier shall have no liability to the Customer in respect of all losses arising under or in connection with the Travel Provider Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise.

19.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from each Contract.

19.4 This clause 19 shall survive termination of the Contract.

20. TERMINATION

20.1 Without limiting its other rights or remedies, each party may terminate a Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within a reasonable time of that party being notified in writing of the breach and in any event within five Business Days;
- (b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (c) the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors [other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party];
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) the other party (being an individual) is the subject of a bankruptcy petition or order;
- (f) a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (g) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);
- (h) a floating charge holder over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

- (i) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
- (j) any event occurs or proceeding is taken with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 20.1(b) to clause 20.1(i) (inclusive);
- (k) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (l) the other party (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

20.2 Without limiting its other rights or remedies, the Supplier may terminate a Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under any Contract or any Travel Provider Contract on the due date for payment.

20.3 Without limiting its other rights or remedies, each party shall have the right to terminate a Contract by giving the other party 5 Business Days written notice.

20.4 Without limiting its other rights or remedies, the Supplier shall have the right to suspend provision of the Services under a Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 20.1(b)) to clause 20.1(l), or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under any Contract or any Travel Provider Contract on the due date for payment.

21. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) the accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination shall not be affected, including the right to claim damages in respect of any breach of any Contract which existed at or before the date of termination or expiry; and
- (c) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

22. GENERAL

22.1 Force majeure:

- (a) For the purposes of a Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.
- (b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under a Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents the Supplier from providing any of the Services for more than four weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate any relevant Contract immediately by giving written notice to the Customer.

22.2 Assignment and subcontracting:

- (a) The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under a Contract and may subcontract or delegate in any manner any or all of its obligations under a Contract to any third party or agent.
- (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under a Contract or these terms and conditions.

22.3 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with a Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number or by email or by more than one of these methods of delivery.
- (b) Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Business Day after transmission.
- (c) This clause 22.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause 11.3, "writing" shall not include e-mails and for the avoidance of doubt notice given under a Contract shall not be validly served if sent by e-mail.

22.4 Waiver:

- (a) A waiver of any right under a Contract or these terms and conditions is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in

exercising any right or remedy under a Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

- (b) Unless specifically provided otherwise, rights arising under a Contract are cumulative and do not exclude rights provided by law.

22.5 Severance:

- (a) If a court or any other competent authority finds that any provision of a Contract or these terms and conditions (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- (b) If any invalid, unenforceable or illegal provision of a Contract or these terms and conditions would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

22.6 No partnership: Nothing in a Contract or these terms and conditions is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties.

22.7 Third parties: A person who is not a party to a Contract shall not have any rights under or in connection with it.

22.8 Variation: Except as set out in these Conditions, any variation, including the introduction of any additional terms and conditions, to a Contract or these terms and conditions, shall only be binding when agreed in writing by the Supplier.

22.9 Governing law and jurisdiction: Each Contract, 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, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.