

## Jet2holidays Limited - standard agency agreement

### 1. DEFINITIONS

1.1 In these Terms and Conditions, the following terms have the following meanings:

- (a) **ABTA** means ABTA, the trade association;
- (b) **ABTA Requirements** means the requirements, rules and codes of ABTA;
- (c) **Agent** means any third party travel agent who has entered into a Commercial Terms Letter with the Principal for the sale of Travel Arrangements by the Agent on behalf of the Principal and named in the Mandated Agency Terms;
- (d) **Agreement** means these Terms and Conditions, the Mandated Agency Terms (if applicable) and the Commercial Terms Letter. For the avoidance of doubt, these Terms and Conditions, along with the Commercial Terms Letter issued to the Agent by the Principal and the Mandated Agency Terms (if applicable), set out the terms and conditions of the entire agreement between the Agent and the Principal and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter. The Agent agrees that it shall have no remedies in respect of any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement. The Agent shall not have any claim for innocent or negligent misrepresentation based upon any statement in this Agreement. Please note that in the event of sales of non licensable transactions being carried out by the Agent the Mandated Agency Terms will not apply, and any references in this Agreement to the issue of ATOL certificates or other general ATOL obligations will not be applicable to such transactions; **Applicable Laws** means all applicable laws, regulations, rules, codes of practice, and other legal requirements including, without limitation, ABTA Requirements (where applicable), ATOL Requirements, Data Protection Legislation and PTRs;
- (e) **API** means the application programming interface made available by the Principal, which allows the integration of the Trade Website with the Principal's operating system in order to enable the Agent and Customer to access, browse, select, book and pay for Travel Arrangements;
- (f) **ATOL** means the Principal's Air Travel Organisers' Licence issued by the Civil Aviation Authority from time to time;
- (g) **ATOL Protected Products** means the flight inclusive packages which the Principal sells and offers for sale as principal and which will be protected by the Principal's ATOL and, where the context requires, any of them;
- (h) **ATOL Related Information** means the information which must be provided to consumers in accordance with ATOL Standard Term 1;
- (i) **ATOL Requirements** means ATOL Regulations, all other legislation which relates to or affects the sale or advertising of flight accommodation by the Agent or the Principal, ATOL Standard Terms (including without limitation, the ATOL Related Information) and all other requirements of the CAA as applicable and varied from time to time;
- (j) **ATOL Regulations** means the Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012 as amended the Civil Aviation (Air Travel Organisers' Licensing) (Amendment) Regulations 2018 and any further amendment or re-enactment of the same;
- (k) **ATOL Standard Terms** means the ATOL standard terms published by the CAA in the CAA's Official Record Series 3 as varied from time to time and "ATOL Standard Term" and "AST" means any particular such term or terms as specified;
- (l) **Booking(s)** means any booking(s) of any Travel Arrangements made by any Customer(s) with the Principal through the Agent;
- (m) **Booking Conditions** means the Principal's booking conditions and privacy policy as published from time to time on the Trade Website;
- (n) **CAA** means the Civil Aviation Authority;
- (o) **Commercial Terms Letter** means the letter from the Principal to the Agent which sets out commercial terms that govern the relationship between the Principal and the Agent, as issued from time to time, and which supersedes conflicting terms within this Agreement;
- (p) **Consumer** has the meaning specified in regulation 4 of ATOL Regulations;
- (q) **Customer(s)** means the person(s), or any of them as the context requires, who purchase any Travel Arrangements or on whose behalf any Travel Arrangements is purchased. It also has the same meaning in respect of any ATOL Protected Products as Consumer, as defined by regulation 4 of ATOL Regulations;
- (r) **Customer Payment(s)** means all deposits, balances, full payments, cancellation charges, amendment fees and sums of whatever nature (or any of them as the context requires) paid or payable by Customers or prospective Customers in relation of Bookings or prospective Bookings;
- (s) **Data Protection Legislation** means all applicable laws, regulations, regulatory requirements and codes of practice in connection with the processing of Personal Data including the GDPR and the Data Protection Act 2018, and/or other applicable data protection or national/federal or state/provincial privacy legislation in force, including where applicable, statutes, decisions, guidelines, guidance notes and codes of practice issued from time to time by courts, data protection authorities and other applicable government authorities ;
- (t) **Failure of the Principal** has the same meaning, in respect of the Principal, as that specified in regulation 23 of ATOL Regulations in relation to "failure of an ATOL holder" and "Failed", "Fails" and "Fail" in respect of the Principal, shall be construed accordingly;
- (u) **"GDPR"** means either as applicable, Regulation (EU) 2016/679 (directly applicable European Union law) or Regulation (EU) 2016/679 as transposed into the United Kingdom ("**UK**") national law by the operation of section 3 of the EU (Withdrawal) Act 2018 (and as amended by the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019);
- (v) **Late Bookings** means the Principal's late availability holidays booked within ten (10) weeks of departure;
- (w) **Lead Name** means the person over the age of 18 years of age named as the first person on the Booking (or any substitute for that person), whom alone instructs the Agent to change names, amend Booking details, or cancel the Booking, and who is liable for full payment of the Travel Arrangements booked and all other charges, including amendment and cancellation charges;
- (x) **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;

- (y) **Mandated Agency Terms** means the schedule of agency terms which the Principal is required by ATOL Regulations and Tol Standard Terms to include in any agency agreements with its agents which applies to ATOL Protected Products as specifically set out in AST 1.4 and any variation of the same by the CAA, the current version of which appear in Schedule 1;
- (z) **Package** has the meaning given to it in the PTRs and where referenced in this Agreement, means a Package organised by the Principal;
- (aa) **Principal or Principal ATOL Holder** means **Jet2holidays Limited**, a private limited company incorporated under the laws of England and Wales (CRN: 04472486; ATOL: 9618) whose registered office is located at Low Fare Finder House, Leeds Bradford International Airport, Leeds, West Yorkshire LS19 7TU, United Kingdom;
- (bb) **PTRs** mean the Package Travel and Linked Travel Arrangements Regulations 2018 and any amendment or re-enactment of the same and all other applicable legislation implementing the Directive (EU) 2015/2302 on package travel and linked travel arrangements;
- (cc) **PTR Information Schedules** means Schedules 2 and 3 of the PTRs, as applicable, outlining the information to be provided to a Consumer before a Consumer makes a Booking;
- (dd) **Statement** means a statement issued by the Principal showing monies due to the Principal by the Agent for balance payments due on Travel Arrangements within ten (10) weeks of the date of the statement and for all deposit payments due on Travel Arrangements for the month preceding the date of the statement, such statement being issued either monthly or on request where Agents have been approved to use an accredited single payment system;
- (ee) **Trade Website** means the Principal's computerised reservation system [tradesite.jet2holidays.com](https://tradesite.jet2holidays.com) to be used by appointed agents only, including any replacement, substitution or successor performing similar functions, as upgraded from time to time;
- (ff) **Travel Arrangements** means air or other transport tickets, accommodation, car hire, package holidays and any other travel services supplied by the Principal from time to time.

1.2 In this Agreement, unless otherwise specified:

- (a) references to clauses and paragraphs are to clauses and paragraphs of this Agreement;
- (b) headings are for convenience only and do not affect the interpretation of this Agreement;
- (c) any reference to a "**day**" shall mean a period of twenty-four (24) hours running from midnight to midnight (other than a Saturday or Sunday) on which banks are open for business in London;
- (d) any reference to a "**person**" shall be construed so as to include any individual, firm, company, government body or any joint venture, association, or partnership (whether or not having a separate legal entity);
- (e) a reference to any statute or statutory provision shall be construed as a reference to the same as it may have been, or may from time to time be, amended, modified or re-enacted;
- (f) words denoting the singular include the plural and vice versa, words denoting any gender include any other gender; and
- (g) any reference to "**in writing**" shall be construed so as to include notice by first class post or electronic mail.

### 2. APPOINTMENT

- 2.1 By this Agreement, the Principal appoints the Agent as its non-exclusive agent for the sale and marketing of the Travel Arrangements within the United Kingdom on the terms and subject to the conditions of this Agreement issued by the Principal from time to time.
- 2.2 The Agent shall be deemed to have agreed to act as Agent for the Principal and to have accepted the terms of this Agreement upon the sale of Travel Arrangements on behalf of the Principal after the date of this Agreement.
- 2.3 This Agreement replaces any existing agreement between the parties (which is terminated as a result).
- 2.4 The Agent accepts its appointment and agrees to:
  - (a) sell the Travel Arrangements through all of its selling channels;
  - (b) give advice to the Lead Name regarding the suitability of the Travel Arrangement for its purposes, including but not limited to advice, relating to destinations, resorts, activities, accommodation, board type, climate and airlines; and
  - (c) give advice to the Lead Name, before the Booking is confirmed, regarding passports, visa and entry requirements, health requirements and insurance.
- 2.5 The Agent's authority to act as the Principal's agent in accordance with this clause 2 is subject to and conditional on the Agent's compliance with the terms of this Agreement (including, in particular, but without limitation, the Mandated Agency terms) and with the requirements of regulation 12 of ATOL Regulations and with Standard Terms 1.1 to 1.13 inclusive.

### 3. TERM

This Agreement shall come into force on the date on which the Agent begins selling the Principal's Travel Arrangements in accordance with Clause 2 above and as specified in the Mandated Agency Terms, and shall continue indefinitely, subject to termination in accordance with the provisions of Clause 7 below.

### 4. DUTIES OF THE AGENT

The Agent agrees and undertakes with the Principal to:

#### 4.1 Product Display in Retail Sales Branches

- (a) display brochures and other promotional material supplied to it by the Principal in its premises or on its website in accordance with the terms of the Commercial Terms Letter. Where Travel Arrangements appear on the Agent's website the Agent must ensure it obtains the Principal's prior approval of all information and material relating to the Travel Arrangements placed on its website and that all such information and material is accurate, clear and complete. The Agent must ensure that its website complies with the Applicable Laws and that reference to the Principal's ATOL number and financial protection for Travel Arrangements, booking conditions and any other information required by the Principal prominently appears when referring to or featuring any Travel Arrangements;
- (b) immediately de-rack any editions of display brochures superseded by future editions and immediately replace such de-racked brochures with the relevant replacement edition.

#### 4.2 Sales Promotion

- (a) promote and use its reasonable endeavours to increase sales of the Travel

- Arrangements to existing and potential customers; and
- (b) ensure that the Principal's Travel Arrangements are given at least equal recommendation, exposure and promotion as that given to other suppliers' Travel Arrangements;
- 4.3 Disclosure of Principal and ATOL Protection**
- (a) state clearly that it acts as agent for the Principal and state the Principal's name and ATOL number on all dedicated publicity material and relevant documents, and to comply with all the terms of ATOL Standard Term 1 (as listed in The Mandated Agency Terms) as if they applied directly to the Agent.
- (b) where the Agent invites a Customer to choose from Travel Arrangements that are ATOL protected under the Principal's ATOL, it shall ensure the Customer is made aware, by means of information displayed clearly and transparently and in close proximity of the price of the Travel Arrangements, that all Travel Arrangements are ATOL Protected Products. In addition to the requirements of clause 4.3(a), the Agent must also provide the Principal's name and ATOL number at this point. This information must be provided at the time specified in ATOL Standard Term 1;
- (c) for the purpose of this clause 4.3 and the remainder of this Agreement, dedicated publicity material means that on which the Agent holds itself out as being able to make available the Travel Arrangements as agent for the Principal. "**Relevant documents**" means those issued by the Agent that form or evidence the formation of a contract between the Customer and the Principal;
- 4.4 Monies**
- (a) Sell Travel Arrangements at no more than the prices advertised by the Principal or advised by the Principal in writing (the most recently advertised or advised being applied). Regardless of any discount or incentive scheme which may be offered by the Agent, pay the Principal all amounts due for the Travel Arrangements including all amounts received from Customers net only of the Agent's agreed commission;
- (b) Only accept payment from Customers in respect of a Licensable Transaction in compliance with the terms of this Agreement and, on receipt of the applicable payment, to confirm that a contract between that the Principal and the Customer(s) concerned has come into existence in respect of that Licensable Transaction providing that, prior to the Agent doing so, the Principal has specifically confirmed to the Agent in writing or by such other method as is acceptable to the Principal in relation to that particular Licensable Transaction that the Principal is in a position to confirm it;
- (c) hold all monies paid to the Agent by Customers for Bookings made with the Principal on trust as agent for the Principal at all times;
- 4.5 Booking Process**
- (a) ensure that all Bookings are taken in accordance with the Principal's booking procedure as notified by the Principal from time to time including ensuring that all Bookings are made using the Trade Website; and: -
- (i) a deposit is taken in accordance with the applicable current Booking Conditions; or
- (ii) in case of Late Bookings within the balance due date, ensure that the full cost of the Travel Arrangements in cleared funds is taken, before confirming the Booking with the Principal;
- (b) not confirm any Booking until a booking confirmation is received from the Principal;
- 4.6 Booking Conditions**
- (a) ensure that the Lead Name is referred to the Booking Conditions in respect of the Booking and any other applicable information, including but not limited to, all applicable erratas and all other information passed from the Principal to the Agent (whether in writing or verbally) which relates to the Booking, before the Agent completes any Booking;
- (b) not amend the Booking Conditions;
- 4.7 Required Information**
- (a) Ensure that all information required by the PTRs and ATOL Requirements, be given to any Customer or potential Customer, is so given and at the time and in the form required by the PTRs and ATOL Requirements. For the avoidance of doubt and without limitation, this requires compliance by the Agent as the relevant person with the information duties imposed by regulations 5, 6 and 7 of the PTRs by the provision to the prospective Customer of all information required to be given to the traveller before a contract is concluded. In particular, the Agent will ensure that the Customer is given the opportunity to read the PTR Information Schedules prior to completing a Booking. Furthermore, the Agent must provide the Customer with general information about passport, visa and health requirements (including the time they are likely to take to obtain) applicable to the Travel Arrangements in question for the Customer(s) concerned (where the Consumer is a British or EU citizen), and ensure that it has a proper system in place for the provision of this information and that this is adhered with at all times. Where any Customer is not a British or EU citizen, tell that Customer where they can find out the applicable information. The Agent must ensure that it has a proper system in place for the provision of such information and that this is kept to at all times;
- (b) Ensure that Customers are given an accurate, complete and clear picture of the Travel Arrangements. Not make any representations, verbally or in writing, to any Customer which are in addition to or different from those contained in the Principal's applicable brochure, website and/or advertising material or which are contrary to the corrections or alterations previously advised by the Principal unless authorised to so do by the Principal in writing;
- (c) Where such information is requested by the Principal as necessary, ensure that information relating to the next of kin of Customers is collected and sent to the Principal prior to the commencement of the Travel Arrangements.
- 4.8 ATOL Documentation**
- to give the Lead Name:
- (i) the standard ATOL certificate issued in accordance with the provisions of the Mandated Agency Terms and
- (ii) a hard copy of the Principal's booking confirmation to the Customer immediately upon receipt from the Principal, but in any event no later than three (3) days following
- the issue of an ATOL certificate to a Customer in accordance with Agency Term 6.2 of the Mandated Agency Terms.
- 4.9 ATOL Certificate**
- (a) ensure that the ATOL certificate provided to the Lead Name in respect of a Booking including air transportation, sold under the Principal's ATOL includes the information as set out in the Mandated Agency Terms;
- (b) supply to all Customers booking a Licensable Transaction, an ATOL Certificate on behalf of the Principal, immediately upon receipt of the first payment from the Customer;
- (c) notify the Principal ATOL holder and give sufficient information to enable it to issue an ATOL Certificate and provide it to the Customer in accordance with the requirements set out in Agency Term 6.1 of the Mandated Agency Terms and regulation 17 of ATOL Regulations.
- 4.10 Telephone Bookings/Late Bookings**
- ensure that where a Lead Name makes a telephone booking or Late Booking the Agent satisfies the steps outlined in Clauses 4.7 and 4.8 as soon as possible after confirmation. In particular, the Agent shall ensure that an ATOL certificate (where applicable) and a copy of the Booking Conditions are:
- (a) delivered to the Lead Name in person; or
- (b) sent to the Lead Name's address immediately;
- 4.11 Provision of Information on Operating Airlines(s)**
- (a) ensure that the Lead Name is specifically advised verbally of the full name of the airlines(s) operating all flights on a Booking prior to the Booking being confirmed;
- (b) ensure that the Lead Name is also made aware, by means of information displayed clearly transparently and prominently of the following (where that information is known at the time of Booking): (i) the flight dates and departure and arrival times, (ii) the departure and arrival airports, (iii) whether the flight is direct or indirect, (iv) whether hold luggage and transfer services form part of the Booking and (v) details, including price, of extra hold luggage allowance or transfer services that can also be purchased. This information and the information required to be provided under clause 4.11(a) must be provided at the time specified in ATOL Standard Term 1;
- (c) ensure that the Lead Name is immediately advised of any changes to the airline(s) operating any flights on a Booking if notified of such changes by the Principal;
- 4.12 Insurance**
- (a) ensure that the Lead Name is specifically advised of insurance appropriate for that Customer's requirements, which the Customer shall be requested to purchase, at or before the time of entering into a contract with the Principal;
- (b) indemnify the Principal for all costs, claims, demands, liabilities, expenses, damages or losses if the Agent fails to comply with the provisions of Clause 4.12(a) and the Principal incurs costs on behalf of the Customer such as medical and repatriation expenses;
- 4.13 Amendments notified by Principal**
- (a) notify the Lead Name immediately in writing (and by telephone if notification occurs less than fourteen (14) days before departure) of all corrections, amendments, programme changes, errata and information advised by the Principal, whether or not such an amendment is significant, (whether advised by the Principal in writing, on the Trade Website or orally) in respect of any Booking;
- (b) ensure that any instructions regarding written amendments to the Principal's brochures, promotional material or other documentation held by the Agent are acted upon expeditiously;
- 4.14 Special Requests and Assisted Travel**
- (a) ensure that the correct distinction is drawn between special requests and assistance requirements;
- (b) ensure that when a Customer makes a special request and/or a request for assistance in respect of a booking, this request and/or requirement is promptly and accurately notified to the Principal in writing;
- (c) the Agent must keep clear written notes of any reduced mobility, disability or medical condition advised by any Customer or prospective Customer (of which full details must be obtained and passed onto the Principal at the time). Where relevant, draw to the attention of the Customer or prospective Customer the information provided by the Principal in its brochure, on its website or elsewhere as to the general suitability of the selected Travel Arrangements for someone with reduced mobility but emphasise that this is a general indication only as suitability depends on the specific restrictions and capabilities of the individual concerned;
- (d) not make any verbal or written assurances to a Customer that any special request is subject to availability in resort on the date of arrival;
- (e) prior to making any verbal or written assurances to a Customer that any assistance requirements shall be complied with seek and receive confirmation from the Principal that the assistance requirements shall be met; and
- (f) not give any representations, warranties or other promises concerning the Travel Arrangements beyond those stated in the Principal's Booking Conditions and those given in accordance with Clause 4.14 (e).
- 4.15 Notification of cancellation and amendment**
- (a) ensure that all requests by a Lead Name to amend or cancel a Booking are made on the day on which they are received by contacting the Principal in writing or via the After Sales Support line;
- 4.16 Cancellation and amendment procedure**
- (a) inform the Lead Name of any obligations to pay cancellation/amendment charges where a Lead Name requests the cancellation or amendment of a Booking and pass on the Principal's cancellation invoice or amendment invoice, as appropriate, to the Lead Name immediately upon receipt;
- 4.17 Collection and refund of monies due**
- (a) collect from Customers all deposits, balances, cancellation charges, amendment fees and all other monies payable by the Lead Name in accordance with the Booking Conditions and to remit those monies as shown on the Principal's confirmation invoice, cancellation invoice or amendment invoice, as appropriate to the Principal by their due date. The Agent is responsible and liable to the Principal for all monies due from the Lead Name in accordance with the Booking Conditions and it is the responsibility of the Agent to demand settlement of any and all monies due and pursue the Lead Name until settlement of all debts;
- (b) refund to the Lead Name any monies due in accordance with Booking Conditions and in a timely

manner, so as to comply with any timescales in the ABTA Code of Conduct, as amended from time to time;

#### 4.18 **Agent's Liability**

remain personally liable to the Principal for monies which it has failed to collect in accordance with the terms of this Agreement and the Booking Conditions, where a Booking has been confirmed by the Principal without the Agent:

- (a) collecting a deposit and/or balance from the Customer; or
- (b) collecting the total cost of the Travel Arrangements in the case of a Late Booking; or
- (c) collecting any other sums due under the Lead Name's contract with the Principal, such as amendment fees;

#### 4.19 **Issuing Tickets/Vouchers**

not issue or dispatch any tickets/vouchers in relation to the Booking where money is outstanding to the Agent from the Lead Name;

#### 4.20 **Complaints**

- (a) advise the Principal immediately (and no later than 24 hours of receipt) of any complaint by a Customer in relation to the Travel Arrangements (including any complaint to a Trading Standards Department or a regulatory or trade body) regardless of whether or not the Principal's assistance is required to resolve that complaint and, thereafter, co-operate fully with the Principal in resolving the complaint;

#### 4.21 **Duty to provide information and forward correspondence**

- (a) forward immediately to the Principal any communication or correspondence however received from a Customer and to forward immediately and accurately to the Customer any information, communication or correspondence howsoever received from the Principal, including but not limited to, programme changes, erratas and all other information provided by the Trade Website; and
- (b) allow the Principal and its authorised officers, employees and agents, access to all files and records of any description (however and wherever stored or kept and including electronically held files and records) relating to any Booking(s) and/or to any monies paid or which may have been paid in respect of any Booking(s) at any time, during normal working hours or outside these hours on the Principal giving the Agent reasonable notice (which may be no notice in circumstances where the Principal considers the circumstances to be exceptional);

#### 4.22 **Out-of-hours contact**

provide the Principal with contact numbers to enable the Agent and/or its employees to be contacted at any time;

#### 4.23 **Duty not to misuse Principal's Name and Intellectual Property**

not make use of the Principal's name, trademarks, other intellectual property, or ATOL/ABTA numbers in any illicit or unlawful manner and only in accordance with the terms of this Agreement, and promptly inform the Principal of suspected unauthorised use of such by third parties;

#### 4.24 **Agent's indemnity**

hold and keep the Principal indemnified against all costs, claims, demands, liabilities, expenses, damages, or losses (including without limitation, any indirect or consequential losses, loss of profit and loss of reputation, and all interest, penalties, legal and other professional costs and expenses) arising directly or indirectly from or in connection with any breach by or on behalf of the Agent or any of the Agent's officers, employees, sub-agents, contractors or representatives of any of the provisions of this Agreement, or from exceeding the Agent's authority under this Agreement, save to the extent that such losses arise out of the negligence of the Principal;

#### 4.25 **Applicable Laws and memberships**

- (a) comply with all Applicable Laws imposed on travel agents trading in the United Kingdom and ensure that its staff are familiar with Applicable Laws to the extent the work they do is affected by them; the Agent also agrees to keep the Principal indemnified against any and all loss, damage, costs or claims suffered by the Principal as a result of any non-compliance by the Agent of any Applicable Laws;
- (b) where the Agent is a member of ABTA, comply in every respect with the applicable current rules and Code of Conduct of ABTA; and
- (c) inform the Principal in writing within 24 hours in the event that it ceases to be a member of ABTA or to hold any form of financial protection for payments made by Customers held by it as the date of this Agreement or subsequently obtained or becomes aware of any reason(s) or circumstance(s) which may or will result in the cessation of such membership or holding of financial protection or becomes aware of any fact(s) or circumstance(s) which has or may have any impact on such membership and/or on the holding of such financial protection;

#### 4.26 **Termination**

on termination of this Agreement by either party in accordance with Clause 7, immediately provide to the Principal a complete list of all current Bookings with the Principal, with Customers' contact addresses and telephone numbers and any other information on these Bookings as requested by the Principal in order to facilitate the continuing administration of these Bookings.

#### 4.27 **Licence Grant**

The Principal hereby grants to the Agent, and the Agent hereby accepts, a non-exclusive, non-transferable licence for the term of this Agreement, to:

- (a) connect the Trade Website to the API together with such custom interface and other technical means as are necessary to enable users of the Trade Website to access the API; and
- (b) enable the Agent and Customers to view, access, browse, select, book and pay for Travel Arrangements, and use such other functionality that may be agreed from time to time (including, without limitation, the ability to modify Bookings and select seats).

#### 4.28 **Trade Website Warranty**

The Agent warrants and undertakes that the Trade Website and the interface through which the Agent and Customers will access the API will at all times during the term of this Agreement be free of all known viruses, backdoors, time bombs, trojan horses, worms, drop dead devices or any other computer software designed or intended to:

- (a) permit access to or use of the Principal's data by any person other than a person authorised by the Principal; or
- (b) **disable, damage, erase, destroy, disrupt or impair the normal operation of the**

Principal's website or any Principal's data.

#### 5. **THE PRINCIPAL'S UNDERTAKINGS**

The Principal hereby agrees and undertakes with the Agent to:

##### 5.1. **Provision of Promotional Material**

provide to the Agent sufficient brochures (where relevant) and other promotional material in relation to the number of Bookings placed by the Agent;

##### 5.2. **Compliance**

ensure that all brochures and other promotional material published by the Principal comply with Applicable Law;

##### 5.3. **Indemnity**

hold the Agent indemnified against any liability (excluding loss of profit, loss of reputation and any direct or indirect consequential losses) incurred by the Agent arising from the failure of the Principal to comply with the provisions of Clause 5.2 save insofar as they are caused or contributed to by the act or omission of the Agent;

##### 5.4. **Non Exclusive Licence for Trade Website**

grant the Agent a non-exclusive licence to access the Trade Website by electronic communication, in consideration of the Agent agreeing and undertaking to: -

- (a) install and maintain in good working order in each retail sales branch such equipment necessary and compatible with Trade Website to enable the Agent to sell the Travel Arrangements;
- (b) use reasonable endeavours to prevent unauthorised access to the Trade Website;
- (c) ensure passwords are required to operate the Trade Website;
- (d) ensure that passwords are changed at regular intervals and the Agent's employees adhere to the confidentiality of passwords;
- (e) notify and agree forthwith with the Principal a change of password when any of the Agent's employees who have access to Trade Website cease to be employed by the Agent and indemnify the Principal for any and all losses, costs, claims and demands incurred as a result of the Agent's ex-employees use of a password to access the Trade Website;
- (f) notify the Principal immediately when an employee who had access to Trade Websites ceases to be employed by the Agent when there is a reasonable risk that the ex-employee may make use of the Agent's password and/or ABTA number to make fraudulent bookings;
- (g) ensure that the Principal is immediately informed of any technical or operational problems with the Trade Website which may lead to misuse or improper use of the Trade Website by the Agent or any third party;

##### 5.5. **Confirmation of Bookings**

- (a) confirm each booking request by issuing a confirmation email to the Agent, where relevant, in accordance with the terms of the ATOL Regulations and the terms of the Principal's ATOL immediately upon receiving notification of the Customer's Booking;
- (b) confirm each cancellation or amendment request by issuing a cancellation invoice or amendment invoice as appropriate by post, facsimile or email to the Agent;

##### 5.6. **Commission**

pay commission on each confirmed Booking for Travel Arrangements made by the Agent with the Principal at the rate specified in the Commercial Terms Letter, subject to the following:

- (a) no commission shall be payable until the Principal has issued a confirmation or confirmed the Booking on the Trade Website in accordance with the Booking Conditions;
- (b) no commission shall be payable if a Customer cancels his Travel Arrangements, save that the Agent shall be entitled to receive commission on any forfeited deposits or cancellation charges payable by the Customer, provided such payment has been made by the Customer; and
- (c) commission due to the Agent pursuant to the Agreement may be deducted by the Agent when accounting the balance payment in accordance with Clause 6; and

##### 5.7. **Tickets/Vouchers**

Issue and dispatch tickets and/or vouchers to the Lead Name's address approximately fourteen (14) days before the due departure date for those Travel Arrangements, but only if all outstanding payments due from the Customer to the Agent have been made. In the case of Late Bookings, the Principal may make alternative arrangements for tickets and/or vouchers to be received by Customers in time for their departure.

#### 6. **PAYMENT TERMS**

- 6.1. Payment will be made in accordance with the Commercial Terms Letter entered into by the parties.
- 6.2. The Commercial Terms Letter will stipulate a payment method and date by which the Agent must pay the amount due as stated on any invoice (the "Payment Date") or alternative means of payment where an approved single payment scheme is to be used, such scheme use to be approved and agreed by the Principal in writing and in advance (the "Scheme"). Where a Scheme is used this is subject to separately agreed terms and conditions duly signed by the authorised signatories of both parties as appended to this Standard Agency Agreement.
- 6.3. The Agent shall pay one hundred percent (100%) of the amount due in the Statement by the Payment Date, save for when the Agent raises a query concerning the Statement amount. If the Agent has a query to raise concerning the Statement amount the Agent must submit a query in the form specified by the Principal from time to time (the "Query Sheet") when making payment of the Statement amount. The Agent may reduce the amount paid to the Principal by the Payment Date in accordance with the queried amounts only if a Query Sheet is submitted to the Principal at the time of payment. In any event, the Agent shall pay at least ninety-five percent (95%) of the gross amount due in the Statement (including VAT at the appropriate rate from time to time) by the Payment Date.
- 6.4. For months commencing with a Bank Holiday, the Principal shall issue a Statement on the following business day. For Payment Dates on a Bank Holiday, the Agent shall pay by the following day.
- 6.5. The Agent shall co-operate fully and expeditiously with the Principal in resolving any queries raised by the Agent in relation to the Statement, so that the Principal can include, where appropriate, the queried amounts in the Statement for the following month.
- 6.6. If the Agent fails to pay the Statement in accordance with the provisions of Clause 6.3. The Principal reserves the right to charge interest on the total amount outstanding pursuant to the Statement from and including the Payment Date to and excluding the actual date of payment at

a rate of four percent (4%) above the base rate from time to time of Barclays Bank Plc, as well as before and after judgment.

- 6.7. For the avoidance of doubt, interest earned by the Agent on monies held on behalf of the Principal until specified payment day shall belong to the Agent.
- 6.8. If the total Statement value exceeds the Agent's current credit limit (if applicable), the booking system will default to require payment by either credit or debit card.
- 6.9. Immediately after the Payment Date, the Principal shall calculate the Agent's current Statement balance and the projection of the Agent's business to the last day of that calendar month. When that projected Statement balance exceeds the Agent's current credit limit (if applicable), the Agent shall make all further payments in accordance with Clause 6.8.
- 6.10. The Agent shall not exercise any legal or equitable set off or counterclaim or make any deduction for any reason against any money payable by the Agent to the Principal under this Agreement.
- 6.11. The Principal reserves the right to deduct any outstanding sum for the amounts the Principal may be due to pay the Agent, without prior notice.
- 6.12. The Principal reserves the right at any time to withdraw or suspend credit arrangements (where previously agreed) and revert to payment by credit or debit card for all payments or such other arrangements as advised by the Principal from time to time.

#### **7. TERMINATION**

- 7.1. This Agreement may be terminated at any time by the mutual consent of both parties or by either party giving at least one (1) month prior written notice to the other party, or as otherwise stated in the Commercial Terms Letter.
- 7.2. The Principal may terminate this Agreement immediately on giving written notice to the Agent if the Agent commits any serious breach of this Agreement or, in respect of any other breach, fails to remedy such breach to the satisfaction of the Principal within seven (7) days of receiving a written request to do so.
- 7.3. The Principal may terminate this Agreement immediately on giving written notice to the Agent if in the Principal's reasonable opinion there is any repeated or persistent failure by the Agent to provide service of a sufficiently high standard to Customers booking Travel Arrangements.
- 7.4. This Agreement shall terminate immediately without notice if:
- (a) the other party suspends or ceases trading or indicates that it intends to cease trading or becomes unable to pay its debts as they fall due; or
  - (b) an order is made, or resolution is passed for the winding up of the other party or circumstances arise which entitle the court or competent jurisdiction to make a winding up order of the other party; or
  - (c) an order is made for the appointment of an administrator to manage the affairs, business and property of the other party or documents are filed with a court of competent jurisdiction for the appointment of an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 at Schedule B1 to the Insolvency Act 1986); or
  - (d) a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets;
  - (e) the Agent ceases to be a member of ABTA (without the express written consent for continuation by the Principal) or fails to have and maintain an alternative arrangement in place for the security of Customers' monies which is acceptable to the Principal.
- 7.5. If this Agreement is terminated for any reasons save those set out in Clause 7.4 (a), (b), (c) and (d) the termination shall not apply (at the Principal's discretion) in relation to Bookings confirmed by the Principal to the Agent before the effective date of termination and the rights and obligations of the parties under this Agreement in respect of such Bookings shall survive the termination and be enforceable notwithstanding it.

#### **8. VARIATION**

The Principal reserves the right to vary the terms of this Agreement from time to time by giving one (1) month's prior written notice to the Agent.

#### **9. REMEDIES AND WAIVERS**

- 9.1. No delay or omission on the part of either party to this Agreement in exercising any right, power or remedy provided by law or under this Agreement shall:
- (a) impair such right, power or remedy; or
  - (b) operate as a waiver thereof.
- 9.2. The single or partial exercise of any right, power or remedy provided by law or under this Agreement shall not preclude any other or further exercise thereof or the exercise of any other right, power or remedy.
- 9.3. The rights, powers and remedies provided in this Agreement are cumulative and not exclusive of any right, powers and remedies provided by law.

#### **10. ASSIGNMENT**

- 10.1. Subject to Clause 10.2 neither party may assign the benefit of this Agreement without the prior written consent of the other.
- 10.2. The Principal may assign the benefit of this Agreement to any subsidiary or holding company of the Principal (or any subsidiary of such holding company).

#### **11. CONFIDENTIALITY**

The Agent shall treat as confidential and shall not disclose to any third party nor use for its own purposes (except in connection with this Agreement) any information regarding the Principal or its business or operations or any of its customers or suppliers, without the Principal's consent. The foregoing provisions of this Clause shall not apply (i) to any information which comes into the public domain, otherwise than through breach of this confidentiality obligation, or to information (ii) which is required by law or applicable regulation or the valid order of a court of competent jurisdiction or the request or direction of any governmental or other regulatory authority or agency.

#### **12. DATA PROTECTION**

- 12.1. Within this clause, "Controller", "Processor", "Data Subject", "Personal Data", "Personal Data Breach", and "Processing" shall have the meanings set out in the Data Protection Legislation and "Process" shall be construed in accordance with the definition of "Processing".

- 12.2. The parties acknowledge and agree that in respect of any Personal Data which are to be Processed in respect of the matters relating to this Agreement, each party shall act as an independent Controller and shall comply with their respective obligations under Data Protection Legislation in relation to any such Processing of Personal Data.

- 12.3. The Agent shall ensure that it has an appropriate legal basis prior to the transfer to the Principal of any data relating to a passenger for the purposes of effecting a Travel Arrangement, and shall ensure that it at all times presents a fair processing notice to the Lead Name which:

- (a) complies with their obligations as a Controller under Data Protection Legislation,
- (b) refers to the Principal's Privacy Policy, and
- (c) includes such wording as the Principal may reasonably require from time to time.

- 12.4. The Agent warrants and undertakes to the Principal that in respect of all Personal Data which is transferred to the Principal:

- (a) it has collected such data fairly and lawfully;
- (b) the disclosure of such data to the Principal is fair and lawful and specifically provided for in fair processing notices made available to Data Subjects; and
- (c) the Principal's use of such data in accordance with the Principal's Privacy Policy will not breach the Data Protection Legislation.

- 12.5. The Agent shall co-operate with the Principal, to the extent reasonably requested in relation to:
- (i) any communication from a supervisory authority concerning the processing of personal data;
  - (ii) compliance with Data Protection Law; or
  - (iii) exercise of any data subject rights.

#### **13. NOTICES**

- 13.1. Any formal notices required to be given under this Agreement shall be in writing (which for the purposes of this Clause 13 shall exclude facsimile and/or email) and must be sent either by hand or by recorded delivery, registered post or registered airmail (with satisfactory proof of such delivery or sending must be retained by the original sender) to the following addresses:

- (a) the Agent's address as notified to the Principal in writing from time to time, in the case of the Agent; or
- (b) in the case of the Principal, **Jet2holidays Limited**, Low Fare Finder House, Leeds Bradford Airport, Leeds, LS19 7TU, cc (i) Chief Executive Officer; and (ii) Executive Chairman at the same address.

- 13.2. All formal notices must be in English and shall only become effective on actual receipt.

#### **14. THIRD PARTY RIGHTS**

This Agreement shall not confer on any person who is not a party to this Agreement any right to enforce its terms under the Contracts (Rights of Third Parties) Act 1999, but this does not affect any right or remedy which exists or is available apart from under that Act.

#### **15. GOVERNING LAW**

This Agreement is governed by the laws of England and Wales and both parties agree to submit to the exclusive jurisdiction of the English Courts at all times.

#### **16. FINANCIAL PROTECTION**

The Principal's arrangements for the protection of consumers' monies with respect to the Arrangements sold under this agreement are as follows:

Licensable products: protected under ATOL number 9618.

#### **17. MANDATED AGENCY TERMS OF ATOL AGENCY TERMS**

This Agreement constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement. See also Agency Terms 1 and 11 in the Mandated Agency Terms. The terms set out in the Mandated Agency Terms are included in this Agreement. In the event of any conflict between the clauses in these Terms and Conditions and the Mandated Agency Terms, the clauses in the Mandated Agency Terms shall take precedence to the extent of any conflict only. **Jet2holidays Limited** is a company registered in England under No 4472486, registered office address Low Fare Finder House, Leeds Bradford International Airport, Leeds LS19 7TU.

VAT No. GB 355567231.

ATOL 9618.

ABTA No. Y1256.

# AGREEMENT BETWEEN TRADE WEBSITE AND JET2HOLIDAYS LIMITED ATOL NUMBER 9618 APPOINTING TRADE WEBSITE AS JET2HOLIDAYS LIMITED’S AGENT PURSUANT TO ATOL REGULATIONS 12 AND 22 ON [INSERT DATE]

## 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

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 agent’s 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.

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.

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

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.

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

(A) An agent is not permitted to appoint a sub-agent to perform its obligations as an agent of the principal ATOL holder on the agent’s behalf.

## 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.

**Note:** a written agency agreement will be deemed to be compliant with ATOL Regulation 22(1)(c) provided that it contains all relevant parts of the schedule of agency terms published by the CAA in its Official Record Series 3 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.