

# Conditions of Contract

## Parties and Definitions

**The Operator** - Archipelago Azores Ltd., 1b Museum Square, Keswick, CA12 5DZ, which includes the Operator's agents, its servants or employees.

**The Client** - the person whose signature and details appear on the Booking Form.

**The Tour** - The holiday/trip offered in the brochure/website by the Operator.

**The Contract** - 1) these Conditions of Contract 2) the brochure/website for the Tour for which the Client has booked 3) the booking form and 4) the Operator's current "Dates and Prices" page all of which are hereby incorporated into and shall constitute the entire contract made between the Operator and the Client. The Client agrees that the pre departure information booklet sent to him after booking does not in any way constitute part of the contract.

**The Price** - the price of the Tour as set out in the Operator's leaflet "Dates and Prices" page current at the time of booking or specified on the clients invoice, if the Tour booked is part of the Tailormade programme.

**Date of Departure** - the date of commencement of the Tour as set out in the Operator's "Dates and Prices" page.

**Force Majeure** - unusual and unforeseeable circumstances beyond the control of the Operator, the consequences of which could not have been avoided, even if all due care had been exercised which without prejudice to the generality of the above shall include war, threat of war, riot, civil disobedience or strife, industrial dispute, terrorist activity, natural or nuclear disaster, fire or adverse weather conditions, technical or maintenance problems with transport and changes of schedules or operational decisions of air carriers.

## A) BOOKING CONDITIONS

### 1) Brochure/website Description

The contents of the brochure/website are based on knowledge and information available to the Operator prior to publication of the brochure/website and several months prior to the date of departure. No changes will be made to the particulars contained in the brochure/website relating to the Tour unless they are also clearly communicated to the Client before the Contract is made with the Client or, if the changes are made after the Contract is made, only with the agreement of the Client.

### 2) Deposit

A deposit of £125 per person shall be sent by the Client to the Operator with the completed Booking Form. The Client understands that any special medical conditions, dietary requirements or needs must be made known to the Operator when booking. The Operator cannot be held responsible in regard of any loss, where the above medical conditions, dietary requirements or special needs were not made known to the operator at the time of booking.

### 3) Acceptance of Deposit

The Contract between the Operator and the Client will be final and binding on both parties with effect from the date that notification of acceptance of the deposit has been sent by the Operator to the Client. Notice of acceptance, or otherwise, will be given to the Client in writing within 21 days of receipt of the Client's booking.

### 4) Balance of Payment

The client will pay the balance of the Price not later than 70 days before the Date of Departure. This payment will be made to the Operator in the same currency as the original deposit was made.

### 5) Transfer of Booking

If the Client wishes to transfer from the tour he has booked, to a tour with a different Date of Departure, he must inform the Operator in writing as early as possible. The Client agrees to pay all reasonable costs of the transfer, incurred by the Operator. The Operator will endeavour to keep these costs to a minimum. Transfer will be at the Operator's discretion.

### 6) Failure to Pay the Balance of Payment When Due

If the balance of the monies is not paid 70 days prior to departure, the Operator may treat the Contract as cancelled by the Client, and retain the deposit.

## 7) Cancellation or Alteration of the Contract

**7.1** The Client acknowledges that payment for the Tour is an intrinsic part of the Tour's income and contributes to the overall cost of equipment, running costs, staffing, administration etc., and that the Operator will incur the largest part of its costs before the actual date of departure. Cancellation by the Client must be in writing.

**7.2** If the cancellation is made by the Client not less than 70 days before the Date of Departure, the deposit only will be retained by the Operator.

**7.3** If the cancellation is made by the Client less than 70 days before the Date of Departure, the Client will be liable to pay cancellation charges. The charges are based entirely upon the date that written confirmation of cancellation is received by the Operator. The charges are calculated as a percentage of the Price of the Client's tour as detailed below:

Date of written notification before dept.	Tour cost cancellation charges (excluding air fares)	Scheduled Air Fares cancellation charges	
		Tour Operating	Public Fares
Up to 70 Days	Deposit only	Deposit only	From 50% to 100% depending on airline
69 - 35 days	40%	40%	
34 - 0 days	100%	100%	

**Note: If the reason for your cancellation is covered under the terms of your insurance policy, you may be able to claim these charges. Please note insurance premiums are non-refundable.**

**7.4.1** The Operator will endeavour, at all times after a booking is taken, to provide the tour booked by the Client. However, the Operator reserves the right to cancel a tour up to 70 days before its scheduled Date of Departure. In such circumstances, the Client will be entitled to:

- an alternative tour of at least the same value, or lesser value with the refund of balance or
- If this is not available or acceptable by the Client, a refund of all monies paid.

**7.4.2** The Client accepts that it is reasonable for the Operator to cancel the Tour up to 70 days prior to the Date of Departure if: a) cancellation is on the grounds that the number of persons enrolled on the tour is less than the number required for the tour. The minimum number of persons required for each tour is three. This number may be reduced at the operators discretion.

b) cancellation is on grounds of "Force Majeure".

**7.4.3** A cancellation by the Operator less than 70 days before the departure date will only happen in exceptional circumstances, due to Force Majeure, and after other reasonable alternatives have been exhausted.

**7.5.1** If the Operator alters significantly any of the essential terms of the contract, excluding the price, prior to 70 days before the Date of Departure, the client shall be entitled to decide between:

- withdrawing from the contract and being repaid all monies paid by him under the Contract.
- accepting an alternative tour of at least the same value or of a lesser value with a refund of the balance.
- accepting the changes or alterations without compensation.

**7.5.2** If the Operator alters significantly any of the essential terms of the contract, excluding the price, 70 or less than 70 days before the Date of Departure, the Client will be entitled to decide between 7.5.1 a & b and in addition will be entitled to a compensation payment from the Operator, to the Client, (as liquidated damages), covering loss of enjoyment, inconvenience and disappointment. The amount of compensation will be; between 69-14 days before Date of Departure £30; within 14 days of the Date of Departure £45.

**7.5.3** Alterations by the Client at any time after booking, will be implemented by the Operator if possible, but no guarantee can be made of this, and any alterations will be made entirely at the discretion of the Operator. The Client will be informed

before the alteration is implemented, of any fee that may be applicable.

**7.6** After the departure date, no refund for any unused portion or part of the tour or services to be provided, will be given. If the Client of his own volition makes any alteration to or departs from any portion or part of the tour, such alterations or departure will be entirely at the Client's expense and liability.

## 8) Tour Price

The tour price can be subject to increase due to fluctuation in the exchange rate and unexpected increased fuel costs. With these variations in mind, the Operator reserves the right to increase the Tour Price at any time up to 70 days before Date of Departure. The Operator will absorb the first 2% of any increase. Should the surcharge be more than 10%, the Client will be entitled to cancel his tour and receive a full refund of all monies paid, excluding insurance premiums. The Client must notify the Operator of this decision within 14 days of receiving notice of surcharge from the Operator. The price of your travel arrangements was calculated using an exchange rate of £1 = €1.43021 quoted in the 'Financial Times' on the 28<sup>th</sup> September 07

## B) OPERATIONAL CONDITIONS

### 1) In The Event of a Complaint and/or a Claim

In regard to a complaint or a claim, the Client agrees to the following procedure.

**1.1** The Client will ensure that at the earliest opportunity, any perceived failure in the performance, or improper performance of the Contract, whether by the Operator or its suppliers, is communicated to the Operator's Tour Leader, its local representative or the operator, as applicable. The Operator and the Client will then make prompt efforts to resolve the complaint; and

**1.2** In the event of a claim for compensation, the Client agrees that any such claims must be received by the Operator, in writing, at the address given in the definition of Operator, within 30 days from the end of his tour.

**1.3** The Client agrees that these provisions are reasonable and that any failure by the Client to comply with them will, at the Operator's discretion, exclude any rights arising out of this Contract.

### C) EXTENT AND FINANCIAL LIMITS OF LIABILITY

**1)** The Operator shall be liable to the Client for the proper performance of the obligations arising from the Contract, irrespective of whether such obligations are to be performed by the Operator or by other suppliers of services contracted by the Operator. However, the Operator will not be liable if such failure to perform is attributable neither to any fault of the Operator nor to that of another supplier of services, because;

**1.1** such failure to perform is attributable to the Client, or

**1.2** such failure being attributable to a third party unconnected with the provision of the services contracted for is either unforeseeable or unavoidable, or

**1.3** such failure is due to a case of Force Majeure, or

**1.4** such failure is due to an event which the Operator or the supplier of services, even with due care, could not have foreseen or forestalled.

In the Cases referred to in sub-clauses C1.2, C1.3, C1.4 above, the Operator will give prompt and appropriate assistance to a Client in difficulty.

**2)** The Operator's maximum aggregate liability under, arising from or in connection with this Contract shall be limited to a reasonable sum and in no circumstances shall be greater than the Price. However, nothing in this Contract shall exclude, restrict or limit the Operator's liability for death or personal injury resulting from the Operator's negligence nor affect the Client's statutory rights.

**3.1** Subject to Clause C2 above, if any claim is made against the Operator by the Client pursuant to sub-clause C1 above arising from the non-performance or improper performance of services by the Operator or a supplier of services other than the Operator, the Operator's maximum liability in respect of such claim shall be limited to the amount to which the Client would be entitled to receive as damages from the Operator or such other supplier of

services under applicable law (including relevant international conventions).

**3.2** If any such claim as is set out in sub-clause 3.1 above is made, the Operator reserves the right to claim in place of the Client against the relevant supplier of services. In these circumstances, the Client hereby agrees to assign to the Operator all his rights against such supplier in respect of the relevant claim and the Operator will be subrogated to these rights.

## D) COMPLIANCE WITH LEGISLATION

The Client will comply at his expense and his liability with all legislation, visa requirements, immigration, customs and foreign exchange regulations in connection with the Tour. Should there be any failure to comply or any contravention by the Client of such laws, requirements or regulations and subject to the provisions of this Contract, the Operator shall have the right to require the Client to leave the Tour without recourse to refund or other compensation.

## E) TRAVEL AND CANCELLATION INSURANCE

The client accepts that it is a condition of booking that all persons travelling on the Tour have adequate travel insurance (including, medical, personal accident and repatriation in the event of illness, baggage, money and liability cover as well as loss of monies paid in the event of cancellation).

## F) ACCEPTANCE OF RISK

The Client acknowledges that there is an element of personal risk in participating in the Tour. The Client accepts and consents to the personal risks inherent in implementation of this Contract and accepts the limitations of the Operator's liability set out herein as being reasonable. The Operator reserves the right at any time to require the Client to produce a doctor's certificate certifying that the Client is fit to participate in the Tour.

## G) GENERAL CONDITIONS

### 1) Passport/Visas

The Client acknowledges that prior to Contract he has been given general information on passport and visa requirements for the Tour and of the health formalities required for the Tour, and knows of no reason that would cause the Client to be unable to comply with these requirements.

### 2) Appropriate Law and Courts of Law

This Contract shall be construed in accordance with English law and the parties irrevocably submit to the exclusive jurisdiction of the English Courts to settle any disputes which may arise out of or in connection with this Contract.

### 3) Brochure/website Validity

Brochure/website validity is from November 2006. The brochure/website, conditions of contract, booking form and Dates and Prices page replaces all previous editions.

## H) FINANCIAL SECURITY

1. The air holidays and flights in the brochure ATOL Protected since we hold an Air Travel Organiser's License granted by the Civil Aviation Authority. Our ATOL number is ATOL 6059.

2. Holidays which do not include flights are protected under our TOPP Insurance Policy with Travel and General.

Copyright Archipelago Azores Ltd. October 2007 Company Registered in England & Wales.  
ATOL 6059  
Company No. 3633568  
AA 2007/001