

## Consumer terms and conditions

### Article 1 - Introductory provisions

1.1 The following terms are defined as follows in these Travel Terms and Conditions:

Travel organiser:

the party which, in the performance of its business, offers prearranged travel packages under its own name to the public or to a group of persons.

Traveller:

a. the other party of the travel organiser, or

b. the party on whose behalf the travel package has been arranged, and who has accepted this arrangement, or

c. the party to which the legal relationship with the travel organiser has been transferred, in accordance with Article 11 of these terms and conditions.

Travel contract:

the contract under which a travel organiser undertakes vis-à-vis its other party to provide a prearranged travel package offered by the travel organiser, which includes an overnight stay for a period of more than 24 hours, and at least two of the following services:

a. transport;

b. accommodation;

c. another tourist service, not related to transport or accommodation, which forms a significant part of the travel package.

Accommodation-only contracts:

travel contracts for which the traveller only reserves holiday accommodation and organises the transport him/herself.

Booking office:

the business which mediates between the traveller and the travel organiser in entering into the travel contract.

Working days: Mondays through Saturdays, with the exception of legally recognised public holidays.

Office hours:

Mondays through Fridays from 9 AM to 5:30 PM and Saturdays from 10 AM to 4 PM, with the exception of legally recognised public holidays.

1.2 These travel terms and conditions are applicable to all travel contracts. The travel organiser can stipulate that these travel terms and conditions are also applicable to contracts relating to other travel packages, including accommodation-only contracts and shuttle journeys by coach, as long as this is stated in the publication.

1.3 The traveller has no right of withdrawal from the contract.

1.4 The term 'Europe and the Mediterranean Countries' is deemed to mean: the European continent, including the Spanish (Canary) Islands and Portuguese (Madeira, Azores) Islands, and all countries in Asia and Africa which adjoin the Mediterranean.

### Article 2 - Information provided by the travel organiser

2.1 The travel organiser will provide or ensure the provision of information, pertaining to the Dutch nationality, on passports, visas and any health-related formalities to the traveller, no later than at the time the contract is concluded.

The traveller him/herself is responsible for obtaining the necessary additional information from the relevant authorities and to ascertain in good time before departure whether or not the information previously obtained has changed.

2.2 The travel organiser will provide or ensure the provision of information to the traveller on the possibility to take out cancellation insurance and travel insurance. The travel organiser can decide to conclude a travel contract subject to the condition that the traveller takes out travel insurance, and can request proof of such insurance. The travel organiser will state such a condition clearly in the offer.

2.3 The travel organiser accepts no responsibility for general information in photos, folders, advertisements, websites and other information carriers, if these have been drawn up or published by third parties.

2.4 In the case of air travel, the identity of the airline providing the transport will be notified to the traveller as soon as it is known to the travel organiser, if possible at the time of booking and no later than at the time the travel documents are provided.

### Article 3 - Information provided by the traveller

3.1 Before or no later than at the time the contract is concluded, the traveller will provide the booking office or the travel organiser with all information regarding him/herself and the travellers for which he/she has made a booking which could be of importance in the conclusion or realisation of the contract. This will include the numbers of his/her mobile telephones and e-mail addresses, if available.

3.2 The traveller must provide information concerning the physical and/or mental condition of the traveller(s) (including the use of alcohol, drugs or medicines) if this physical and/or mental condition could result in discomfort, danger or risks to the traveller or to other travellers (passengers and/or crew) or the property of third parties. The passenger is aware that the carrier (for example the captain of an aeroplane) can refuse the passenger the right to further transport if the information turns out to be incorrect or has not been pro-

vided. Information must also be provided on any limited mobility, and on the necessity for accompaniment for minor and disabled travellers, pregnant women, persons who are ill and other accompanying travellers. The traveller is aware that the carrier reserves the right to require a medical declaration with regard to specific medical conditions, and in the event that no such a medical declaration is presented, to refuse the traveller the right to (further) transport.

3.3 The traveller must also indicate any details which could be of importance to the proper realisation of the travel package by the travel organiser in terms of the capacity or composition of the party for which he/she has made a booking.

3.4 The tour operator may, provided that it is properly substantiated, increase the package price by a maximum of 8% up to 20 days prior to departure. This applies to surcharges relating to exchange rates, fuel prices, levies and taxes, and government-imposed park entrance fees. If the package price is increased by more than 8%, the traveller shall be entitled to cancel the agreement free of charge.

#### **Article 4 - Essentials**

4.1 Deviations from or additions to the travel package offered by the travel organiser can be requested on medical grounds (medical essentials). The travel organiser will make a realistic effort to comply with such requests, unless this cannot reasonably be expected of it. Medical essentials require the explicit written consent of the travel organiser.

4.2 In the case of a medical essential, the travel organiser is entitled to charge a reasonable amount per booking for special arrangement expenses, communication expenses and any additional costs charged by the service providers involved in the realisation of the travel package associated with the deviation or addition. Any costs relating to medical essentials can only be charged if the traveller and the travel organiser have agreed on them.

4.3 A request for an essential on grounds other than medical grounds (other essentials) will only be considered by the travel organiser if this has a reasonable chance of success. In such cases, the travel organiser is entitled to charge a reasonable amount per booking for the special arrangement expenses, communication expenses and any additional costs charged by the service providers involved in the realisation of the travel package associated with the request. Such requests also require the explicit written consent of the travel organiser.

4.4 The level of the payments referred to in this article will be stated in the offer of the travel organiser.

#### **Article 5 - Conclusion and content of contract**

##### **5.1 Offer and acceptance**

- a. The contract is realized as a result of acceptance by the traveller of the offer of the travel organiser, including the applicable conditions. Acceptance can take place directly or via the mediation of a booking office. After the contract is realized, the traveller will receive confirmation of this in writing or electronically as quickly as possible, in the form of an invoice if applicable.
- b. In the case of a booking via the internet, the travel organiser will design the booking process in such a way that the traveller is informed before the acceptance that he/she is entering into a contract, and which terms and conditions are applicable to it. The traveller is bound by this contract from the moment the booking is confirmed by the travel organiser.

##### **5.2 Withdrawal of offer**

The offer of the travel organiser is free of obligation, and can be withdrawn by the travel organiser, if necessary. Withdrawal due to a correction of errors in the calculation of the travel sum or of other errors is permitted. The withdrawal must take place as quickly as possible, before 4 PM on the next working day (travel packages in Europe and the Mediterranean Countries) or before 12 noon on the second working day (travel packages to other destinations) after the date of acceptance, giving reasons. In such cases, the traveller is entitled to prompt reimbursement of any amounts paid.

##### **5.3 Manifest errors**

Manifest errors and manifest mistakes are not binding on the travel organiser. Such errors and mistakes are errors and mistakes which – from the point of view of the average traveller – are or should be recognisable as such at first sight.

##### **5.4 Termination by travel organiser due to low participation**

The travel organiser is entitled to terminate the contract with immediate effect if the number of bookings is lower than the required minimum number. It will state the period of notice and the required minimum number of bookings clearly in the offer. Termination must take place in writing within the period stated in the offer. Articles 13 and 15 are not applicable.

##### **5.5 Booking party**

- a. A person who enters into an obligation in the name of or on behalf of another person (the booking party) is jointly and severally liable for all the obligations arising from the contract.
- b. All communication (including payment) between the traveller(s) on the one hand and the travel organisation and/or the booking office on the other hand will take place exclusively through the booking party.
- c. Each traveller is liable for his/her own share of the contract.

##### **5.6 Published details and restrictions**

- a. If the agreed travel package is included in a publication of the travel organiser, the details contained in this form part of the contract.

b. If the travel organiser has included general restrictions in the general section of the programme, and these conflict with the travel terms and conditions, the provisions most favourable to the traveller will be applicable.

#### 5.7 Departure and arrival times

Departure and arrival times for transport components will be stated in the travel documents. These times are definitive. The travel organiser may only alter these times within reasonable limits, and only if it cannot reasonably be required to adhere to these times. In such cases, Articles 14 and 15 are not applicable.

#### 5.8 Deviations from percentages in Articles 6 and 12

The travel organiser can deviate from the percentages stated in Articles 6 and 12, but only if the deviating percentages have been previously made known in the publication and/or offer, and they improve the position of the traveller. This does not affect the permitted deviations referred to in Article 6 paragraph 1 and Article 12 paragraph 2.

### Article 6 - Payment, interest and collection costs

6.1 a. At the moment the contract is realized, a deposit must be paid of 15% of the total agreed travel sum. Organisers of cruises, scheduled flight travel packages, tours (including camper rental), adventure travel packages, accommodation-only contracts, packages with regard to the rental of motorboats or yachts, or travel packages involving visits to national parks or amusement parks, or visits to cultural or sporting events, and travel packages outside Europe and the Mediterranean Countries can deviate from this amount. They must make this clearly known to the traveller in advance.

b. In the case of accommodation-only contracts to hotels, the deposit is 20% of the travel sum.

c. In the case of accommodation-only contracts to lodging units such as bungalows, apartments, static caravans, campsite pitches, the deposit is 30% of the travel sum.

6.2 The remainder of the travel sum must be in the possession of the booking office no later than six weeks before the day of departure (in the case of self-transport packages, no later than six weeks before the date of arrival at the first booked accommodation). The traveller will be in default if payment is not made on time. If the traveller does not pay on time, the travel organiser will send the traveller a payment reminder at no charge, giving the traveller a further 14-day period to make the payment. If payment has still not been made by that time, the contract will be deemed to have been cancelled on the day of default. The travel organiser is entitled to charge the cancellation costs owed in this context. In such cases, the provisions of Article 12 are applicable, and the cancellation fee will be deducted from the amounts already paid.

6.3 If the contract is realized less than 6 weeks before the date of departure, the entire travel sum must be paid immediately, in full.

6.4 A traveller who does not comply with a financial obligation to the travel organiser in good time will owe the statutory interest rate on the remaining amount owed. The traveller will also be required to reimburse any collection costs reasonably incurred by the travel organiser. These amounts will be a maximum of: 15% of travel sums up to €2,500; 10% of the subsequent €2,500 and 5% of the subsequent €5,000, with a minimum of €40. The travel organiser can deviate from the stated amounts and percentages to the advantage of the traveller.

### Article 7 - Travel sum

7.1 The published travel sum is per person, unless otherwise indicated. It includes the services and provisions stated in the publication, whether or not specified in separate cost elements, including unavoidable additional costs which the traveller must pay for the services offered which are known at the moment of publication. The term unavoidable additional costs shall include costs which are inextricably linked with the service offered. This does not include the costs of additional services which are provided at the request of the traveller by the travel organiser or by third parties, such as insurance premiums and costs charged per party at the time of booking and which vary depending on the size of the party, and reservation fees which can vary by sales channel.

7.2 The published travel sum is based on the prices, levies and taxes that were known to the travel organiser at the time of its publication.

### Article 8 - Changes to travel sum

8.1 The travel organiser is entitled to increase the travel sum in the context of changes to the transport costs (including fuel costs), the taxes and levies owed, up to 20 calendar days before the date of departure (in the case of accommodation-only contracts, before the date of arrival at the first booked accommodation). The travel organiser will indicate in this context how the increase has been calculated. Such changes can also lead to a reduction of the travel sum, unless this cannot reasonably be expected of the travel organiser in view of the costs involved. The travel organiser must indicate in this context how the reduction has been calculated. If the travel sum has been paid on time, the period within which the travel sum can no longer be increased is six weeks before departure, rather than 20 calendar days.

8.2 a. Contrary to the provision in paragraph 1, the travel organiser will not adjust the travel sum for charter flights within Europe and to the Mediterranean Countries.

b. Contrary to the provision in point a., and solely in the event of unforeseeable increases to taxes or levies owed, or an extreme increase

to the transport costs, the travel organiser can increase the travel sum up to 20 calendar days before the date of departure. BMS Travellers and the Consumers' Association will jointly determine whether such a situation exists. If no agreement is reached, an independent third party, to be appointed in mutual consultation, will be asked to issue a ruling in the matter which is binding on the parties.

8.3 In the event of an announced price increase to the air travel costs, the traveller can ask the travel organiser whether he/she can already pay these costs to the travel organiser in order to prevent the price increase. If this request can be granted, and these costs are paid in full and the ticket is issued, the travel organiser will no longer adjust the air travel costs element of the travel sum. In such cases, the cancellation costs referred to in Article 12 will be increased by the air travel costs, as a minimum.

8.4 a. The traveller is entitled to reject an increase to the travel sum as referred to in paragraphs 1 and 2. The traveller must make use of this right within three working days of receipt of notification of the increase, on penalty of forfeiture.

b. If the traveller rejects the increase, the travel organiser is entitled to terminate the contract. He/she must exercise this right within seven working days of receipt of notification of the increase, on penalty of forfeiture. At that point, the traveller is entitled to a waiver of the travel sum or immediate reimbursement of amounts already paid. Articles 13, 14 and 15 are not applicable.

#### **Article 9 - Travel contract documents and travellers' required travel documents**

9.1 The travel organiser will ensure that the necessary travel contract documents are in the possession of the traveller no later than 10 calendar days before the day of departure (in the case of accommodation-only contracts: before the date of arrival at the first booked accommodation), unless this cannot reasonably be expected of the travel organiser.

9.2 If the traveller has not received any travel contract documents within five working days before departure at the latest, he/she must notify the travel organiser or the booking office to this effect immediately.

9.3 In the case of travel packages booked less than 10 calendar days before the date of departure (in the case of accommodation-only contracts: before the date of arrival at the first booked accommodation), the travel organiser or the booking office will indicate when and how the necessary travel contract documents will be put in the possession of the traveller.

If the traveller does not receive these accordingly, he/she must immediately notify the travel organiser or the booking office to this effect.

9.4 The traveller him/herself is responsible for having the necessary travel documents with him/her, such as a valid passport or, where permitted, an identity card and any necessary visas, proofs of immunisations and vaccinations, driving licence and international motor insurance certificate. If the traveller is unable to undertake all or part of the travel package as a result of not being in possession of any document, or of such a document not being valid, any and all consequences of this will be at the traveller's expense, unless the travel organiser has undertaken that it would arrange the document in question, and its absence can be imputed to the travel organiser, or if the travel organiser has failed to comply with its information obligation under Article 2 paragraph 1.

#### **Article 10 - Changes instigated by the traveller**

10.1 After the contract has been realized, the traveller can request changes to it. This is subject to the condition that the traveller pays the amended travel sum, after deduction of the amounts already paid. Furthermore, the traveller is required to pay an amendment fee per booking, and, if appropriate, communication costs, as stated in the offer. A decision regarding the request will be taken as quickly as possible. These amendments will be implemented as much as possible, up to 28 calendar days before departure, and if successful confirmed in writing by the travel organiser.

10.2 Rejection of the amendments requested by the traveller will be notified by the travel organiser to the traveller immediately, giving reasons. The traveller can proceed with the original contract, or cancel it. If he/she chooses to cancel the contract, Article 12 will be applicable. If there is no response from the traveller to the rejection of his/her request, the original contract will be enforced.

10.3 A change to the departure date or a reduction to the number of paying passengers will be considered a cancellation or part cancellation, to which Article 12 is applicable. In such cases, no amendment fee or communication costs will be owed.

#### **Article 11 - Substitution**

11.1 The traveller can be substituted by another person, in good time before commencement of the travel package. This is subject to the following conditions:  
the other person complies with all the conditions to which the contract is subject; and  
the request is submitted no later than seven calendar days before departure, or in good time such that the necessary actions and formalities can still be carried out; and  
the terms and conditions of the service providers involved in the fulfilment do not preclude such substitution.

11.2 The booking party, the traveller and the person substituting for the traveller are jointly and severally liable vis-à-vis the travel organiser for payment of the as yet unpaid part of the travel sum, the amendment fee and communication costs referred to in Article 10 paragraph 1 and any additional costs resulting from the substitution.

## Article 12 - Cancellation by the traveller

12.1 Cancellation of the travel agreement by the traveller must be confirmed in writing or electronically. The date of the postmark is the notification date of the cancellation. Cancellations by email outside office hours are deemed to have been made on the next working day. In case of cancellation, in addition to any reservation costs owed, each traveller will be charged the following cancellation costs:

All countries offered:

- a. up to 90 days before departure: 30% of the travel sum, or the minimum deposit applicable in accordance with Articles 2.1 and 2.3;
- b. from 90 days to 60 days before departure: 75% of the travel sum;
- c. from 60 days up to and including the day of departure: the full travel sum.

Exceptions: Botswana, Kenya, Rwanda, Tanzania, Uganda, Zambia, Zimbabwe

- a. up to 90 days before departure: 30% of the travel sum, or the minimum deposit applicable in accordance with Articles 2.1 and 2.3;
- b. from 90 days up to and including the day of departure: the full travel sum.

12.2 Travel to an area that is subject to a limitation of coverage or a situation subject to benefits determined by the Calamity Committee of the Calamity Fund can be cancelled by the traveller free of charge or, if possible and desired, rebooked from 30 calendar days before departure.

12.3 A traveller who is unable to participate in a trip and who is not entitled to reimbursement of cancellation costs under a cancellation insurance, can have another suitable person take his place, on the following conditions:

- a. that the service providers involved in the implementation do not oppose substitution;
- b. that the other person meets all the conditions attached to the travel agreement;
- c. that the other person receives a written statement that he / she has read the travel program, the information provided by the tour operator and the general terms and conditions;
- d. the request is submitted no later than 7 calendar days before departure, and in such a time that the necessary actions and formalities can be carried out.

12.4 The applicant, the traveller and the person in place of the traveller are jointly and severally liable to the travel organizer for payment of the part of the travel sum still owed, the change and communication costs referred to in Article 5 paragraph 1 and 2 and any additional costs resulting from the replacement.

## Article 13 - Cancellation by the travel organiser

13.1 The travel organiser is entitled to terminate the contract due to exceptional circumstances.

13.2 The term exceptional circumstances is deemed to mean circumstances which are of such a nature that it cannot reasonably be expected of the travel organiser that it remains bound by the contract.

13.3 An exceptional circumstance for the travel organiser is deemed to exist in any event if a “Dekkingsbeperking” (cover restriction) or a “Uitkeringsvatbare situatie” (payout eligibility situation) as determined by the Calamity Committee of the Calamity Fund, is applicable before the date of departure, for the area in question.

- 13.4 a. If the cause of the cancellation can be attributed to the traveller, the loss arising from this will be borne by the traveller.
- b. If the cause of the cancellation can be attributed to the travel organiser, the loss arising from this will be borne by the travel organiser. Whether this is the case is determined on the basis of Article 15.
- c. If the cause of the termination cannot be attributed to either the traveller or the travel organiser, each of the parties will bear their own loss as stated in Article 16.

13.5 If the travel organiser saves money as a result of the termination, the traveller is entitled to his/her share of the amount of this saving.

## Article 14 - Changes instigated by the travel organiser

- 14.1 a. The travel organiser is entitled to change the agreed service provision due to exceptional circumstances as described in greater detail in Article 13 paragraph 2. The travel organiser will notify the traveller of changes within three calendar days of being notified of the change. As of 10 calendar days before departure (in the case of accommodation-only contracts: before the date of arrival at the first booked accommodation) the travel organiser will notify the traveller within one calendar day.
- b. If the change pertains to one or more essential points, the traveller can reject the change(s).
- c. If the change pertains to one or more essential points, the traveller can only reject the change if the change does not cause a disadvantage to the traveller which is more than of slight significance.
- d. If the travel organiser saves money as a result of the change, the traveller is entitled to his/her share of the amount of this saving.

14.2 a. In the event of a change, the travel organiser will make the traveller an alternative offer, if possible. The travel organiser will do this within three calendar days of being notified of the change. As of 10 calendar days before departure (in the case of accommodation-

only contracts: before the date of arrival at the first booked accommodation) a period of one calendar day applies for this.

b. The alternative offer must be at least equivalent. The equivalence of alternative accommodation must be evaluated on the basis of objective standards and must be determined according to the following circumstances which must be apparent from the replacement offer: the siting of the accommodation in the destination location;

the nature and class of the accommodation;

the other facilities which the accommodation offers.

The evaluation referred to above must take into account:

the composition of the party;

the special characteristics or circumstances of the traveller(s) involved, deemed by the traveller(s) to be of essential importance, made known to the travel organiser and confirmed by the travel organiser in writing;

the deviations from or additions to the programme requested by the traveller, which have been confirmed by the travel organiser in writing.

14.3 a. A traveller who makes use of his/her right to reject the change or alternative offer pursuant to the previous paragraphs must make this known within three calendar days of receipt of the notice on the change or of the alternative offer. As of 10 calendar days before departure, a period of one calendar day is applicable to this.

b. If the traveller rejects the change of the alternative offer, the travel organiser is entitled to terminate the contract with immediate effect. The traveller must make use of this right within three calendar days of receipt of the change, on penalty of forfeiture. As of 10 calendar days before departure (in the case of accommodation-only contracts: before the date of arrival at the first booked accommodation) a period of one calendar day applies for this.

In such cases, the traveller is entitled to a waiver of the travel sum or reimbursement of the travel sum (or, if the travel package has already been partially taken, to reimbursement of a proportionate part thereof) within two weeks, without prejudice to any right the traveller may have to compensation for loss as referred to in paragraph 5.

14.4 If the period referred to in paragraphs 1, 2 and 3 of this article ends on a Sunday or a public holiday, the period will be extended to 12 noon on the next working day.

14.5 a. If the cause of the change can be attributed to the travel organiser, the loss of the traveller arising from this will be borne by the travel organiser. Whether this is the case is determined on the basis of Article 15.

b. If the cause of the change can be attributed to the traveller, the loss arising from this will be borne by the traveller.

c. If the cause of the change cannot be attributed to either the traveller or the travel organiser, each of the parties will bear their own loss as stated in Article 16.

14.6 If a significant portion of the services to which the contract pertains cannot be provided after the commencement of an agreed travel package, the travel organiser will ensure that suitable alternative arrangements are made with a view to continuation of the journey. (For the costs of this, see Article 16).

If such arrangements are not possible, the travel organiser will provide the traveller(s) with an equivalent means of transport, if necessary, which will bring him/her to the departure location or another return location agreed with the traveller(s). (For the costs of this, see Article 16.)

14.7 Without prejudice to the provisions in Article 18 paragraph 4, the travel organiser is required to notify the traveller(s) of a change to the departure time implemented by the travel organiser.

With regard to the return journey, this obligation does not apply to travellers who have only booked transport and/or whose accommodation address is unknown.

#### **Article 15 - Liability and force majeure**

15.1 Without prejudice to the provisions in Articles 13 and 14, the travel organiser is required to enforce the contract in accordance with the expectations which the traveller would reasonably have on the grounds of the contract.

15.2 If the travel package fails to meet the expectations referred to in paragraph 1, the traveller is required to notify the parties involved as quickly as possible, as referred to in Article 19 paragraph 1.

15.3 If the travel package fails to meet the expectations referred to in paragraph 1, the travel organiser is required to reimburse the traveller for any loss, without prejudice to the provisions in Article 16, 17 and 18, unless the failure in the performance is not attributable to the travel organiser or to the person assisting him in the fulfilment of the contract, because:

a. the failure in the performance of the contract is attributable to the traveller; or

b. the failure in the performance of the contract could not be foreseen or could not be neutralized and is attributable to a third party who was not involved in the provision of the services included in the travel package; or

c. the failure in the performance of the contract is caused by an event which could not be foreseen or rectified, despite exercising all due care, by the travel organiser or by the person assisting with the fulfilment of the contract; or

d. the failure in the performance of the contract is caused by force majeure as referred to in paragraph 5 of this article.

15.4 Contrary to paragraph 3, if a cruise is part of the contract and the traveller is unable to reach the port of departure, or unable to reach it in time, as a result of the flight to the port of departure being unable to leave due to extreme weather conditions and/or govern-

ment measures which make the flight impossible, this will be at the risk of the traveller. This is on condition that the traveller has been informed of this risk and its insurability by or on behalf of the travel organiser prior to the booking. In such cases, the traveller continues to owe the full travel sum, after deduction of the costs of the air transport.

15.5 The term force majeure is deemed to include abnormal and unforeseen conditions which are independent of the will of the person invoking it, and the consequences of which could not be avoided, despite all precautionary measures.

#### **Article 16 - Help and assistance**

16.1 a. Depending on the circumstances, the travel organiser is required to provide the traveller with help and assistance if the travel package does not meet the expectations which the traveller could reasonably have on the grounds of the contract. The costs arising from this shall be borne by the travel organiser if the failure in the performance of the contract is attributable to the travel organiser in accordance with Article 15 paragraph 3.

b. In the event that the cause is attributable to the traveller, the travel organiser is only required to provide help and assistance inasmuch as this can reasonably be expected of it. In such cases, the costs will be borne by the traveller.

16.2 In the event that the travel package does not meet the expectations which the traveller could reasonably have had as a result of circumstances which are attributable to neither the traveller nor the travel organiser, each party will bear its own loss. For the travel organiser, this will include extra manpower; for the traveller this will include additional accommodation and repatriation costs.

#### **Article 17 - Exclusions and restrictions to liability of travel organiser**

17.1 a. In the event that a service included in the travel package is subject to a Convention, bye-law or law which awards or permits an exclusion or limitation of liability on the part of the service provider, the liability of the travel organiser is also accordingly excluded or limited.

b. The travel organiser is also not liable if and inasmuch as the traveller is able to recover his/her loss under an insurance policy, such as a travel insurance and/or cancellation cost insurance policy.

17.2 In the event that the travel organiser is liable vis-à-vis the traveller for loss of travel enjoyment, the payment will be a maximum of one time the travel sum.

17.3 Without prejudice to the provision in the previous paragraphs of this article, the liability of the travel organiser for loss other than that caused by the death of or injury to the traveller is limited to a maximum of three times the travel sum, except in cases of intent or gross negligence on the part of the travel organiser. In such cases, the travel organiser's liability is unlimited.

17.4 The exclusions and/or limitations of liability of the travel organiser contained in this article also apply to employees of the travel organiser, the booking office and the service providers involved, as well as their staff, unless a Convention, bye-law or law excludes this.

#### **Article 18 - Obligations of the traveller**

18.1 The traveller(s) is/are required to comply with all instructions of the travel organiser in the context of promoting a good fulfilment of the travel package and is/are liable for loss caused by his/her/their unauthorised behaviour, to be evaluated according to the standard of the behaviour of a properly behaved traveller.

18.2 a. The traveller who causes or could cause hindrance or nuisance to such an extent that a good fulfilment of a travel package is or could be greatly impeded may be excluded from the travel package or the rest of the travel package by the travel organiser, if it cannot reasonably be required of the travel organiser to fulfil the contract.

b. All costs arising from a situation as described in paragraph 2 item a will be borne by the traveller, if and inasmuch as the consequences of hindrance or nuisance can be attributed to the traveller. If and inasmuch as the cause of the exclusion cannot be attributed to the traveller, he/she will be reimbursed the travel sum or part thereof. 15

18.3 The traveller is required to avoid or limit any loss as much as possible, in particular by complying with his/her reporting obligation as described in greater detail in Article 19 paragraph 1.

18.4 Each traveller must ascertain the exact time of departure for the return journey from the travel package representative or the local agent of the travel organiser no later than 24 hours before the stated time of departure.

#### **Article 19 - Complaints during the travel**

19.1 A failure in the performance of the contract as referred to in article 15 paragraph 2 must be notified as quickly as possible on site, so that a solution can be sought. In this context, the traveller must report - in the following sequence - to: the service provider in question, the local travel organiser representative or, if he/she is not present or available, the travel organiser. In the event that the shortcoming is not removed, and negatively affects the quality of the travel package, this must in any event be notified immediately to the travel organiser in the Netherlands.

19.2 If a failure is not resolved satisfactorily on site, the travel organiser will ensure that there is an adequate possibility to record a complaint in writing in the prescribed manner (complaint report).

19.3 The travel organiser will ensure that there is information in the travel documents regarding the procedure to be followed on site, the contact details and availability of the persons in question.

19.4 The communication costs will be reimbursed by the travel organiser, unless it becomes clear that these did not reasonably need to be incurred.

19.5 In the event that the traveller has not complied with the obligation to communicate a complaint or complete a complaint report, and as a result the service provider or travel organiser have not been given the opportunity to remedy the failure, any entitlement to compensation for loss may be limited or excluded.

#### **Article 20 - Complaints after the travel package**

20.1 If a complaint has not been resolved satisfactorily, it must be submitted in writing, giving details, to the travel organiser or the booking office within one month of the end of the travel package (or the service used), or after the original date of departure if the travel package has not gone ahead. The traveller must enclose a copy of the complaint report with this.

20.2 If the complaint relates to the realization of a contract, it must be submitted within one month of the traveller taking cognizance of the facts to which the complaint relates.

20.3 In the event that the traveller does not submit the complaint in good time, it will not be processed by the travel organiser, unless the traveller cannot reasonably be blamed for this. The travel organiser will notify the traveller in this respect in writing or electronically.

20.4 The travel organiser will issue a written response no later than one month after receipt of the complaint.

#### **Article 21 - Disputes**

21.1 a. If a complaint is not resolved satisfactorily in a timely manner, or if no satisfactory resolution is provided, the traveller may, if he or she wishes, bring the dispute before a court no later than twelve months after the date the written complaint was submitted to the tour operator or booking office, as referred to in Article 20, paragraph 1.

The Commission only deals with complaints from natural persons not acting in the performance of a profession or operation of a business.

b. The Disputes Committee issues rulings subject to the conditions set down in the appropriate regulations. The decision of the Disputes Committee is in the form of an advice binding upon the parties. The handling of a dispute is subject to a fee.

21.2 a. Dutch law is applicable to the contracts entered into, amended or supplemented on the basis of these Travel Terms and Conditions, unless another country's law is applicable under mandatory rules.

b. A traveller who does not wish to make use of the binding advice procedure referred to in the previous paragraph is entitled to put the case before the competent court.

Dutch courts are competent to hear such disputes, to the exclusion of courts in all other countries, unless another country's courts are competent under mandatory rules.

c. All rights of claim will lapse one year after the end of the travel package (or, if the travel package did not take place, one year after the original date of departure). Claims relating to injury expire one year after the end of the travel package (or, if the travel package did not take place, one year after the original date of departure). The parties are bound by the periods referred to in this paragraph unless it is unacceptable on the grounds of reasonableness and fairness that the travel organiser invokes these periods.

#### **Article 22 - Compliance - guarantee**

22.1 BMS Travellers guarantees compliance with the binding advice of the Travel Disputes Committee by its members, unless the member brings the binding advice before the court for reversal within two months of the advice being sent.

This guarantee will be restored if the binding advice is upheld by the court, and the judgement stating this becomes final.

The guarantee given by BMS Travellers is limited to €10,000 per binding advice.

BMS Travellers renders this guarantee subject to the condition that a traveller invoking this guarantee, transfers (cedes) to BMS Travellers his/her binding advice claim up to the maximum of the amount paid by BMS Travellers, at the same moment his/her invocation of the compliance guarantee is honoured. BMS Travellers is committed to make due effort to ensure that the member company complies with the binding advice. This obligation to make due effort entails making the traveller the offer also to transfer his/her further claim to BMS Travellers, after which BMS Travellers will request payment to the traveller thereof in legal proceedings in its own name and at its own expense, or offering the traveller the option of BMS Travellers implementing the extrajudicial collection procedure / bringing court proceedings for collection in the name of the traveller and at the expense of BMS Travellers, all this at the discretion of BMS Travellers.

22.2 BMS Travellers will not provide any compliance guarantee if one of the following situations occurs before the dispute has been heard by the Travel Disputes Committee and a final judgement has been pronounced:

- the member has been granted suspension of payment; or

- the member has been declared bankrupt; or
- the business activities of the member have effectively been terminated. The latter situation is determined by the date on which the business termination is registered in the Trade Register, or by an earlier date on which BMS Travellers can plausibly show that the business activities were effectively terminated.

22.3 Application of the compliance guarantee is subject to the requirement that the traveller invokes it in writing to BMS Travellers (info@bms-travellers.nl).

Wilnis, The Netherlands, 24 March 2020  
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