

# Deed of Guarantee from Principal of ATOL Holder

## Small Business ATOL – TTA member

1.

*Name & Address of Guarantor for services of notices and proceedings*

I

Of:

Postcode:

(hereinafter called “the Guarantor”) in consideration of the grant, renewal, or continuance of Air Travel Organiser’s Licence Number\*  held by or to be granted to :

*Full Name & Address of Applicant or ATOL Holder*

Of:

Postcode:

(hereinafter called ‘the Travel Organiser’) hereby covenant with and guarantee to the Air Travel Trust that in the event of any sums being expended by the Air Travel Trust in:

- a) providing carriage by air or other means of transport for passengers (including the cost of providing food, hotel accommodation, the movement of baggage and other incidental expenses) in substitution for carriage which the Travel Organiser has, in the opinion of the Civil Aviation Authority, failed to provide in accordance with its contractual obligations; and/or
- b) making payments to or for the benefit of customers of the Travel Organiser in respect of losses or liabilities incurred by them or on their behalf in connection with any licensable transaction

in circumstances in which at the relevant date this Deed is in force and the Travel Organiser was overtrading, the Guarantor will pay and make good to the Air Travel Trust all such sums provided that subject to Clause 3(c) any neglect or forbearance of the Air Travel Trust in endeavouring to obtain payment or any delay in taking steps to enforce the obligation under this Guarantee shall not release or in any way lessen or affect the liability of the Guarantor.

\* By executing this document you agree that an officer of the CAA may insert the number of the Air Travel Organiser's Licence assigned by the CAA to the Travel Organiser at a later date

2. For the purposes of this Deed:

- 'authorised revenue' means the total authorised revenue specified in Schedule 1 to the licence held or previously held by the Travel Organiser for the relevant licence category for the relevant quarter;
- 'bookings revenue' means the total revenue excluding earned revenue related to bookings accepted pursuant to or in contemplation of licensable transactions for carriage in a relevant quarter;
- 'earned revenue' means revenue earned pursuant to licensable transactions from passengers carried during a relevant quarter;
- 'Guarantor' includes the representative of the Guarantor and in the event of there being more than one Guarantor in respect of the Travel Organiser, any obligation on the part of the Guarantor shall take effect as a joint and several obligation with each such Guarantor;
- 'licensable transaction' means any transaction to provide or to arrange for the provision of one or more flights (with or without ground accommodation or other facilities) in circumstances where this constitutes an activity in respect of which the Air Travel Organiser is required to hold an Air Travel Organiser's Licence;
- 'relevant date' means the date on which the Civil Aviation Authority first makes a call on the bond held in respect of the Travel Organiser;
- 'relevant quarter' means the quarter during which the relevant date occurs or the quarter preceding that quarter or any one of the three quarters succeeding the quarter during which the relevant date occurs.

The Travel Organiser will be overtrading for the purposes of this Deed if:

- a) at the relevant date, the earned revenue plus the bookings revenue for any licence category for a relevant quarter exceeds the authorised revenue for that licence category for that quarter; or
  - b) at the relevant date
    - i) the number of passengers in respect of whom he has accepted bookings but has not yet provided carriage exceeds the total number of passengers specified in the licence held or most recently held by him; or
    - ii) the total value of bookings held by him pursuant to or with a view to licensable transactions exceeds the total authorised revenue specified in the licence held or most recently held by him; or
  - c) after he has ceased to hold a valid Air Travel Organiser's Licence,
    - i) he provides carriage pursuant to a licensable transaction, except, with the consent of the CAA; or
    - ii) he accepts any payment either with a view to entering into a licensable transaction or in respect of a licensable transaction already entered into.
3. a) This Deed shall remain in force until it is cancelled in accordance with Clause 3(b) or 3(c)

- b) (i) Subject to sub-clause (ii) this Deed may be cancelled by the Guarantor by the giving to the CAA of not less than three months written notice or by agreement between the Guarantor and the CAA;
- (ii) On and after the relevant date no such notice shall be served and the Deed shall not be cancelled without the agreement of the CAA.
- c) If neither a claim nor an intention to claim under this Guarantee has been served on the Guarantor within ten months after the relevant date, the obligations of the Guarantor hereunder shall cease and this Deed shall be cancelled.
4. All notices which are required to be given hereunder by the CAA shall be in writing and shall be sent to the address of the Guarantor set out in this Agreement or to such other address in the United Kingdom as the Guarantor may designate. Any such notice may be delivered personally or by first class pre paid letter, telex or facsimile transmission and shall be deemed to have been served, if by hand, when delivered, if by first class post, forty-eight (48) hours after posting and if by telex or facsimile transmission, when despatched
5. This Deed has been executed by the Guarantor in contemplation of the statement of policy in connection with the enforcement of Deeds of Guarantee published by the Civil Aviation Authority in its Official Record Series 3 and current at the date of this Deed, a copy of which statement is affixed hereto
6. This Deed shall be governed and construed in accordance with English law and the parties hereto accept the exclusive jurisdiction of the courts of England and Wales

In witness whereof the Guarantor has executed this Deed on the:

*Date*                      *Month*                                      *Year*

day of

Signed as a deed by the said:

*Guarantor*

Name:

Signature:

And delivered in the presence of:

*Witness*

Name:

Signature:  Date:

Occupation:

Address:

Postcode:

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## **Annex to Deed of Guarantee from Principal of ATOL holder**

Policy of the CAA in relation to enforcement of Deeds of Guarantee provided by directors or principal of ATOL holder

The CAA requires Guarantees from certain directors and other principals of an ATOL applicant to be provided before a licence can be granted. These guarantee to the Air Travel Trust that if the ATOL holder exceeds its licence authorisation and then fails, the directors or principals who have provided them are liable to reimburse the Trust's expenditure. The CAA enforces these Deeds on behalf of the Air Travel Trust and the Trust has adopted and endorsed this Policy Statement.

The Guarantees are intended to protect the Trust from excessive claims arising from circumstances in which an ATOL holder exceeds its licence authorisation; the CAA will take legal action to enforce them. They will not be pursued in cases where trading has exceeded an authorisation to an insignificant extent or by a small redistribution of business between adjacent completed quarters; where overtrading has occurred but has had no significant effect on the call on the Air Travel Trust Fund; or where it appears to the CAA that the directors or principals who provided the Guarantees made all reasonable efforts to ensure that the scale of business done was within the licence authorisation.

A Guarantor is entitled to cancel a Guarantee (provided that it does not crystallise by a call on the bond of the licence holder) by giving three months written notice to the CAA. The CAA reserves the right not to release a Guarantee before the expiry of the three months period, but in practice it will often be prepared to release a guarantee at short notice if an acceptable alternative Guarantee is provided to it or, very occasionally, if other acceptable arrangements are made.