

# Air Travel Trust

## Report and Financial Statements

31 March 2012

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# Air Travel Trust

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**CAA House**  
**45-59 Kingsway**  
**London**  
**WC2B 6TE**

## **Trustees**

Mr R P Mountford	Chairman
Miss C Jesnick	
Mr R T R Jackson	
Mrs C R Staples	

## **Officials**

Mr M Rayner	Secretary
Mr C Henderson	Assistant Secretary

## **Bankers**

Barclays Bank plc  
1 Churchill Place  
London  
E14 5HP

## **Auditors**

Deloitte LLP  
Crawley  
West Sussex  
RH10 1DL

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# Report of the Trustees

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## Constitution and Terms of Reference

The ATOL scheme is a statutory UK system that provides financial protection to air travellers against the insolvency of their travel firm. The objective of the Air Travel Trust ('ATT' or 'the Trust') is to provide funds to repatriate stranded holidaymakers and meet claims for losses incurred by customers of failed ATOL holders. The terms of reference of the ATT are contained in the Trust Deed, which is at Appendix 1.

The Trustees are all Board Members or officials of the Civil Aviation Authority ('CAA'), appointed *ex officio*. The Trustees met nine times during the year.

Two of the Trustees, Roger Mountford and Richard Jackson, are also members of the Air Travel Insolvency Protection Advisory Committee ('ATIPAC'). ATIPAC's membership includes a wide range of senior travel industry figures, as well as consumer and CAA representatives and independent members. It provides advice to the CAA, the ATT and the Secretary of State for Transport on the financial protection arrangements for air travellers and customers of air travel organisers. Mr John Cox OBE, the Chairman of ATIPAC, attends meetings of the ATT by invitation.

The CAA performs all administrative functions for the ATT and an agreement is in force between the two parties which governs that relationship. When an ATOL holder fails, the CAA acts as agent of the ATT in exercising the ATT's powers to repatriate customers and to meet claims by customers for losses incurred as a result of the failure. In this respect, the CAA acts in accordance with the terms of any bond or similar security provided by or in respect of the ATOL holder (where applicable), the Trust Deed, the Air Travel Trust Payment Policy and its agreement with the ATT.

## Review of the Year

### *Incoming resources*

ATOL Protection Contributions ('APC') are collected under the powers set out in The Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007, as amended ('ATT Regulations'), at a current rate of £2.50 per passenger booked.

Contributions received during the year amounted to £42,581,360, relating to 17,279,268 passengers booked (2011: £46,238,358, relating to 18,514,211 passengers). The Trustees operate a policy of pursuing penalty interest payments from ATOL holders who pay APC late.

Liquidation dividends and settlements received amounted to £93,936 (2011: £1,445,343), the majority being from Her Majesty's Courts Service in respect of the part payment of a compensation order relating to the conviction of the directors of Onshine Ltd.

### *Resources expended*

The steady reduction throughout the year of the Trust's borrowing requirements has had a favourable effect on interest and bank charges for the year, which amounted to £837,892 (2011: £1,181,880). Administrative expenses charged by the CAA under its agreement with the ATT amounted to £342,000 (2011: £345,381), in respect of the operational management of the Trust's affairs in collecting APC, arranging banking and insurance facilities, and day-to-day financial and secretariat services.

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*Failures – details of failures during the year*

A total of 23 ATOL holders failed in the year to 31 March. The table below sets out the details of the six failures that are expected to lead to the most significant calls on the Trust.

<b>ATOL Holder</b>	<b>Date of Failure</b>	<b>Security Provided</b>	<b>Estimated Expenditure</b>	<b>Estimated Call on ATT</b>
		<b>£</b>	<b>£</b>	<b>£</b>
Selsdon Travel Ltd	23 May 2011	203,345	2,175,821	1,972,476
Dream Holidays Ltd	19 Jul 2011	265,000	766,721	501,721
Holidays 4 UK Ltd	03 Aug 2011	4,500,000	11,705,977	7,205,977
Pinnacle Travel Ltd	15 Sep 2011	-	812,736	812,736
Astonbury Ltd (t/a Skyjet)	17 Nov 2011	294,000	1,331,800	1,037,800
Shenoy & Co (UK) Ltd	29 Nov 2011	10,000	782,340	772,340

Full details of all failures are at Appendix 2.

Due to the protection afforded by ATOL, the Trust enabled 14,330 customers who were overseas when their ATOL holder failed to complete their holiday and return home at no extra cost. A further 67,475 customers who were booked to travel at a later date were due refunds for amounts paid; at the date of this report, the majority of these have received payment.

The largest call on the Trust arose from the failure of Holidays 4 UK Ltd, a specialist in holidays to Turkey, which failed during the summer. The failure was precipitated by a highly competitive trading environment in the Turkish market which forced down already low margins. The high level of flight commitments placed pressure on the company to sell seats through the trade at unprofitable prices. Additional security put in place by the CAA at the March 2011 renewal helped mitigate the impact of this failure on the Trust.

The failure of Shenoy & Co (UK) Ltd is of note as the company only held a Small Business ATOL yet there is expected to be a significant call on the ATT. It is anticipated that 724 passengers will require a refund, in itself strong evidence that the company had overtraded its ATOL. Additionally, the company operated a Trust account which on failure was found to contain substantially less than expected. The CAA, on behalf of the ATT, is therefore investigating all options to pursue recovery of the Trust's expenditure.

*Failures – amounts provided for and released during the year*

The Trust recorded calls on its funds of £14,162,975 (2011: £48,503,592) in respect of the 23 ATOL holder failures during the year. Provisions relating to three of the failures from the previous year have been revised, leading to an additional call on the Trust of £21,559. These amounts represent both amounts paid in the year and estimated balances payable and provided for at the year end.

Provisions for failures are made with careful consideration given to the Trust's accounting policy, as stated in Note 1(c), to provide in full based on information available at the time. Any excess provisions are released as a consequence of the final calls on the Trust being lower than anticipated, or at any time when further information becomes available and the estimates of expenditure can be revised.

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### *Failures – amounts provided for and released during the year (continued)*

For prior year failures, where all expenditure has been concluded, or forecast expenditure has been revised due to the availability of more accurate information, the Trust has been able to release £7,859,726 (2011: £1,711,895) back to the fund. The most significant proportion of this relates to Flight Options Ltd (£2,886,818) and Goldtrail Travel Ltd (£2,541,339) where the level of claims received was lower than expected and the Trust has revised its expenditure forecasts accordingly for both failures.

### *Going Concern*

The CAA's financial models for the forecast income and expenditure are reviewed regularly and are subject to a number of sensitivity tests. These tests are designed to ensure that in the event of decreased APC receipts and/or increased failure costs, the Trust has sufficient resources available to support continuing operations. Following the recent reform of ATOL, the Trustees do not envisage any reduction in APC receipts, and whilst the cost of failures can never be predicted with complete certainty, are satisfied that current forecasts are appropriate. Having given due consideration to all relevant matters, the Trustees have adopted the going concern basis in preparing the financial statements. Further details on the Trustees' policy are provided at Note 1(a).

## **Principal Risks and Uncertainties**

The Trustees continually review and monitor material risks and uncertainties which could affect the Trust's ability to fulfil its role in supporting the ATOL scheme. The following list highlights what the Trustees consider to be the principal risks and uncertainties together with actions taken or considered to mitigate any adverse consequences on the Trust.

<b>Area</b>	<b>Description of Risk</b>	<b>Mitigating Actions</b>
Economic factors	<ul style="list-style-type: none"><li>• Reduced passenger numbers and hence lower APC receipts</li><li>• Greater number of failed ATOL holders and calls on Trust</li></ul>	<ul style="list-style-type: none"><li>• Increased borrowing facilities</li><li>• Increased Government guarantee</li></ul>
APC reporting	<ul style="list-style-type: none"><li>• ATOL holders incorrectly report passenger numbers and reduce payments of APC</li></ul>	<ul style="list-style-type: none"><li>• Regular CAA monitoring of returns and submissions</li><li>• CAA education programme in support of ATOL Reform</li><li>• CAA monitoring of ATOL holders' compliance with ATOL Standard Terms</li></ul>
Claims provisions	<ul style="list-style-type: none"><li>• Higher numbers or value of claims than originally estimated on an individual failure</li></ul>	<ul style="list-style-type: none"><li>• CAA monitoring of returns</li><li>• Regular review of claims progress and provision levels</li><li>• CAA engagement with systems providers to obtain high quality information at failure</li></ul>
Insurance policy	<ul style="list-style-type: none"><li>• Insurers refuse to pay out on claim due to technicality or breach of terms</li></ul>	<ul style="list-style-type: none"><li>• Continuous internal monitoring of compliance with policy terms</li></ul>

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## **Acknowledgements**

The Trustees are grateful to the CAA for the continued administrative support and secretariat services provided during the year. They would also like to thank the CAA for the work of its staff relating to the administration of the APC, and the management of the Trust's activities.



# Report of the Independent Auditors

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## Independent Auditors' Report to the Secretary of State for Transport and the Trustees of the Air Travel Trust (the 'Trustees')

In accordance with our engagement letter dated 10 May 2012 we have audited the non-statutory financial statements of the Air Travel Trust for the year ended 31 March 2012, which comprise the Statement of Financial Activities, the Reconciliation of Funds, the Balance Sheet and the related notes 1 to 10. These financial statements have been prepared under the accounting policies set out therein.

This report is made solely to the Secretary of State for Transport and the Trustees, as a body in accordance with Clause 17 of the Trust Deed dated 5 January 2004, as amended by Deeds of Variation dated 4 January 2005, 18 March 2008 and 27 April 2012 (the 'Trust Deed'). Our audit work has been undertaken so that we might state to the Secretary of State for Transport and the Trustees those matters we are required by our engagement letter, to state to them in our auditors' report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the Secretary of State for Transport and the Trustees, as a body, for our audit work, for our report, or for the opinions we have formed.

### Respective responsibilities of Trustees and Auditor

Clause 17 of the Trust Deed requires the Trustees to prepare financial statements for each financial year. The Trustees have prepared the financial statements in accordance with United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice) except as described in note 1 a) to the financial statements.

The Trustees consider that in preparing these financial statements, they have used appropriate accounting policies, consistently applied and supported by reasonable and prudent judgements and estimates. The Trustees have prepared the financial statements on a going concern basis.

The Trustees are responsible for keeping proper accounting records to enable them to ensure that the financial statements give a true and fair view of the state of affairs of the Trust as at the end of the financial year and of the income and expenditure of the Trust for that period, and that they comply with the Trust Deed and the directions made thereunder by the Secretary of State for Transport. They are also responsible for the system of internal control, for safeguarding the assets of the Trust and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

Our responsibility is to audit and express an opinion on the financial statements in accordance with International Standards on Auditing (UK and Ireland). We report to you our opinion as to whether the financial statements give a true and fair view, in accordance with the relevant financial reporting framework, and are properly prepared in accordance with the provisions of the Trust Deed and the directions made thereunder by the Secretary of State for Transport. We also report if, in our opinion, the Report of the Trustees is not consistent with the financial statements, if the Trust has not kept proper accounting records or if we have not received all the information and explanations we require for our audit.

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## Scope of the audit of the non-statutory financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Trust's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Trustees; and the overall presentation of the financial statements. In addition, we read all the financial and non-financial information in the Report of the Trustees to identify material inconsistencies with the audited financial statements. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

## Opinion on non-statutory financial statements

In our opinion the non-statutory financial statements:

- give a true and fair view of the state of the Trust's affairs as at 31 March 2012 and of its incoming resources and application of resources for the year then ended;
- have been properly prepared in accordance with the provisions of the Trust Deed and the directions made thereunder by the Secretary of State for Transport; and
- the information given in the Report of the Trustees is consistent with the financial statements.



Deloitte LLP  
Chartered Accountants and Statutory Auditors  
Crawley  
27 June 2012

*NOTE: The Trust's Annual Report is published on the website of the Civil Aviation Authority ('CAA'). The maintenance and integrity of the CAA's website is the responsibility of the Board members of the CAA. The work carried out by the auditors does not involve consideration of these matters and, accordingly, the auditors accept no responsibility for any changes that may have occurred to the financial statements since they were initially presented on the website. Legislation in the United Kingdom governing the preparation and dissemination of the financial statements may differ in other jurisdictions.*

# Fund Account

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## Statement of Financial Activities for the year ended 31 March 2012

	Note	Year to 31.3.12	Year to 31.3.11
		£	£
<b>INCOMING RESOURCES</b>			
ATOL Protection Contributions	2	42,581,360	46,238,358
Liquidation dividends and settlements	3	93,936	1,445,343
<b>Total Incoming Resources</b>		<u>42,675,296</u>	<u>47,683,701</u>
<b>RESOURCES EXPENDED</b>			
Audit and legal expenses	4	(79,325)	(175,306)
Provisions for compensation claims	5	(6,324,808)	(46,791,697)
Loan interest and bank charges		(837,892)	(1,181,880)
Other administrative expenses	6	(11,580,776)	(10,032,521)
<b>Total Resources Expended</b>		<u>(18,822,801)</u>	<u>(58,181,404)</u>
<b>NET MOVEMENT IN FUND</b>		<u>23,852,495</u>	<u>(10,497,703)</u>
<b>RECONCILIATION OF FUND (DEFICIT)</b>			
Fund at start of year		(42,298,182)	(31,800,479)
<b>Fund at end of year</b>		<u>(18,445,687)</u>	<u>(42,298,182)</u>

There are no other recognised surpluses or deficits other than those presented above. Accordingly, no statement of total recognised gains and losses is presented.

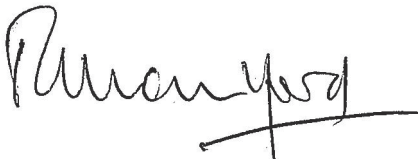

# Balance Sheet

## Balance Sheet as at 31 March 2012

	Note	31.3.12	31.3.11
ASSETS		£	£
Cash at bank and in hand		387,597	76,000
Restricted cash on deposit		401,602	2,999,987
ATOL Protection Contribution debtors		7,890,854	8,224,879
Prepayments and accrued income	7	2,783,299	225,224
		<u>11,463,352</u>	<u>11,526,090</u>
<b>CREDITORS</b>	8		
Bank loans and overdrafts		(23,500,000)	(33,402,213)
Compensation claims outstanding		(5,858,220)	(17,022,529)
Restricted cash held from obligors and administrators		(401,602)	(2,999,987)
Loan interest and other creditors		(149,217)	(399,543)
		<u>(29,909,039)</u>	<u>(53,824,272)</u>
<b>NET LIABILITIES</b>		<u>(18,445,687)</u>	<u>(42,298,182)</u>
Represented by:			
<b>FUND ACCOUNT (DEFICIT)</b>		<u>(18,445,687)</u>	<u>(42,298,182)</u>

The financial statements were approved by the Trustees on 27 June 2012.

Signed on behalf of the Trustees:

Chairman		Roger Mountford
Trustee		Chris Jesnick

# Notes to the Accounts

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## Air Travel Trust

### Notes to the Accounts for the year ended 31 March 2012

#### 1 Accounting Policies

##### a) Basis of preparation

The Trustees have prepared the financial statements in accordance with the terms of clause 17 of the Trust Deed (shown at Appendix 1) and directions from the Secretary of State as referred to therein.

The accounts are prepared under the historical cost convention and in accordance with United Kingdom Accounting Standards, except for the inclusion of a cash flow statement as required by FRS1 (Revised 1996), "Cash flow statements". The accounting policies have been applied consistently in the current and previous year.

In preparing these financial statements, the Trustees have taken careful consideration of the current state of the Trust Fund and the CAA's financial models for the forecast income and expenditure over the forthcoming three years, including sensitivity analysis. Additionally, considering the insurance arrangements and banking facilities secured partly by a Government guarantee as described in notes 6 and 8 below, and after making appropriate enquiries as considered necessary, the Trustees have a reasonable expectation that the Trust has adequate resources to continue in operational existence for the foreseeable future. Accordingly, they adopt the going concern basis in preparing these financial statements.

##### b) Income

ATOL Protection Contributions ('APC') are credited to income in the period when the passenger bookings are made. The Trust records income based on the returns submitted by all ATOL holders. This provides a reasonable basis for recording revenue in accordance with FRS5 which requires that revenue is recorded when it can be reliably measured.

The Trust relies on the regular monitoring work carried out by the CAA in support of the ATOL licensing system, together with its own detailed analysis of returns submitted by all Licence holders, to provide verification of the accuracy of APC income. This is supplemented with reports from the independent auditors of ATOL holders.

Liquidation dividends and settlement income are accounted for on a cash basis.

##### c) Expenditure

Provisions are made for compensation claims based on failures of ATOL holders during the period that are expected to result in a call on the Trust. The Trust estimates the maximum exposure on each failure, net of possible claims referred to credit card companies. Unless there is evidence to the contrary, the Trust assumes that all valid claims will be lodged with the CAA, and provides accordingly. The provisions are reviewed periodically and updated as necessary to reflect the actual progress in dealing with the failures.

Administrative expenses and bank interest are accounted for on an accruals basis.

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## 1 Accounting Policies (continued)

### d) Derivatives

The Trust uses derivative financial instruments purely to reduce its exposure to interest rate movements. The Trust does not hold or issue derivative financial instruments for speculative purposes.

In accordance with UK GAAP, the Trust does not record the derivative financial instruments at fair value at the balance sheet date. The gain or loss arising from the derivative contracts is recognised on an accruals basis through the Fund account. Further details are provided in note 8.

## 2 ATOL Protection Contributions

Income, all of which arises in the United Kingdom, is attributable to ATOL Protection Contributions received in the year of £42,581,360 (2011: £46,238,358).

## 3 Liquidation Dividends and Settlements

Liquidation dividends and settlements were received in respect of the following:

	<b>Year to 31.3.12</b>	<b>Year to 31.3.11</b>
	<b>£</b>	<b>£</b>
Rainbow (York) Ltd (liquidation dividend)	–	3,217
Seguro Travel Ltd (liquidation dividend)	–	512,766
Scotttravel Ltd (interim liquidation dividend)	–	909,034
Montystar Ltd (liquidation dividend)	–	11,023
ITIC Ltd (liquidation dividend)	1,572	–
Agricultural Travel Bureau Ltd (liquidation dividend)	1,419	–
Seewoo Travel Ltd (liquidation dividend)	98	–
Onshine Ltd (Court compensation – the Crown Court found the directors guilty of fraud)	90,847	9,303
	<u>93,936</u>	<u>1,445,343</u>

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## 4 Audit, Legal Expenses and Taxation

	<b>Year to 31.3.12 £</b>	<b>Year to 31.3.11 £</b>
Fees payable to the Trust's auditors for the audit of the Trust's annual accounts	29,500	29,500
Other professional fees	24,600	77,712
Legal expenses	25,225	68,094
	<u>79,325</u>	<u>175,306</u>

During the year, the independent auditors received £24,600 (2011: £nil) for non-audit services to the Trust.

The ATT had no employees during the year (2011: nil). None of the Trustees received any remuneration from the Trust in the current or preceding financial year.

During the current financial year, the ATT incurred legal fees for the negotiation of the insurance policy renewal.

The ATT has paid no taxation, and no taxation is due, in respect of the current or the preceding financial year.

## 5 Compensation Claims

The compensation paid or provided (or prior advances released) during the year as a result of the failures of ATOL holders were:

	<b>Year to 31.3.12 £</b>	<b>Year to 31.3.11 £</b>
Ababeel Travels & Tours Ltd	–	(14,994)
Africa Safari Club Ltd	(91,000)	1,541,504
Agricultural Travel Bureau Ltd	(39)	18,421
Air Travel Consultants Ltd	3,147	194,020
All America Holidays Ltd	(55,524)	–
Allbury Travel Group Ltd	(63,733)	109,172
Alma Travel Ltd	–	(51,750)
Andes Journeys Ltd	(4,402)	–
Ash Green Travel Ltd	–	(70,934)
Bird S J (t/a Birdseekers)	(2,862)	71,382
Blue Palms Ltd	–	(7,386)
Blue Skies Destinations Ltd	(1,135)	–
Brilliant Weekends Ltd	–	(35,467)
Business Travel Services Ltd	(4,941)	–
Caledonia Travel Ltd	(24,468)	35,000

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**Compensation Claims (continued)**

	<b>Year to 31.3.12 £</b>	<b>Year to 31.3.11 £</b>
Celtic Line Travel Ltd	(10,407)	–
Chawala N (t/a flightlinker.com)	214	30,969
Classic Breaks Ltd	(93,535)	(15,305)
Complete World Travel Ltd	(8,807)	135,518
CustomFlights.co.uk Ltd	–	(248,618)
Cyprus & Greece Direct Ltd	–	155
Descent International Ltd	(15,000)	4,922
Essential India Travel Ltd	–	–
Exotic Travel Ltd	–	(73,043)
Explore Latin Carib Ltd	(1,265)	(25,819)
Finlay's Ski-ing Ltd	(250,954)	25,293
First Option Travel Ltd	–	–
Flair Holidays Ltd	–	(97,340)
Flight Masters Ltd	(2,886,818)	(7,960)
Flight Options Ltd	(30,782)	19,385,493
Freedom Direct Holidays Ltd	(27,281)	131,910
Global Travel Agency Ltd	(2,541,339)	129,824
Goldtrail Travel Ltd	(93,535)	23,859,183
Golf Holidays Abroad Ltd	–	(1,122)
Grus Travel Pty Ltd	(1,179)	753,013
Hebridean International Cruises Ltd	(27,863)	(117,166)
High & Wild Ltd	–	(203)
Holiday Direct Ltd	(37,695)	586,930
International Holidays Ltd	(25,665)	55,260
Interworld Holidays Ltd	(650)	1,133
ITIC Ltd	–	(3,320)
K and S Holidays Ltd	–	(12,451)
Landround Travel Ltd	–	(7,880)
Leisure Estates International Ltd	–	(1,581)
Lidana Ltd	–	(72,269)
Linkair Travels Ltd	(3,640)	7,080
Longmere International Ltd	(86,831)	–
Love Holidays Ltd	(8,585)	15,000
Magic Globe Travel Ltd	–	(18,752)
Malachite Travel Ltd	(23,667)	234,051
McCarthy Travel Ltd	(54,100)	–
Montystar Ltd	(207,911)	–
New Worlds Ltd	–	(52,228)
Ogunseitan A (t/a Ghana Tours)	–	(77,530)
Oriental Panorama Ltd	(30,413)	202,018
Par 4 The Course Ltd	–	(1,750)
Pure Flights Ltd	–	(155,370)
Rion Travel Ltd	(27,952)	33,917



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**Compensation Claims (continued)**

	<b>Year to 31.3.12 £</b>	<b>Year to 31.3.11 £</b>
Scantours Ltd	(28,305)	–
Scotttravel Ltd	(213,835)	–
Seewoo Travel Ltd	–	(19)
Seguro Travel Ltd	(28,772)	(110,519)
Sportability Ltd	–	(23,767)
Staying Away Ltd	–	(24,468)
Sun 4 U Ltd	18,198	618,738
Sunisle.co.uk Ltd	(2,043)	13,118
The Holiday Company Ltd	(2,496)	185,611
The Inta Group Ltd	(267,301)	–
Tourwest Holidaymakers Ltd	–	(10,599)
Travel Link 2000 Ltd	–	(4,108)
Westland Corporation Ltd	–	(97,205)
Whitehall Leisure Ltd	(237,936)	(270,972)
Wigmore Holidays and Travel Ltd	–	58,281
XL Leisure Group – UK	(428,595)	–
<b><i>Failures since 31.03.11</i></b>		
Airborn Ltd	471,314	–
Astonbury Ltd	1,037,800	–
Crown Service UK Ltd	168,380	–
Dream Holidays Ltd	501,721	–
FT Tours Ltd	671	–
Fairway Golf Holidays Ltd	44,247	–
Geo-Dive Ltd	35,000	–
Higham E & Onezime M (t/a European Connections)	271,386	–
Highlife Holidays & Travel (1989) Ltd	15,613	–
Holidays 4 UK Ltd	7,205,977	–
Merebeech Ltd	33,673	–
New Look Travel Ltd	229,585	–
Pinnacle Travel Ltd	812,736	–
Pumpkin Tours Ltd	21,073	–
Selsdon Travel Ltd	1,972,476	–
Shenoy & Co (UK) Ltd	772,340	–
Silverbird Travel Ltd	56,330	–
Sky Masters Travel Ltd	479,150	–
The Little Black Book Ltd	4,099	–
Woolley F (t/a Romano Travel)	29,404	–
Total charge in year	<u>6,324,808</u>	<u>46,791,697</u>

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## 6 Other Administrative Expenses

	<b>Year to 31.3.12</b>	<b>Year to 31.3.11</b>
	<b>£</b>	<b>£</b>
Insurance premiums	11,130,000	9,496,296
Charge from CAA for administrative services	342,000	345,381
Irrecoverable VAT	59,046	74,004
Bad debt written off	49,730	116,840
	<u>11,580,776</u>	<u>10,032,521</u>

Three parallel insurance policies, providing an aggregate cover of £300 million, are held with Chartis Insurance UK Ltd (£215 million), Zurich Insurance plc (£60 million) and Markel International Insurance Company Ltd (£25 million). These provide the Trust with access to funds in the event of the failure of a large ATOL holder(s) where costs arising from refunds and repatriation exceed £50 million in a policy year. There have been no claims on the policy.

## 7 Prepayments and Accrued Income

	<b>Year to 31.3.12</b>	<b>Year to 31.3.11</b>
	<b>£</b>	<b>£</b>
Insurance premiums paid in advance	2,782,500	–
Interest rate cap premium paid in advance	–	43,364
Deposit account interest accrued	799	53
Scotttravel Ltd interim dividend	–	181,807
	<u>2,783,299</u>	<u>225,224</u>

## 8 Creditors

### Bank loans and overdrafts

The loan facility at the balance sheet date was provided under a revolving credit agreement with Barclays Bank plc ('Barclays'), whereby Barclays provided lending facilities to the Trust totalling £60 million under various facility agreements originally dated 18 March 2008 and revised on 13 August 2009.

The principal loan agreement is provided under two facilities. Facility A amounts to £30 million at the balance sheet date, decreasing to £20 million on 13 August 2012. Facility A is fully secured by a Government guarantee. Facility B amounts to £29 million at the balance sheet date.

Barclays has also provided unsecured short-term facilities amounting to £1 million.

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## Creditors (continued)

In order to mitigate the interest rate risk on part of the loan facilities, the Trust has in place interest rate swap instruments, covering up to £20.5 million of the loan. These instruments fix the 3 month LIBOR portion of the interest payments. The fair value of the instruments, which is not required to be included on the balance sheet under UK GAAP applicable to the Trust, is a net liability of £135,213 (2011: net liability of £53,219).

The Trust Deed allows liabilities to be paid out of the Fund at the absolute discretion of the Trustees. The ATT meets its day-to-day working capital requirements through bank loans, which are secured by a Government guarantee of up to £30 million as described above.

## Compensation claims

Movements in the compensation claim provision in the year can be analysed as follows:

	<b>Year to 31.3.12</b>
	<b>£</b>
At 1 April 2011	17,022,529
Charged to the Fund account	14,184,534
Released back to the Fund account	(7,859,726)
Payments made on failures	(17,489,117)
At 31 March 2012	<u>5,858,220</u>

The compensation claims outstanding represent claims on the Trust received at the balance sheet date but not paid out, together with claims expected but not yet received, resulting from failures of ATOL holders. In accordance with FRS 12, where estimations are made, they are based on the most reliable information available to the Trust at the time and are regularly updated to reflect any further information that becomes available, as well as actual progress of claims received. There remains a risk that the actual number of claims on the Trust may differ from the estimated number and value of claims provided for. Any adjustments to the claims provision will be reflected in the financial statements for the year ended 31 March 2013. All amounts are anticipated to be paid within a year from the balance sheet date.

## 9 Ultimate Controlling Party

The Air Travel Trust is controlled by the Trustees under the terms of the Trust Deed made by the Secretary of State for Transport.

## 10 Post Balance Sheet Events

Since the balance sheet date and up to 22 June 2012, there have been three ATOL holder failures. The Trustees do not envisage, based on current available information, that there will be a claim on the Trust in respect of these failures.

# Appendix 1

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## Text of the Trust Deed

CONFORMED COPY OF AIR TRAVEL TRUST DEED DATED 5 JANUARY 2004 AS AMENDED BY DEEDS OF VARIATION DATED 4 JANUARY 2005, 18 MARCH 2008 AND 27 APRIL 2012

### WHEREAS:

- (A) A fund known as the Air Travel Reserve Fund (the “**Fund**”) was established in 1975 to help repatriate and meet claims for losses and liabilities incurred by passengers and customers of failed air travel operators.
- (B) In 1986, the Fund was wound up and its assets were transferred to a trust known as the Air Travel Trust set up pursuant to a Deed dated 28 January 1986 (the “**1986 Deed**”) to perform the same function.
- (C) The Secretary of State subsequently declared new trusts under which the same function has been performed by a trust also known as the Air Travel Trust.
- (D) The Air Travel Trust in its current form was established by deed on 5 January 2004 (as amended by deeds of variation on 4 January 2005 and 18 March 2008, the “**2004 Deed**”).
- (E) The Secretary of State, with the consent of the Trustees (as defined below), has amended the 2004 Deed in accordance with Clause 16 thereof by a deed of variation dated 27 April 2012 (the “**Deed of Variation**”).
- (F) This deed sets out the terms of the 2004 Deed as varied by the Deed of Variation.

### NOW THIS DEED WITNESSETH as follows:

1. **THIS** deed, being the 2004 Deed as varied by the Deed of Variation, shall hereafter be referred to as the “**Deed**”.
2. **THE** parties hereto agree that, notwithstanding any provisions to the contrary set out herein or in any other relevant document:
  - (a) any guarantee relating to borrowings by the Air Travel Trust under the 2004 Deed shall not be affected but shall continue to apply as if the same related to the Air Travel Trust as constituted by this Deed;
  - (b) any other right, privilege, obligation or liability acquired, accrued or incurred under the 2004 Deed shall continue as if acquired, accrued or incurred under this Deed; and
  - (c) any investigation, legal proceeding or remedy in respect of any such guarantee, right, privilege, obligation or liability shall not be affected but shall continue to apply as if the same related to the Air Travel Trust as constituted by this Deed.
3. **THE** trust constituted by this Deed shall be known as the “Air Travel Trust” unless and until the Trustees adopt and apply to it (as they are hereby entitled to do) some other name.
4. **TERMS** defined in the ATT Regulations and the ATOL Regulations (as each term is defined below) shall bear the same meaning when used in this Deed unless otherwise defined herein. The following expressions have the following meanings:
  - “**Act**” means the Civil Aviation Act 1982 as supplemented and revised from time to time;

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**“Agent”** means a person who acts as agent on behalf and with the authority of a disclosed identified principal who is an ATOL holder provided that such person, immediately upon their receipt of any payment for flight accommodation being made available:

- (a) is entitled to issue an ATOL Certificate on behalf of the ATOL holder without reference to the ATOL holder;
- (b) is able to bind the ATOL holder to the contract for flight accommodation; and
- (c) acts in accordance with the terms of a written agency agreement which complies with such requirements as the CAA publishes from time to time;

**“air travel organiser”** means a person whose activities consist of or include activities in respect of which he is required by virtue of any regulations for the time being in force under Section 71 of the Act to hold an ATOL;

**“ATOL”** means an air travel organiser’s licence granted by the CAA under the ATOL Regulations;

**“ATOL Certificate”** means a document which complies with such requirement as the CAA publishes from time to time;

**“ATOL holder”** means a person who holds an ATOL;

**“ATOL Regulations”** means The Civil Aviation (Air Travel Organisers’ Licensing) Regulations 2012 as such regulations may be amended, supplemented or replaced from time to time;

**“ATT Regulations”** means The Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007 as such regulations may be amended, supplemented or replaced from time to time;

**“Beneficiary”** means a person to whom the Trustees will make a payment of any part of the Trust Fund under their power in Clause 6(2) hereof;

**“CAA”** means the Civil Aviation Authority;

**“CAA Chair”** means a Member of the CAA appointed as chair of the CAA by the Secretary of State under section 2 of the Act;

**“consumer”** means an individual who:

- (a) makes use of flight accommodation for travel in person or provides it to another person who uses that flight accommodation for travel in person; or
- (b) intends to make use of flight accommodation for travel in person or intends to provide it to another person to use that flight accommodation for travel in person; or
- (c) makes use of flight accommodation for travel in person which has been provided to them by a person who is a consumer by reason of sub-paragraph (a) of this definition,

but is not a person who procures flight accommodation in the course of business while acting as the agent of another person who uses that flight accommodation for travel in person;

**“failed ATOL holder”** means an ATOL holder or a person who held an ATOL within the previous 6 months:

- (a) who, in the opinion of the CAA:
  - (i) has gone into insolvency; or

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- (ii) cannot or will not be able to meet in whole or in part its obligations to its consumers; and/or
  - (iii) will fail to meet in whole or part its obligations to its consumers; and
  - (b) in respect of whom the CAA publishes a notice of failure of that ATOL holder in the “Register of Failed ATOL Holders” published by the CAA;

“**flight accommodation**” means accommodation for the carriage of persons on a flight in any part of the world;

a “**Flight-Plus**” exists when:

- (a) flight accommodation is made available which includes as a minimum:
  - (i) a flight out of the United Kingdom; or
  - (ii) a flight into the United Kingdom where the consumer has commenced the journey in the United Kingdom and departed the United Kingdom using another means of transport; and
- (b) living accommodation outside the United Kingdom or self-drive car hire outside the United Kingdom or both is supplied by any person under or in connection with the contract for such flight accommodation; and
- (c) such living accommodation or self-drive car hire is requested to book by or on behalf of the consumer on the same day as the consumer requests to book the flight accommodation, the previous day or the next day; and
- (d) the arrangement covers a period of more than twenty-four hours or includes overnight living accommodation.

PROVIDED THAT:

- (I) where a Flight-Plus exists, any other tourist services will be included in the Flight-Plus if such services:
  - (a) are not ancillary to flight accommodation or living accommodation;
  - (b) account for a significant proportion of the Flight-Plus;
  - (c) were supplied under or in connection with the contract for the flight accommodation; and
  - (d) were requested to be booked by or behalf of the consumer on the same day as the consumer requested to book the flight accommodation, the previous day or the next day; and
- (II) a package is not a Flight-Plus except –
  - (a) where a package does not include flight accommodation, flight accommodation (as described in (a) above) is requested to be booked by or on behalf of the consumer on the same day as the consumer requests to book the package, the previous day or the next day; or
  - (b) where a package does include flight accommodation, living accommodation or self-drive car hire outside the United Kingdom is requested to be booked by or on behalf of the consumer on the same day as the consumer requests to book the package, the previous day or the next day;
- (III) a flight which begins and ends in the United Kingdom does not form part of a Flight-Plus;
- (IV) a Flight-Plus will cease to exist if:

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- (a) the consumer withdraws from the contract for any component of the Flight-Plus; and
  - (b) as a consequence of that withdrawal, the requirements in paragraphs (a), (b) or (c) of this definition are no longer satisfied.

**“Flight-Plus arranger”** means a person (other than the operator of the relevant aircraft) who:

- (a) as a principal or agent, makes available flight accommodation in response to a request to book which has been made directly to them by a consumer; and
- (b) has taken or takes any step which is intended to include, facilitate or enable or has the effect of including, facilitating or enabling the inclusion of that flight accommodation as a component of a Flight-Plus;

**“Fulfilment Partner”** means any third party, including (without limitation) a claims handler, appointed by the Trustees to act on behalf of or at the request of the Air Travel Trust in making arrangements for consumers in accordance with the terms of this Deed;

**“licensable transaction”** has the same meaning as relevant booking in the ATT Regulations and means an offer:

- (a) made by a consumer to purchase flight accommodation for one or more persons on a flight; and
- (b) which is accepted by:
  - (i) an air travel organiser; or
  - (ii) where an ATOL is held by an accredited body, a member of that accredited body,

and constitutes an activity in respect of which that organiser or accredited body is required to hold an ATOL;

**“Member”** means a person appointed by the Secretary of State under section 2 of the Act;

**“package”** means the pre-arranged combination of at least two of the following components when sold or offered for sale at an inclusive price and when the service covers a period of more than twenty-four hours or includes overnight accommodation:

- (a) transport;
- (b) accommodation;
- (c) other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package,

and

- (i) the submission of separate accounts for different components shall not cause the arrangements to be other than a package;
- (ii) the fact that a combination is arranged at the request of the consumer and in accordance with the consumer’s specific instructions (whether modified or not) shall not of itself cause it to be treated as other than pre-arranged;

**“Secretary of State”** means the Secretary of State for Transport for the time being;

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**“Specified Period”** means the period beginning on the 5 January 2004 and enduring for twenty-one years thereafter and the said number of years shall be the perpetuity period applicable to this Deed;

**“Trustees”** means:

- (a) the holders for the time being of the following Offices within the CAA, namely the Group Director Consumer Protection, the Finance & Corporate Services Director, and the General Counsel and Secretary to the CAA (or the holder for the time being of all or any of those Offices under whichever title might be certified by the Secretary or Deputy Secretary of the CAA for the time being as applicable);
- (b) a non-executive Member of the CAA nominated by the chair of the CAA; and
- (c) such additional persons as may be appointed pursuant to clause 11 hereof, and in the singular means any one of them.

**“Trust Fund”** means and includes:

- (a) the trust fund and all other assets subject to the trusts declared by the Deed dated 28 January 1986 made between the Secretary of State of the one part and Raymond Colegate CBE, Ian Edward Donovan, Thomas McMillan and Gillian Mary Eve White of the other part,
- (b) all money investments or other assets hereafter paid or transferred by any person or persons to or into the control of the Trustees and accepted by them as additions to the Trust Fund including (but without limitation) all contributions paid by air travel organisers pursuant to regulations made under section 71A of the Act;
- (c) any property the proceeds of sale whereof are required or directed to be held upon the trusts hereof,
- (d) all other capital assets including any choses in action and capital money which hereafter by any means become or are made subject to the trusts hereof, and
- (e) the investments property and other assets from time to time representing the foregoing items or any part or parts thereof.

**5. THE** Trustees shall hold the Trust Fund and the income thereof during the Specified Period upon the trusts and with and subject to the powers and provisions hereinafter declared and contained. The primary purpose of the Trust Fund (without limitation) is the provision of compensation for, or relief of, losses or hardship incurred or suffered by consumers and others who suffer losses or incur costs as a result of the provision to consumers of compensation or compensating services, in each case as a result of a failed ATOL holder not fulfilling its obligations in relation to licensable transactions (whether being part of a package, a Flight-Plus or otherwise).

**6. EACH** Trustee shall have the following powers which are exercisable if and as the Trustees (or two or more of them in accordance with clause 12) in their absolute discretion should see fit (and, where relevant, whether before or after a relevant consumer has departed on the outward leg of the relevant journey on the date of failure of the applicable ATOL holder):

- (1) power from time to time during the Specified Period to accumulate the whole or any part of the income and capital of the Trust Fund by investing the same and the resulting income thereof in any investments authorised in accordance with this Deed and adding the accumulations to the capital of the Trust Fund;



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- (2) power (subject to clause 7 hereof) at any time or times during the Specified Period to pay or apply the whole or any part of the Trust Fund and of any income thereof (without making any distinction between capital and income);
- (a) to or for the benefit of any consumer in respect of any of the following:
    - (i) any loss which, in the opinion of the Trustees, has been incurred by or on behalf of such consumer in respect of any payment made by or on behalf of the consumer to a failed ATOL holder or to the Agent of a failed ATOL holder under or with a view to entering into a licensable transaction; or
    - (ii) any loss or liability which, in the opinion of the Trustees has been incurred by or on behalf of such consumer in consequence of a breach by the failed ATOL holder or of the Agent of the failed ATOL holder of any of their relevant obligations towards the consumer under or in connection with a licensable transaction;
  - (b) in order to relieve loss occasioned to consumers by the failure of an ATOL holder by providing flight accommodation or other means of transport for consumers in substitution for flight accommodation which a failed ATOL holder was to provide or was to arrange to be provided in accordance with his obligations under or in connection with any licensable transaction;
  - (c) in order to relieve loss occasioned to consumers by the failure of an ATOL holder by providing living accommodation, car hire, transfers, food, movement of baggage, funds to meet relevant incidental expenses and any other tourist services which are purchased by a consumer as either part of a package with a licensable transaction or a Flight-Plus with a licensable transaction, in substitution for any of the foregoing which a failed ATOL holder was to provide or was to arrange to be provided in accordance with his obligations under or in connection with the relevant licensable transaction and, in addition, by providing living accommodation and funds to meet incidental expenses to a consumer who has purchased flight accommodation only from a failed ATOL holder until such time as such customer is repatriated;
  - (d) to or for the benefit of any Fulfilment Partner who arranges for the provision of any of the services listed in clauses 6(2) (b) and (c) in order to put such Fulfilment Partner in funds either to provide the relevant services itself or to pay the service providers for the provision of the relevant services (whether before or after the Fulfilment Partner has incurred such costs);
  - (e) to or for the benefit of any Fulfilment Partner in order to pay for any fees charged by or to the Fulfilment Partner for the provision of its arranging services to the Air Travel Trust;
  - (f) to Flight-Plus arrangers which have made the flight accommodation element of a Flight-Plus available as Agent for another ATOL holder and that other ATOL holder has become a failed ATOL holder, by way of a contribution to the cost incurred by such Flight-Plus arranger in making suitable alternative arrangements for the relevant consumers and/or refunding and/or compensating the relevant consumers as required by the terms of that Flight-Plus arranger's ATOL (pursuant to ATOL Regulations 26-30);
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- (g) to third parties in settlement of any claim or class of claim pursued by any such third party against the Air Travel Trust, any Trustee (in his or her capacity as such) or otherwise in relation to the Trust Fund or this Deed, such settlements to be made at the sole discretion of the Trustees;
  - (h) to meet the cost of ancillary services relating to the administrative needs and promotion of the Air Travel Trust, the promotion of the ATOL Certificate and/or the education of consumers and/or the public about the Air Travel Trust, including but not limited to any retainer fees charged by external call centres and subsequent fees charged for call handling;
  - (i) in meeting any expenses incurred in relation to making payments out of the Trust Fund and/or setting up and administering a scheme for the exercise of the powers in (a) to (h) above whether those expenses were incurred by the Trustees or by any agent acting on their behalf; and
  - (j) in meeting any administration fee charged in accordance with Clause 10(17) hereof.

**7. IN** relation to the power set out in clause 6(2) hereof:

- (1) the said power may only be exercised if the failed ATOL holder held an ATOL at the time of booking by or on behalf of a consumer or at any time in the three months prior to the time of booking. For these purposes, the time of booking means the time when a payment was first made by or on behalf of a consumer to the air travel organiser under or in contemplation of entering into a licensable transaction;
- (2) although (the Trustees are entitled to apply all or any part of the Trust Fund for the purposes set out in clause 6(2), where a bond or other security has been provided by or on behalf of the failed ATOL holder in accordance with any regulations made under Section 71 of the Act, then the ultimate burden in respect of payments made under clause 6(2) shall be borne by the money received pursuant to such bond or security; and
- (3) for the avoidance of doubt it is hereby declared that the Trustees may exercise the said power in respect of claims arising from or in connection with any defaults occurring before 5 January 2004.

**8. IN** default of and subject to any exercise of the power in clause 6(2) hereof and to the extent that the trusts hereby declared shall not validly take effect and subject to clause 16 hereof, the Trustees shall hold the capital and income of the Trust Fund upon trust for such persons and purposes in such shares and upon such conditions as the Secretary of State shall by Order made before the end of the Specified Period direct and, in default of such an Order, for the Secretary of State.

**9.**

- (1) The Trustees shall have power to effect or concur in effecting any transaction concerning or affecting the trusts and powers contained in this Deed or any part of the Trust Fund or any other property whatsoever if the Trustees think the transaction is beneficial for such trusts and powers as if the Trustees were a sole absolute beneficial owner of the Trust Fund. Without prejudice to the generality of the foregoing, "transaction" includes any sale, exchange, assurance, grant, lease, surrender, reconveyance, release, reservation or other disposition and any purchase or other acquisition and any covenant, contract, licence, option or right, pre-emption and any compromise, partition,

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insurance guarantee or indemnity or any other dealing or arrangement including the delegation of any of the Trustees' powers under this Deed; "effect" has the meaning appropriate to the particular transaction and references to "property" include references to restrictions and burdens affecting property.

- (2) For the avoidance of doubt insofar as any obligation to pay any money or monies arises pursuant to a transaction which the Trustees effect or concur in effecting pursuant to sub-paragraph (1) of this clause 9, the Trustees shall be entitled to make such payment or payments from the Trust Fund and nothing in clause 7(2) hereof shall affect this entitlement.

**10. WITHOUT** prejudice to the generality of clause 9 hereof, the Trustees shall have and may exercise at any time or times the following powers:

- (1) power to borrow or to lend money for any purpose connected with the trusts and powers hereof whether with or without giving or receiving security;
- (2) power in connection with the investment and changing of investments of trust money:
- (a) to obtain and pay for the advice of such broker or other persons as the Trustees may think fit; and
- (b) to employ any banking or merchant banking company or firm or other person or persons to manage such investments and to delegate to such manager or managers all or any of the duties or powers of the Trustees in respect of the investments or changing of investments of trust money;
- (3) power to appoint any one or more of the Trustees to be the agents of the Trustees for the purpose of operating any bank or building society account of the Trustees or for the purpose of collecting any income of or managing or administering any property (in any part of the world) comprised in the Trust Fund or for any other purpose for which the Trustees may appoint agents;
- (4) power (without prejudice to the jurisdiction of the Court) to decide what money or property represents income and what represents capital and how as between the capital and income of the Trust Fund any expenses or costs shall be borne or provided;
- (5) power to enter into any arrangement or contract notwithstanding that the person or persons with whom or on whose behalf the arrangement or contract is made are or include one or more of the Trustees;
- (6) power to make such rules and regulations and policy statements dealing with the management, administration, payment, application or distribution of the Trust Fund or any part thereof and with matters connected therewith as the Trustees from time to time may think fit and from time to time revoke and replace all or any such rules or regulations or policy statements;
- (7) power to appoint, engage or retain such persons including without limitation, solicitors, accountants, brokers or any other agents as the Trustees may think fit or convenient to transact any business required to be done (including the receipt and payment of money) and any act in connection with such management, administration as is referred to in sub-clause (9) of this clause 10), payment, application or distribution and (pursuant to the general power for that purpose conferred by sub-clause (6) of this clause 10) to make amend revoke and replace rules and regulations for the purpose of defining the functions and powers of any such persons and power also (if the Trustees

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think fit) to pay an honorarium fee or salary to and the expenses of any persons even if the Trustees could transact that business by their own employees or personally;

- (8) power to investigate potential as well as actual failures of ATOL holders;
- (9) in addition to all statutory powers of delegation, power to delegate all or any of the trusts powers and duties, and discretions vested in the Trustees hereunder for any period or periods (which may be renewed from time to time) or such terms as the Trustees think fit to any person or persons, and may grant powers of sub-delegation, and upon such terms (including the remuneration and the payment of the expenses of the delegatee or delegatees and including provision for the delegatees if more than one to exercise any such power or duty either jointly or jointly and severally) as the Trustees think fit (without being liable for the acts or defaults of any such delegatee) and to revoke or modify any such delegation or conditions or terms. For the avoidance of doubt, where the Trustees delegate the power contained in clause 6(2) hereof, references in clause 6(2) to the opinion of the Trustees shall be construed as also being a reference to the opinion of a delegatee or delegatees where relevant;
- (10) power to enter into any arrangement or transaction or to make any payment with a view to keeping the business of a failed ATOL holder in operation for such period as the Trustees think fit with a view to providing or assisting in the provision of the carriage which the failed ATOL holder was to provide or was to arrange to be provided in accordance with his obligations under any licensable transaction and/or with a view to minimising potential losses, liabilities and expenses of the types referred to in clause 6(2) hereof;
- (11) power to appoint such persons as the Trustees may think fit or convenient to act in connection with such management or administration and (pursuant to the general power for that purpose conferred by sub-clause (6) of this clause 10) to make, amend, revoke and replace policies and/or contracts for the purpose of defining the functions and powers of any such persons and power also (if the Trustees think fit) to pay an honorarium fee or salary to and the expenses of any persons;
- (12) power to delegate from time to time to any such persons all or any of the powers and duties of the Trustees hereunder;
- (13) power to insure the Trust Fund against claims for payments arising as a result of the inability of one or more ATOL holders to meet their financial commitments or for sharing with insurers the burden of payment of such claims;
- (14) power to issue or grant any mortgage, charge lien or other security over all of any part of the property or assets of the Air Travel Trust (whether present or future) including without limitation the Trust Fund, and also by such means to secure and guarantee the performance by the Trustees of any obligation undertaken by them;
- (15) power to undertake interest rate and currency swaps, options, swap option contracts or other financial instruments including hedging agreements and derivatives of any kind;
- (16) power to bring, defend or fund legal proceedings in relation to the Trust Fund or to any other matter concerning the trusts and powers set out in this Deed or their administration including (but without prejudice to the generality of the above) the power to fund litigation, to enforce any bond or other security

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provided to the CAA or the Trustees or the Air Travel Trust by any air travel organiser; and

- (17) power to charge beneficiaries an administration fee in relation to the making of payments to them hereunder and to set-off such administration fee from the relevant payment to a beneficiary.

**11. THE** statutory provisions about the appointment retirement and discharge of trustees shall apply to the trusts hereof subject to the following provisions of this clause 11:

- (1) upon retiring from or otherwise vacating any of the Offices of the CAA referred to in subsection (a) of the definition of Trustees and subject to the provisions of that clause the Trustee who until retirement or otherwise held the relevant Office of the CAA shall automatically cease to be a Trustee hereof and the vacant office of Trustee shall devolve on the person appointed to fill the vacant Office of the CAA provided that in the event of a delay in the appointment of the person to the vacant Office of the CAA the remaining Trustees can act notwithstanding a vacancy in their number;
- (2) upon the non-executive Member of the CAA referred to in subsection (b) of the definition of Trustees ceasing to be a non-executive Member of the CAA or upon the CAA Chair withdrawing that non-executive's nomination, that person shall automatically cease to be a Trustee hereof. In the event of there being a delay in the CAA Chair nominating a replacement non-executive Member the remaining Trustees can act notwithstanding a vacancy in their number ;
- (3) upon a Trustee being appointed pursuant to clause 11(1) above or a replacement non-executive Member being nominated by the CAA Chair, the remaining Trustees and the person who has ceased to be a Trustee shall take all steps as are necessary to vest the Trust Fund in the remaining Trustees and the new Trustee jointly subject to the terms hereof;
- (4) the Secretary of State may by deed appoint up to a maximum of 3 trustees in addition to the persons referred to in the definition of Trustees;
- (5) upon a person becoming a Trustee in accordance with the provisions hereof, the other Trustees shall have power to vest the Trust Fund in the new Trustee so that thereafter:
- (a) the new Trustee shall have all the same powers and discretions as are hereby conferred on the Trustees in relation to the Trust Fund and the income thereof; and
- (b) subject to paragraph (a) of this sub-clause all property held by such new Trustees and all property retained by the Trustees shall remain subject to the same trusts powers and provisions as if no new Trustees had been appointed;
- (6) a person shall immediately cease to be a Trustee in any of the following circumstances:
- (a) such person is, or is deemed for the purposes of any applicable law to be, unable to pay its debts as they fall due or insolvent;
- (b) such person admits its inability to pay its debts as they fall due;
- (c) such person suspends making payments on any of its debts or announces an intention to do so;
- (d) such person commits an act of bankruptcy;

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- (e) by reason of actual or anticipated financial difficulties, such person begins negotiations with any creditor for the rescheduling or restructuring of any of its indebtedness;
  - (f) any of such person's indebtedness is subject to a moratorium;
  - (g) a certificate is issued for the summary administration of such person's estate;
  - (h) such person enters into any composition, scheme, individual voluntary arrangement or other arrangement with its creditors or has an interim order made in relation to him or her;
  - (i) a bankruptcy order is made or such person is otherwise adjudicated bankrupt (which includes any order made in relation to the Air Travel Trust under Part 64.2 of the Civil Procedure Rules);
  - (j) a receiver, receiver and manager, judicial manager, trustee in bankruptcy, nominee, supervisor, official manager or similar person is appointed in respect of it or any of its assets;
  - (k) any step is taken which could result in any of the events referred to in sub-paragraphs (g) to (l) above or a statutory demand is served on such person with respect to any of the matters referred to in sub-paragraphs (g) to (l) above which is not discharged within fourteen days; or
  - (l) any other analogous step or procedure is taken in any jurisdiction.

**12. ANY** act or decision by two or more of the Trustees shall have the same force and effect as if it were the act or decision of all of them.

**13. THE** Trustees may in the execution of any of the trusts of this Deed or in the exercise of any of the powers given to them by this Deed or by law sell property or lend money to or buy property or borrow money from or carry out any other transaction with the trustees of any other trust or the executors or administrators of any estate notwithstanding that the Trustees or any of them are or is the same person as those trustees, executors or administrators or any of them and where the Trustees are the same persons as those trustees, executors or administrators the transaction shall be binding on all persons then or thereafter interested under this Deed though effected and evidenced only by an entry in the accounts of the Trustees.

**14. IN** the professed execution of the trusts and powers hereof no Trustee shall be liable for any loss to the Trust Fund arising by reason of anything done or caused by them to be done in the exercise or purported exercise of the powers vested in them herein or by reason of the negligence or fraud of any agent employed by him or by any other Trustee hereof (although the employment of such agent was not strictly necessary or expedient) or by reason of any mistake or omission made in good faith by any Trustee hereof or by reason of any failure to comply with any duty of care applicable to him or by reason of any other matter or thing except wilful and individual fraud or wrongdoing on the part of the Trustee who is sought to be made liable.

**15. NO** decision of or exercise of a power by the Trustees shall be invalidated or questioned on the ground that the Trustees or any of them had a direct or indirect interest in such decision or in the exercise of the power.

**16. WITHOUT** prejudice to all indemnities conferred upon the Trustees generally by law the Trust Fund will indemnify the Trustees and each of them and their respective personal representatives against all actions, claims, demands, costs and expenses arising or incurred by them as a result of anything done by them in the exercise or purported exercise of the powers vested in them herein.

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- 17. THE** Trustees shall keep proper accounts and proper records in relation to accounts and shall prepare in respect of each period of account a statement of accounts in such form as the Secretary of State may direct and shall arrange for the accounts to be audited in such manner as the Secretary of State may direct and shall make to the Secretary of State within a period to be specified by him at the end of each period of account a report on the performance of their functions during that period and to include in that report a copy of the statement of accounts prepared in respect of that period in accordance with this clause 17 and any report made by the auditors on the statement or on the accounts. In this clause 17 "period of account" means the period beginning on the date hereof or, if later, the date on which the latest variation hereof was made and ending on the subsequent 31<sup>st</sup> March, and thereafter each subsequent period of twelve months beginning on 1<sup>st</sup> April and ending on the 31<sup>st</sup> March.
- 18. THE** trusts, powers and provisions of this Deed may at any time or times be varied or terminated by Deed during the Specified Period by the Secretary of State who may in his complete discretion direct the Trustees to dispose of the Trust Fund as he thinks fit.

## Appendix 2

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### Details of ATOL Holder Failures April 2011 – March 2012

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ATOL Holder	Date of Failure	Licensed Passengers	Security Provided
			£'000
Silverbird Travel Ltd	20 Apr 2011	2,513	0
Selsdon Travel Ltd	23 May 2011	17,308	203
Crown Service UK Ltd	09 Jun 2011	500	40
E & ME Gill Ltd	15 Jul 2011	500	30
Dream Holidays Ltd	19 Jul 2011	7,750	265
Highlife Holidays & Travel (1989) Ltd	22 Jul 2011	500	0
Holidays 4 UK Ltd	03 Aug 2011	100,500	4,500
Pinnacle Travel Ltd	15 Sep 2011	3,262	0
FT Tours Ltd	15 Sep 2011	500	20
Pumpkin Tours Ltd	16 Sep 2011	500	20
Fairway Golf Holidays Ltd	28 Sep 2011	500	20
Real Traveller Ltd	05 Oct 2011	500	20
Geo Dive Ltd	13 Oct 2011	500	0
Airborn Ltd	24 Oct 2011	8,100	0
Woolley F (t/a Romano Travel)	26 Oct 2011	501	0
Sky Masters Travel Ltd	02 Nov 2011	425	0
Astonbury Ltd	17 Nov 2011	2,800	294
The Little Black Book Ltd	18 Nov 2011	500	40
Shenoy & Co (UK) Ltd	29 Nov 2011	500	10
Merebeech Ltd	23 Jan 2012	1,728	262
Higham E & Onezime M (t/a European Connections)	01 Feb 2012	1,040	0
Mina Travel & Freight Ltd	03 Feb 2012	500	0
New Look Travel Ltd	20 Mar 2012	1,800	0
<b>Total</b>			

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<b>Number of Passengers Repatriated</b>	<b>Cost of Repatriation</b>	<b>Expected No. of Passengers to be Refunded</b>	<b>Estimated Refund Cost</b>	<b>Estimated Total Expenditure</b>	<b>Estimated Call on Air Travel Trust</b>
	<b>£'000</b>		<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
57	0	121	47	56	56
443	113	4,527	2,063	2,176	1,973
0	0	500	208	208	168
0	0	10	2	2	0
525	126	1790	641	767	502
0	0	21	16	16	16
12,800	2,509	49,670	9,196	11,705	7,205
0	0	3,213	813	813	813
0	0	50	21	21	1
0	0	11	41	41	21
0	1	85	64	65	45
5	0	18	11	11	0
0	2	40	33	35	35
0	0	1,297	471	471	471
0	0	31	29	29	29
0	0	1,400	479	479	479
500	642	500	690	1,332	1,038
0	0	11	44	44	4
0	3	2,165	780	783	773
0	0	613	295	295	33
0	0	622	271	271	271
0	0	49	0	0	0
0	0	731	230	230	230
<b>14,330</b>	<b>3,405</b>	<b>67,475</b>	<b>16,445</b>	<b>19,850</b>	<b>14,163</b>