

# **Air Travel Trust**

**Annual Report & Accounts**

**31 March 2013**

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## Contact Details

### Central Address

CAA House  
45 – 59 Kingsway  
London  
WC2B 6TE

### Chair

Mr R P Mountford (Retired 1 May 13)  
Mr M G Medicott (Appointed 1 May 13)

### Trustees

Miss C Jesnick  
Mr R T R Jackson  
Mrs C R Staples

### Secretary

Mr D Tanhamira

### Bankers

Lloyds TSB Bank plc  
25 Gresham street  
London  
EC2V 7HN

### Auditors

Deloitte LLP  
Crawley  
West Sussex  
RH10 1DL

## Report of the Trustees

### 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 six times during the year.

During the year two of the Trustees, Roger Mountford and Richard Jackson, were 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. The CAA acts as agent of the ATT in exercising the ATT's powers, including repatriating customers and settling claims by customers for losses incurred as a result of the failure of an ATOL holder. 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.

### International Financial Reporting Standards (IFRS)

These financial statements have been prepared in accordance with the International Financial Reporting Standards (IFRS). This is the first time the Trust has prepared the financial statements under IFRS and consequently IFRS 1 *First-time Adoption of International Financial Reporting Standards* has been applied.

Apart from the reclassification of financial derivatives, there are no material differences from the previous financial statements and the Trustees feel that a full reconciliation of prior year opening comparatives are not therefore required. Details of the effect on the financial position from moving to IFRS are disclosed in Note 18 of the notes to the financial statements.

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## Report of the Trustees (*continued*)

### ONS classification

Eurostat, the European Statistical Agency, is responsible for the correct and consistent classification of Government sector bodies, and in recent years has demanded a greater scrutiny of public corporations and other arms-length Government bodies. Classification of UK bodies is the responsibility of the Office for National Statistics (ONS). In April 2012, ONS reviewed the treatment of ATOL Protection Contributions and determined that they are a tax. As a result of this determination, the Air Travel Trust has been re-classified as a Central Government body.

ONS classifies bodies according to the guidance set out in an international manual – the European System of Accounts 1995 (ESA 95) – which broadly divides the economy into public and private sectors, and market and non-market sectors. Under ESA 95, taxes are compulsory, unrequited payments to Government. The view of ONS was that ATOL Protection Contributions fall within the definition of taxes, as they are clearly compulsory (once an organisation or individual has decided to undertake business falling within the ATOL regime) and they are unrequited as the payer does not directly receive anything in return. ONS have therefore made the determination that the ATT is a Central Government body.

Since this decision, a formal accounting reporting line has been established with the Department for Transport (DfT) and the Trust's activities are now consolidated within the DfT's accounts. The National Audit Office (as DfT's auditors) has agreed that the responsibility of auditing the Trust should remain with the existing auditors, Deloitte LLP, and they therefore continue to be directly engaged by the Trustees.

### Going concern

The financial statements are prepared on a going concern basis. The Trust has in place sufficient banking facilities and insurance arrangements, and the Trustees have carefully considered current financial models for the forecast of income and expenditure, including sensitivity analysis towards large failures, for the next three years. These factors have given reasonable assurance to the Trustees that the Trust has adequate resources to continue in operational existence for the foreseeable future.

### 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.

The Trustees would also like to put on record their thanks to Roger Mountford, who after 10 years as Chairman has retired from the Trust. Roger has put an emphatic stamp on the Trust and we thank him for his tremendous contribution, professionalism and stewardship during his tenure.

## Report of the Trustees *(continued)*

### A positive year

The performance of the travel industry this year has remained remarkably stable when taken in the context of the overall economic backdrop and problems in key holiday eurozone destinations. However, profitability remains low and the overall environment challenging. Steps were taken by ATOL holders to better match the number of holidays for sale against the demand for those holidays. This action, coupled with the poor weather in the UK, helped create a relatively strong summer in 2012.

Many travel firms have had to deal with significant financial pressures over the last year. Despite this, only a few ATOL holders have failed to see the year through and this can only help to build confidence for consumers and the travel industry in general. Just eleven travel companies failed during the year, compared with twenty three last year, with minimal impact to the Trust and consumers alike.

### Protecting more

The ATOL scheme and the Air Travel Trust together provide financial protection to millions of holidaymakers each year. In recent years, the increased availability of online technologies has significantly changed the way in which the travel industry operates. Consumers now have increasingly more choice; not only with the range of destinations, their budget and the travel companies they can choose to book with, but also the ways in which they can book their holiday.

The Government and the CAA acknowledged this progression in the travel industry and that the ATOL scheme had to respond to the way in which travel packages were being sold. Last year saw changes to ATOL to enable the regulations to keep pace with developments in the industry. The main change was the introduction of 'Flight Plus', whereby a flight sold with an additional component by way of accommodation or car hire, now falls within ATOL and brings the financial protection provided on par with the traditional air package holiday.

Significantly, in October 2012, the CAA also introduced the ATOL Certificate. This distinctive document is provided at the time of booking and gives the consumer tangible assurance that their holiday is protected as well as highlighting important and useful information. It forms one of the initiatives that have been introduced to give greater clarity to the consumer as to whether their holiday is protected or not.

The Air Travel Trust exists for the protection of consumers and consequently the Trust has supported the CAA by providing a limited amount of funding for a targeted advertising campaign to ensure that the ATOL scheme, in particular the new ATOL Certificate, continues to give confidence to holidaymakers whenever and however they book a holiday. The campaign is targeted at consumers both at the point of booking a holiday and through social media platforms, and is designed to increase awareness and provide peace of mind for consumers.

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## Report of the Trustees (*continued*)

### Fund surplus

This year, the Air Travel Trust moved into a position of surplus funds, providing a more solid financial foothold for the future of consumer protection. The Trust had been in deficit since 1996.

### 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'). The current rate of APC is £2.50 per passenger booked (2012: £2.50).

Total contributions received during the year amounted to £48,072,085, relating to 19,208,026 passengers booked (2012: £42,581,360, relating to 17,279,268 passengers). The introduction of Flight Plus ensures that more bookings are brought within the protection of ATOL resulting in additional contributions during the year. The Trustees also operate a policy of pursuing penalty interest payments from ATOL holders who pay APC late.

Under an 'Agent for the Consumer' agreement, communicated to ATOL holders by the CAA, the Trust has provided for an APC rebate that relates to certain applicable Flight Plus bookings (Note 2.2 gives more detail on this agreement). The result is a reduction against total contributions as reflected in the statement of financial activities and as disclosed in Note 3.

The Trust takes steps to recover amounts from the liquidation of failed companies or through Her Majesty's Court Service where a requirement to do so arises. During the year the Trust received £175,306 (2012: £3,089) from liquidation dividends, and in the case relating to the conviction of the directors of Onshine Ltd, the Trust received further payments from the compensation awarded by the Court of £35,873 (2012: £90,847).

### Resources expended

The Trust has benefited from a period where ATOL holder failures have been very low not only in number but also in value. This year, the total value of expected claims on the Trust is only £843,744 compared to over £14 million last year.

Administrative costs and expenditure for professional services have been consistent with last year totalling £12,266,840 (2012: 11,660,101). Expenses charged by the CAA under its agreement with the ATT amounted to £409,500 (2012: £342,000), in respect of the operational management of the Trust's affairs in collecting APC, arranging banking and insurance facilities, claims handling and day-to-day financial and secretariat services.

## Report of the Trustees (*continued*)

The Trust has also continued to reduce its reliance on any borrowing facilities available to it and this has had a favourable effect on interest and bank charges for the year, which amounted to £508,951 (2012: £837,892).

### Details of failures during the year

Although it has been a challenging, but steady year for the travel industry and the Trust, only eleven ATOL holders failed, resulting in a call on the Trust of less than £1 million and with minimal impact to holidaymakers. Only two of those ATOL holders failed with customers overseas.

In total, only 37 passengers of the failed ATOL holders required repatriation, with a further 1,354 customers, all who had bookings to travel at a later date with the eleven failed companies, due refunds for amounts paid in respect of their bookings. At the date of this report, the majority of these have received payment.

### Failure amounts provided for and released

The Trust recorded calls on its funds of £813,286 (2012: £14,162,974) in respect of the eleven ATOL holder failures during the year. Provisions relating to three failures from the previous year have been revised, leading to an additional call on the Trust of £30,458 (2012: 21,560). 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 IAS 37 *Provisions, contingent liabilities and contingent assets* and the Trust's recognition and measurement criteria, as stated in Note 2.1, 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.

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 £3,281,747 (2011: £7,859,726) back to the fund. The most significant proportion of this relates to Holidays 4 UK Ltd - £1,063,007 and Airborn Ltd - £425,119 where the level of claims received was lower than expected and the Trust has revised its expenditure forecasts accordingly for both failures.

Additionally included in the release is £1,037,005 in relation to the failure of Goldtrail Travel Ltd as the Trustees feel the provision is no longer representative of the ordinary course of business of the Trust. Further disclosure of this is provided for in Note 19.



## 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.

Area	Description of Risk	Mitigating Actions
Economic factors	<ul style="list-style-type: none"> <li>• Reduced passenger numbers and hence lower APC income</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> </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> <li>• Independently audited ATOL holder returns</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>• CAA continuous internal monitoring of compliance with policy terms</li> </ul>

## Independent Auditors' Report

### 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 8 April 2013 we have audited the non-statutory financial statements of the Air Travel Trust for the year ended 31 March 2013, which comprise the Statement of Financial Activities, the Statement of Financial Position, the Statement of Cash Flows and the related Notes 1 to 19. The financial reporting framework that has been applied in their preparation is that required by Clause 17 of the Trust deed which as directed by the Secretary of State is International Financial Reporting Standards (IFRS) as adopted by the European Union.

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 auditors

As required by Clause 17 of the Trust Deed, 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 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.

#### 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 the financial and non-financial information in the Report of the Trustees to identify any material inconsistencies with the audited financial statements. If we become aware of any material misstatements or inconsistencies we consider the implications for our report.

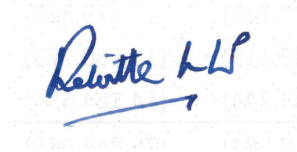
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## Independent Auditors' Report *(continued)*

### 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 2013 and of its incoming resources and application of resources and the cash flow 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
- have been properly prepared in accordance with International Financial Reporting Standards.

A handwritten signature in blue ink that reads "Deloitte LLP". The signature is written in a cursive style and is positioned above a horizontal line. The background of the signature area is a light, textured grey.

Deloitte LLP  
Chartered Accountants and Statutory Auditors  
Crawley  
17 May 2013

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.

## Statement of Financial Activities

for the year ended 31 March 2013

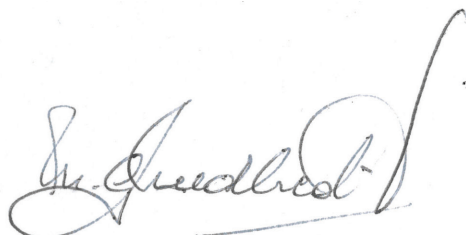
	Notes	Year to 31.03.13 £	Year to 31.03.12 £
<b>Incoming Resources</b>			
ATOL Protection Contributions	3	46,635,564	42,581,360
Liquidation dividends and settlements	4	211,179	93,936
<b>Total Incoming Resources</b>		<b>46,846,743</b>	<b>42,675,296</b>
<b>Resources Expended</b>			
Audit, legal expenses and taxation	5	(77,721)	(79,325)
Administrative expenses	6	(12,189,119)	(11,580,776)
Provisions for compensation claims charged in the year	7, 13	(843,744)	(14,184,534)
<b>Total Resources Expended</b>		<b>(13,110,584)</b>	<b>(25,844,635)</b>
Gain on release of provisions for compensation claims	7, 13	3,281,747	7,859,726
Change in fair value of derivative financial instruments	8	85,988	(81,994)
Finance costs	9	(508,951)	(837,892)
<b>Net Movement in Fund</b>		<b>36,594,943</b>	<b>23,770,501</b>
<b>Reconciliation of Fund</b>			
Fund balance bought forward		(18,580,900)	(42,351,401)
<b>Fund balance carried forward</b>		<b>18,014,043</b>	<b>(18,580,900)</b>

## Statement of Financial Position

as at 31 March 2013

	Notes	31.03.13 £	31.03.12 £
<b>Current Assets</b>			
Cash at bank and in hand		11,268,457	387,597
Restricted cash on deposit	10	169,569	401,602
ATOL Protection Contribution debtors		9,407,453	7,890,854
Prepayments and accrued income	11	728	2,783,299
<b>Total Current Assets</b>		<b>20,846,207</b>	<b>11,463,352</b>
<b>Current Liabilities</b>			
Borrowings	12	-	(23,500,000)
Provisions	13	(1,964,053)	(5,858,220)
Restricted cash held from obligors and administrators	10	(169,569)	(401,602)
Trade and other payables	14	(649,317)	(149,217)
Derivative financial instruments	8, 15	(49,225)	(135,213)
<b>Total Current Liabilities</b>		<b>(2,832,164)</b>	<b>(30,044,252)</b>
<b>Net Current Assets / (Liabilities)</b>		<b>18,014,043</b>	<b>(18,580,900)</b>
<b>Represented by</b>			
<b>Fund account / (Fund deficit)</b>		<b>18,014,043</b>	<b>(18,580,900)</b>

The financial statements and Notes 1–19 were approved by the Trustees on 17 May 2013 and signed on their behalf by:



**Michael Medlicott**  
Chair



**Chris Jesnick**  
Trustee

## Statement of Cash Flows

for the year ended 31 March 2013

	Year to 31.03.13 £	Year to 31.03.12 £
<b>Cash flows from operating activities</b>		
Net surplus of fund in the period	36,594,943	23,770,501
<i>Adjustments for:</i>		
Net finance costs	508,951	837,892
Change in fair value of derivative financial instruments	(85,988)	81,994
	37,017,906	24,690,387
(Increase) / Decrease in trade and other receivables	(1,516,599)	558,450
Decrease / (Increase) in prepayments	2,782,571	(2,782,500)
Decrease in trade and other payables	(3,626,100)	(14,013,020)
Cash generated from operating activities	34,657,778	8,453,317
Finance costs	(243,191)	(261,528)
<b>Net cash from operating activities</b>	<b>34,414,587</b>	<b>8,191,789</b>
<b>Cash flows from financing activities</b>		
Interest paid	(265,760)	(576,364)
Repayment of borrowings	(23,500,000)	(9,500,000)
<b>Net cash used in financing activities</b>	<b>(23,765,760)</b>	<b>(10,076,364)</b>
Net movement in cash and cash equivalents	10,648,827	(1,884,575)
Net cash and cash equivalents at beginning of period	789,199	2,673,774
<b>Net cash and cash equivalents at end of period</b>	<b>11,438,026</b>	<b>789,199</b>

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# Notes to the Financial Statements

for the year ended 31 March 2013

## 1 Significant Accounting Policies

### 1.1 Basis of preparation

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

The financial statements have been prepared in accordance with International Financial Reporting Standards (IFRS). This is the first time the Trust has prepared the financial statements under IFRS and consequently IFRS 1 *First-time Adoption of International Financial Reporting Standards* has been applied. An explanation of how the transition to IFRS has affected the reported financial position, financial performance and cash flows of the Trust is provided in Note 18.

### 1.2 Going concern

The financial statements are prepared on a going concern basis. As per the Going Concern note (page 4) in the Report of the Trustees, the use of financial models and other financial arrangements has given the Trustees reasonable assurance on the operational existence of the Trust going forward.

### 1.3 Basis of measurement

The financial statements have been prepared on the historical cost basis except for those items that fall under IFRS 9 *Financial Instruments* (and IAS 39 *Financial Instruments: Recognition and Measurement* for hedging arrangements) which are measured at fair value as per Notes 8 and 15.

### 1.4 Use of estimates and judgements

The preparation of the financial statements in conformity with IFRS requires the Trustees to make judgements, estimates and assumptions that affect the application of accounting policies and the reported amounts of assets, liabilities, income and expenses.

Information about assumptions and estimates that contain a risk of resulting in a material adjustment within the next financial year are included in Note 2.

### 1.5 Income recognition

The Trust's income arises from contributions by air travel organisers who are required to hold an ATOL, known as ATOL Protection Contributions or APC. APC is a statutory contribution made for each applicable passenger booking taken by an ATOL holder.

Income is recognised when the amount can be reliably measured and it is probable that future economic benefits will flow to the Trust.

## Notes to the Financial Statements

### 1.5 Income recognition (*continued*)

The Trust recognises income in the period that the passenger bookings are made. The bookings return (disclosing the number of bookings taken) submitted by each ATOL holder provides a reliable measurement of income in accordance with IAS 18 *Revenue*.

The Trust also 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.

### 1.6 Other income

Liquidation dividends and income arising from legal settlements are recognised immediately on notification of amounts due or on receipt of cash or cash equivalents and measured at the fair value of the consideration received or receivable.

### 1.7 Expenditure

Except for those items requiring estimation and judgements disclosed in Note 2, all expenditure is accounted for on an accruals basis.

### 1.8 Financial instruments

Financial assets and financial liabilities are recognised in the Trust's statement of financial position when it becomes a party to the contractual provisions of the instrument.

#### ***Receivables***

Trade receivables are classed and recognised as short term receivables and relate to APC income. These receivables are measured at fair value and based on the returns from ATOL holders. They are not subject to any impairment given the statutory nature of APC.

#### ***Cash***

Cash comprises cash-on-hand and demand deposits.

#### ***Financial liabilities***

Financial liabilities are classified as financial liabilities at fair value through profit or loss. Financial liabilities, including borrowings, are initially measured at fair value, net of transaction costs.

The Trust derecognises financial liabilities when, and only when, the Trust's obligations are discharged, cancelled or they expire.



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## Notes to the Financial Statements

### 1.8 Financial instruments (*continued*)

#### ***Derivative financial instruments***

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.

Derivatives are initially recognised at fair value at the date a derivative contract is entered into and are subsequently re-measured to their fair value at each balance sheet date. The resulting gain or loss is immediately recognised in the statement of financial activities.

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## 2 Critical accounting judgements and key sources of estimation uncertainty

The key assumptions concerning the future, and other key sources of estimation uncertainty at the statement of financial position date, that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year, are discussed below.

### 2.1 Compensation claims

#### ***Compensation claims - Recognition***

The Trust recognises an obligation in the event of an ATOL holder failure, and in accordance with the definitions in IAS 37 *Provisions, contingent liabilities and contingent assets*, certain responsibilities which will lead to probable economic outflows of uncertain timing and amounts. These obligations, that are a direct result of an ATOL holder failure, are part of the normal course of operations of the Trust and it is expected by all parties that the Trust will discharge these responsibilities in full.

The Trust recognises this obligation as an expense in the income statement and a corresponding provision in the statement of financial position at the date of the ATOL holder failure.

#### ***Compensation claims - Measurement***

The Trustees can call upon various methods by which to establish a reliable estimate of the obligation including, but not limited to; bookings databases of the failed ATOL holder, information supplied by the management of the failed company, past experience and retained knowledge.

Estimates of the liability to the Trust also take into consideration any security put in place by the failed company, possible claims referred to credit cards and administrative expenses. The progress of each failure is also constantly monitored and provisions are regularly updated to reflect the most accurate position available.

## Notes to the Financial Statements

### 2.1 Compensation claims (*continued*)

However, given the complexities involved with the administration of an ATOL holder failure and the reliance on multiple and individual responses from external persons and organisations, material adjustments relating to compensation claims may occur in the following financial period where new information relating to the failure facilitates the need to do so.

It is anticipated that all amounts in respect of compensation claims will be settled within one year of the statement of financial position date.

### 2.2 Agent for the Consumer provision

#### ***Agent for the Consumer provision - Background***

In 2012, the CAA made available a limited rebate scheme for certain ATOL holders, who have stated that they act as agent for the consumer and that their bookings (that relate to Flight-Plus bookings) are made in accordance with their ATOL licence and APC is paid in accordance with Regulation 7 of the ATT Regulations.

ATOL holders in compliance with the above, and subject to independent verification requirements, will accumulate a credit of 50% of the value of APC paid in respect of these transactions, for a period until the later of the new regulations coming into force or 30 September 2013, after which the accumulated credit can be used to offset future amounts of APC due.

The Trust fully supports the CAA in this scheme to ensure as many consumers as possible are able to benefit from the protection afforded by ATOL.

#### ***Agent for the Consumer provision - Measurement***

The Trust has carefully considered the number and size of the companies that have communicated their intention to act upon the above agreement. Although many ATOL holders have not communicated their intentions to the CAA, as long as they act within their licence requirements and comply with the conditions set out by the CAA, they can apply still for the rebate.

It is the Trust's view, after discussions with those ATOL holders who have already communicated with the CAA, and employing the experience and knowledge of CAA staff, that between 80% - 90% of relevant Flight-Plus bookings for those companies will be eligible for the 50% credit.

The measurement for the provision is therefore based upon the communication and findings as above and calculated as 50% of 85% of Flight Plus bookings (for those who have stated their intention to take up the agreement only).

## Notes to the Financial Statements

### 3 ATOL Protection Contributions

Income, all of which arises in the United Kingdom, is attributable to ATOL Protection Contributions (APC) received in the year (including any late payment penalty interest imposed by the Trust).

	Year to 31.03.13	Year to 31.03.12
	£	£
ATOL Protection Contributions	48,072,085	42,581,360
Agent for the Consumer rebates	(1,436,521)	-
<b>Total</b>	<b>46,635,564</b>	<b>42,581,360</b>

### 4 Liquidation Dividends and Settlements

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

	Year to 31.03.13	Year to 31.03.12
	£	£
Allbury Travel Ltd (liquidation dividend)	23,446	-
GoldTrail Travel Ltd – Quick Step Leisure (liquidation dividend)	39,955	-
CustomFlights.co.uk Ltd (liquidation dividend)	12,992	-
Grus Travel Pty Ltd (liquidation dividend)	57,490	-
Pinnacle Travel Ltd (liquidation dividend)	14,800	-
Silverbird Travel Ltd (liquidation dividend)	26,623	-
ITIC Ltd (liquidation dividend)	-	1,572
Agricultural Travel Bureau Ltd (liquidation dividend)	-	1,419
Seewoo Travel Ltd (liquidation dividend)	-	98
Onshine Ltd (Court compensation)	35,873	90,847
<b>Total</b>	<b>211,179</b>	<b>93,936</b>

## Notes to the Financial Statements

### 5 Audit, Legal Expenses and Taxation

	Year to 31.03.13	Year to 31.03.12
	£	£
Fees payable to the Trust's auditors for the audit of the Trust's annual accounts	31,800	29,500
Fees payable to the Trust's auditors for other services to the Trust	2,200	24,600
Legal expenses	43,721	25,225
<b>Total</b>	<b>77,721</b>	<b>79,325</b>

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

### 6 Other Administrative Expenses

	Year to 31.03.13	Year to 31.03.12
	£	£
Insurance premiums	11,085,115	11,130,000
Charge from CAA for administrative services	409,500	342,000
Marketing and promotion expenses	315,221	-
Other expenditure	379,215	59,046
Bad debt written off	68	49,730
<b>Total</b>	<b>12,189,119</b>	<b>11,580,776</b>

#### Insurance premiums

The Trust has in place insurance policies that will provide the Trust with access to funds in the event of a large ATOL holder failure or failures, where costs arising from refunds and repatriation exceed £75 million in a policy year. There have been no claims on the policy during the year (2012: none).

#### Marketing and promotion

The CAA is currently engaging in a targeted advertising campaign to promote the ATOL scheme and the new ATOL Certificate. The Trust sees this as an important part of ensuring all travel consumers are aware of the level of protection afforded when making their travel arrangements and continues to provide financial support to this campaign.

## Notes to the Financial Statements

### 7 Compensation Claims

Provisions for compensation claims charged or released to the income statement in the year. Recognition and subsequent measurement is disclosed in Note 2.1

	Year to 31.03.13	Year to 31.03.12		Year to 31.03.13	Year to 31.03.12
	£	£		£	£
African Safari Club Ltd	-	(91,000)	Linkair Travels Ltd	-	(3,640)
Agricultural Travel Bureau Ltd	(53)	(39)	Longmere International Ltd	-	(86,831)
Air Travel Consultants Ltd	(1,645)	3,147	Love Holidays Ltd	-	(8,585)
Airborn Ltd	(425,119)	471,314	Malachite Travel Ltd	-	(23,667)
All America Holidays Ltd	56	(55,524)	McCarthy Travel Ltd	(8,621)	(54,100)
Allbury Travel Group Ltd	-	(63,733)	Merebeech Ltd	(33,673)	33,673
Andes Journeys Ltd	-	(4,402)	Mina Travel & Freight Ltd	29	-
Astonbury Ltd	(127,885)	1,037,800	Montystar Ltd	-	(207,911)
Bird S J	-	(2,862)	New Look Travel Ltd	(53,015)	229,585
Blue Skies Destinations Ltd	-	(1,135)	Oriental Panorama Ltd	(15)	(30,413)
Business Travel Services Ltd	-	(4,941)	Pinnacle Travel Ltd	(18,344)	812,736
Caledonia Travel Ltd	(53)	(24,468)	Pumpkin Tours Ltd	(21,073)	21,073
Celtic Line Travel Ltd	-	(10,407)	Rion Travel Ltd	(53)	(27,952)
Chawala N t/a flightlinker.com	(1,169)	214	Scantours Ltd	-	(28,305)
Complete World Travel Ltd	(223)	(93,535)	Scotttravel Ltd	-	(213,835)
Crown Service UK Ltd	(34,700)	168,380	Seguro Travel Ltd	-	(28,772)
CustomFlights.co.uk Ltd	-	(8,807)	Selsdon Travel Ltd	(33,182)	1,972,476
Diamond Tours & Travels Ltd	5,245	-	Shenoy & Co (UK) Ltd	25,184	772,340
Dream Holidays Ltd	(106,048)	501,721	Silverbird Travel Ltd	(6,349)	56,330
Essential India Travel Ltd	-	(15,000)	Sky Masters Travel Ltd	(3,435)	479,150
F T Tours Ltd	(671)	671	Sun 4 U Ltd	-	18,198
Fairway Golf Holidays Ltd	(20,155)	44,247	Sunisle.co.uk Ltd	(170)	(2,043)
Finlays Skiing Ltd	-	(1,265)	The Holiday Company Ltd	-	(2,496)
First Option Travel Ltd	-	(250,954)	The Inta Group Ltd	-	(267,301)
Flight Options Ltd	(126,207)	(2,886,818)	The Little Black Book Ltd	(4,099)	4,099
Freedom Direct Holidays Ltd	-	(30,782)	Whitehall Leisure Ltd	-	(237,936)
Geo-Dive Ltd	(965)	35,000	Woolley F	(106)	29,404
Global Travel Agency Ltd	(993)	(27,281)	XL Leisure Group – UK	-	(428,595)
Goldtrail Travel Ltd	(1,037,005)	(2,541,339)			
Grus Travel Pty Ltd	-	(1,179)	<b>Failures from 01.04.12</b>		
Hebridean Int'l Cruises Ltd	-	(27,863)	Travel Serenity Ltd	139,686	-
Higham E & Onezime M	(146,399)	271,386	Enjoy Holidays Ltd	343,663	-
Highlife Holidays & Travel Ltd	(4,475)	15,613	Tana Consultants Ltd	13,351	-
Holiday Direct Ltd	(2,840)	(37,695)	Travellers Cities Ltd	87,687	-
Holidays 4 UK Ltd	(1,063,007)	7,205,977	Bowen Travel Ltd	2,608	-
International Flights Ltd	-	(25,665)	Global Enduro Ltd	136,082	-
Interworld Holidays Ltd	-	(650)	T.D. Europe Ltd	90,209	-
			<b>Total charged</b>	<b>843,744</b>	<b>14,184,534</b>
			<b>Total released</b>	<b>(3,281,747)</b>	<b>(7,859,726)</b>
			<b>Total</b>	<b>(2,438,003)</b>	<b>6,324,808</b>

## Notes to the Financial Statements

### 8 Financial Derivatives

In order to mitigate the interest rate risk on its borrowings, the Trust has in place financial instruments in the form of interest rate swaps. These instruments fix the 3 month LIBOR portion of the interest payments. Further details of derivative financial instruments are disclosed in Note 15.

The derivative currently in place is due to mature within the next twelve months and therefore presented as a current liability.

	Year to 31.03.13	Year to 31.03.12
	£	£
Opening fair value	135,213	53,219
Fair value (gain)/loss on interest rate swaps	(85,988)	81,994
<b>Closing fair value</b>	<b>49,225</b>	<b>135,213</b>

### 9 Finance Costs

	Year to 31.03.13	Year to 31.03.12
	£	£
Interest on borrowings	265,760	576,364
Bank administration fees and other bank charges	243,191	261,528
<b>Total finance costs</b>	<b>508,951</b>	<b>837,892</b>

### 10 Restricted Cash On Deposit

Restricted cash on deposit refers to amounts received from bond obligors or from other security provided by failed ATOL holders. The balance represents funds not used but still available for refunds to consumers. Any funds not used over the life of a failure are returned to the bond obligor or administrator / liquidator (as appropriate) upon completion of the administrative functions by the CAA in respect of the failed company.

The Trust recognises an asset in respect of cash and cash equivalents held in relation to securities received, and a corresponding liability in respect of amounts currently unused and due to bond and other security obligors.

## Notes to the Financial Statements

### 11 Prepayments and Accrued Income

	Year to 31.03.13	Year to 31.03.12
	£	£
Insurance premiums paid in advance	-	2,782,500
Deposit account interest accrued	728	799
<b>Total</b>	<b>728</b>	<b>2,783,299</b>

### 12 Borrowings

	Year to 31.03.13	Year to 31.03.12
	£	£
Short term bank loans	-	23,500,000
<b>Total</b>	<b>-</b>	<b>23,500,000</b>

The Trust currently has in place an unsecured revolving credit facility agreement with its bank that allows the Trust to call upon borrowings of up to £75 million. All borrowings and related interest payable was repaid during the year.

### 13 Provisions

	Year to 31.03.13	Year to 31.03.12
	£	£
Compensation claims at the beginning of the period	5,858,220	17,022,529
Provisions for new failures charged to the fund account	813,286	14,162,974
Additional charge to the fund account for prior year failures	30,458	21,560
Released back to fund account relating to prior year failures	(3,281,747)	(7,859,726)
Payments made during the year	(2,710,783)	(17,489,117)
<b>Compensation claims at the end of the period</b>	<b>709,434</b>	<b>5,858,220</b>
Agent for the Consumer provision	1,254,619	-
<b>Total</b>	<b>1,964,053</b>	<b>5,858,220</b>

## Notes to the Financial Statements

### 13 Provisions (*continued*)

The provision for compensation claims and the agent for the consumer provision are based on estimates outlined in Notes 2.1 and 2.2 and in accordance with IAS 37 *Provisions, contingent liabilities and contingent assets*. All commitments are expected to be settled within one year.

### 14 Trade and Other Payables

	Year to 31.03.13	Year to 31.03.12
	£	£
Trade and other payables	649,317	149,217
<b>Total</b>	<b>649,317</b>	<b>149,217</b>

Trade creditors and accruals principally comprise amounts outstanding for services provided by the Civil Aviation Authority and other ongoing administrative costs. It is the Trust's policy to pay on receipt of invoice and therefore eliminating any risk of late payment interest and penalty charges.

The Trustees consider that the carrying amount of trade payables approximates to their fair value.

### 15 Financial Risk Management

#### 15.1 Capital risk management

The Trust manages its capital to ensure that it will be able to continue as a going concern while ensuring an adequate return to the Trust through the optimisation of the fund invested in each transaction. The capital structure of the Trust consists of borrowings as disclosed in Note 12, cash and the fund as disclosed in the statement of financial position.

The Trust does not have any externally imposed capital requirements.

#### 15.2 Financial risk management objectives

The Trust manages the financial risks relating to its ongoing operations. These risks include market risk (including fair value interest rate risk), credit risk, liquidity risk and cash flow interest rate risk. Where borrowing is necessary, the Trust seeks to minimise the effects of certain of these risks by acquiring fixed rate debt that provides a fixed and determinable cash flow for the Trust.



## Notes to the Financial Statements

### 15.2 Financial risk management objectives *(continued)*

The Trust does not enter into or trade financial instruments, including derivative financial instruments, for speculative purposes.

### 15.3 Market risk

The Trust's activities expose it to the financial risks of changes in interest rates. The Trust's exposure to interest rates on financial assets and financial liabilities are detailed in the liquidity risk management section below.

### 15.4 Liquidity risk management

Ultimate responsibility for liquidity risk management rests with the Trustees. The Trustees have built an appropriate liquidity risk management framework for the management of the Trust's short, medium and long-term funding and liquidity management requirements.

### 15.5 Liquidity and interest risk tables

The following tables detail the Trust's contractual maturity for its non-derivative financial liabilities. The table has been drawn up based on the undiscounted contractual cash flows of the financial liabilities including both interest and principal cash flows. The contractual maturity is based on the earliest date on which the Trust may be required to pay.

<b>Year to 31.03.13</b>	Principal amount £	Contractual cash flows £	6 months or less £	More than 6 months £
Unsecured borrowings	-	-	-	-
Trade and other payables	649,317	649,317	649,317	-
	<b>649,317</b>	<b>649,317</b>	<b>649,317</b>	-

<b>Year to 31.03.12</b>	Principal amount £	Contractual cash flows £	6 months or less £	More than 6 months £
Unsecured borrowings	23,500,000	23,528,066	23,528,066	-
Trade and other payables	149,217	149,217	149,217	-
	<b>23,649,217</b>	<b>23,677,283</b>	<b>23,677,283</b>	-

## Notes to the Financial Statements

### 15.6 Interest rate swap contracts

Under interest rate swap contracts, the Trust agrees to exchange the difference between fixed and floating rate interest amounts calculated on agreed notional principal amounts. The interest rate swaps settle on a quarterly basis. The floating rate on the interest rate swaps is 3 months LIBOR. The Trust will settle the difference between the fixed and floating interest rate on a net basis.

The following table details the notional amounts and remaining terms of interest rate swap contracts outstanding as at the reporting date.

	Average contract fixed interest rate		Notional principal value		Fair Value	
	2013	2012	2013	2012	2013	2012
	%	%	£	£	£	£
Less than 1 year	0.5077	0.9759	12,500,000	20,500,000	49,225	112,568
1 to 2 years	-	0.9341	-	12,500,000	-	22,645
					<b>49,225</b>	<b>135,213</b>

## 16 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.

## 17 Post Balance Sheet Events

Since the balance sheet date and up to 13 May 2013, there have been two ATOL holder failures. The Trustees anticipate that the call on the Trust in respect of these failures will be less than £100,000.

## 18 Comparative Figures

Certain comparative figures have been reclassified due to changes in classification and presentation from prior year disclosures. The only material difference in the transition to IFRS is the brought forward reserves, increasing the fund deficit as at 31 March 2012 by £135,213. This change is a direct result of the recognition of the financial derivatives held by the Trust.

## Notes to the Financial Statements

### 18 Comparative Figures (*continued*)

<b>Fund balance as at 01.04.11</b>	<b>£</b>
Fund balance as at 01.04.11 (UK GAAP) as previously reported	(42,298,182)
Adjustment for change in fair value of derivative financial instruments	(53,219)
<b>Fund balance as at 01.04.11 restated under IFRS</b>	<b>(42,351,401)</b>

#### **Movement in fund for year to 31.03.12**

Movement in fund for year to 31.03.12 (UK GAAP) as previously reported	23,852,495
Change in fair value of derivative financial instruments for the period	(81,994)
<b>Fund balance as at 31.03.12 restated under IFRS</b>	<b>(18,580,900)</b>

#### **Statement of Financial Position as at 31.03.12**

Fund deficit as at 31.03.12 (UK GAAP) as previously reported	(18,445,687)
Derivative financial instruments as at 31.03.12	(135,213)
<b>Fund deficit as at 31.03.12 restated under IFRS</b>	<b>(18,580,900)</b>

### 19 Contingent Liabilities

The Trust recognises an obligation on two outstanding claims against the failure of Goldtrail Travel Ltd which failed on 16 July 2010. Due to the complexities of this failure, an agreement was drawn between several claimants that the Trust would cover part of their losses pending any claims made under each claimant's insurance policies. The two outstanding claimants are currently in dispute with their insurance companies over the validity of their claims and as a result, the liability to the Trust is dependent on the outcome of this dispute.

Although the Trust has an obligation in relation to these two claims, a reliable measurement of the liability to the Trust cannot be established. If these two claimants are successful in their complaint, the settlements under their policy will either cover their losses in full or part and hence the liability to the Trust will be minimal. The Trust can however, determine a worst case value based on booking data obtained and in the event that the result of the above dispute will be unfavourable. The Trust values this worst case liability at £870,000.

## Appendix 1 – 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;

“**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
  - (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:
  - (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;

**"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;
- (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);
- (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, 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 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 or 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 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;
  - (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.

**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 – Details of ATOL Holder Failures April 2012 – March 2013

ATOL Holder Name	Date of Failure	Licensed Passengers	Security Provided £'000	Number of Passengers Repatriated	Cost of Repatriation £'000	Expected Number of Passengers to Refund	Estimated Refund Cost £'000	Estimated Total Expenditure £'000	Estimated Call on Air Travel Trust £'000
Holidays Your Way Ltd	16 Apr 2012	500	10	0	0	0	0	0	0
Rumsey Travel Ltd	16 May 2012	638	335	0	0	7	44	44	0
My Fidelisst UK Ltd	20 Jun 2012	643	232	0	0	469	168	168	0
Travel Serenity Ltd	25 Jun 2012	500	30	0	0	151	170	170	140
Kenlin Ltd	19 Jul 2012	500	0	0	0	0	0	0	0
Enjoy Holidays Ltd	15 Aug 2012	500	0	37	10	505	333	343	343
Tana Consultants Ltd	28 Sep 2012	225	0	0	0	7	13	13	13
Travellers Cities Ltd	15 Oct 2012	500	0	0	0	93	88	88	88
Bowen Travel Ltd	30 Oct 2012	500	0	0	0	0	3	3	3
Global Enduro Ltd	28 Jan 2013	500	20	0	0	103	156	156	136
T.D. Europe Ltd	6 Feb 2013	500	0	0	0	19	90	90	90
				37	10	1,354	1,065	1,075	813