

# Terms of Business



DARE TO EXPLORE

— AFRICA —

## 1. Introduction

- 1.1. Dare to Explore provides Booking and Arranging Services either directly to Customers, or to Travel Agents on behalf of or for the benefit of their Customers.
- 1.2. Booking and Arranging Services entail the booking and/or arranging by Dare to Explore of the provision of Tourism Services by Service Providers to Customers, mainly in Southern and East Africa.
- 1.3. Dare to Explore only contracts with or engages Customers and Travel Agents in relation to the provision of Booking and Arranging Services on the Terms of Business set out herein.

## 2. Definitions

In these Terms of Business, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

- 2.1. **"Booking and Arranging Services"** means the booking, arranging and/or procuring by Dare to Explore of the provision of Tourism Services by Service Providers to Customers, mainly in Southern and East Africa, including but not limited to concomitant services such as the provision of information in relation to Tourism Services to Customers and/or Travel Agents and the facilitation of payments to Service Providers on behalf of Customers and/or Travel Agents.
- 2.2. **"Customer"** means the person or entity who either directly contracts with or engages –
  - 2.2.1. Dare to Explore for the provision of Booking and Arranging Services, including the ultimate beneficiaries of such Booking and Arranging Services and/or the related Tourism Service; or
  - 2.2.2. a Travel Agent, which Travel Agents in turn contracts with or engages Dare to Explore for the provision of Booking and Arranging Services on behalf of or for the benefit of such person or entity, including the ultimate beneficiaries of such Booking and Arranging Services and/or related Tourism Services.
- 2.3. **"Dare to Explore"** means Dare to Explore CC, a close corporation incorporated in the Republic of South Africa having registration number 2002/032201/23.
- 2.4. **"Deposit"** means a deposit amount specified on or together with a quotation issued by Dare to Explore in relation to a Tour Package, which deposit will constitute a percentage of the Package Price, and which percentage may vary depending on the specifics of the relevant Tour Package.
- 2.5. **"Disbursements"** means amounts paid or payable to Service Providers in relation to the provision by such Service Providers of Tourism Services, and which amounts are paid or payable by Dare to Explore on behalf of Customers and/or Travel Agents.
- 2.6. **"Fee"** means the consideration charged by Dare to Explore for providing the Booking and Arranging Services, which amount includes value-added tax but excludes any Disbursements.
- 2.7. **"Package Price"** means the amount of the Fee plus all Disbursements.
- 2.8. **"Service Provider"** means any person or entity who ultimately provides the Tourism Service to Customers.
- 2.9. **"Terms of Business"** means the terms set out in this document entitled Terms of Business.
- 2.10. **"Tour Package"** means the particular set of Tourism Services that Dare to Explore is to book, arrange, and/or procure as part of its Booking and Arranging Services to Customers and/or Travel Agents.
- 2.11. **"Tourism Services"** means such services provided by Service Providers in the tourism industry, including but not limited to transport, accommodation, meals, excursions, guided tours and other tourist related activities.
- 2.12. **"Travel Agents"** means any person or entity who contracts with or engages Dare to Explore for the provision of Booking and Arranging Services on behalf of or for the benefit of their own Customers.

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## 3. Application

3.1. These Terms of Business apply as between –

- 3.1.1. Dare to Explore; and
- 3.1.2. all Customers and Travel Agents,

in relation to the provision of Booking and Arranging Services by Dare to Explore, and form an integral part to the agreement between the parties in relation thereto.

3.2. These Terms of Business apply irrespective of whether they have been signed or otherwise acknowledged by any Customer or Travel Agent.

3.3. By contracting with, engaging, or instructing Dare to Explore in respect of any Booking and Arranging Services, the Customer and Travel Agent warrant and represent to Dare to Explore that they understand these Terms of Business, and that they agree to the application of these Terms of Business to the agreement between the parties.

## 4. Important notice in relation to consumer protection

4.1. Should any Customer or Travel Agent not understand any provision in these Terms of Business, such Customer or Travel Agent should contact Dare to Explore for an explanation or otherwise obtain independent advice before contracting with, engaging or instructing Dare to Explore in relation to any Booking and Arranging Services.

4.2. Failure to understand anything in these Terms of Business shall not preclude the application thereof.

4.3. Some of these Terms of Business may –

- 4.3.1. may limit the risk or liability of Dare to Explore or a third party;
- 4.3.2. may create risk or liability for Customers and /or Travel Agents;
- 4.3.3. may compel Customers and/or Travel Agents to indemnify Dare to Explore or a third party; and/or
- 4.3.4. serves as an acknowledgement by Customers and/or Travel Agents of a fact.

4.4. Nothing in this document is intended to or must be understood to unlawfully restrict, limit or avoid any rights or obligations, as the case may be, created for either Customers, Travel Agents or Dare to Explore in terms of any consumer protection laws.

## 5. Relationship between parties

5.1. Subject to the below, and in general, Dare to Explore contracts as an independent contractor with Customers and/or their Travel Agents in respect of providing the Booking and Arranging Services.

5.2. However, when, in the course of providing the Booking and Arranging Services, Dare to Explore contracts with or engages Service Providers in respect of the provision of Tourism Services to Customers and/or their Travel Agents, Dare to Explore shall act as agent of the Customer and/or their Travel Agents, and the relevant contract or engagement with the Service Provider for the provision of the relevant Tourism Services shall be between the Service Provider and the Customer and/or their Travel Agent.

5.3. For the avoidance of any doubt, Dare to Explore does not directly or indirectly provide any Tourism Services to Customers and/or their Travel Agents. Dare to Explore only provides the Booking and Arranging Services to Customers and/or their Travel Agents.

5.4. Accordingly, when in the course of providing the Booking and Arranging Services Dare to Explore makes payment of Disbursements to Service Providers, such payments are made as agent of the Customers and/or their Travel Agent.

## 6. Limitation of Liability

6.1. Should any Customer or Travel Agent have any claim against Dare to Explore (whether in contract, delict, tort or otherwise) arising out of or in connection with the performance (or non-performance) of the Booking and Arranging Services, Dare to Explore's liability to the Customer or Travel Agent shall be limited to the Fee charged by Dare to Explore to the Customer or Travel Agent in relation to the relevant Booking and Arranging Services.

6.2. A Customer or Travel Agent shall have no claim against Dare to Explore (whether in contract, delict, tort or otherwise) arising out of or in connection with the performance (or non-performance) of the Tourism Services by any Service Provider.

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- 6.3. Should, for whatever reason, a Customer or Travel Agent have a claim against Dare to Explore, and it is found or held that none of the above limitations apply, Dare to Explore's liability shall in any event be limited to actual damages or losses suffered, and shall not extend to consequential losses, loss of profits, or loss of future income, and shall also specifically exclude punitive or exemplary damages of any sort.

## **7. Indemnities**

### **7.1. The Customer and Travel Agent –**

- 7.1.1. indemnify and hold Dare to Explore and its members, employees and agents harmless against any liability, claim or damages of whatsoever nature and howsoever arising, that the Customer or Travel Agent may suffer and/or incur, jointly or severally; and
- 7.1.2. waive any claim they may have against Dare to Explore, its members, employees and/or agents, as a result of any loss or damage, including but not limited to loss or damage as a result of –
- 7.1.2.1. any bodily injuries or death;
- 7.1.2.2. any expenses and/or damages, whether special or general, incurred as a result of hospital expenses, medical expenses, funeral expenses, legal expenses, loss of income, loss of amenities of life, pain and suffering, disability, disfigurement, loss of life expectation, sentimental and patrimonial damages, punitive damages; and/or
- 7.1.2.3. any loss or damage to personal belongings, suffered and/or incurred by the Customer or traveller or any person/s accompanying the Customer or traveller on a tour booked by Dare to Explore, directly or indirectly due to or arising from the services rendered by Dare to Explore, your taking part in a tour booked by Dare to Explore, Dare to Explore acting as agent and/or in any other way pursuant or connected thereto.

## **8. Quotations and Package Price**

- 8.1. Upon electing a Tour Package, a quotation will be generated indicating the Package Price for the Tour Package in USD.
- 8.2. The quotation is prepared based on the prices charged by Service Providers as at the date of the quotation and with reference to the relevant USD exchange rate as at the date of the quotation.
- 8.3. Quotations are valid for 10 business days from date of issue.
- 8.4. Irrespective of any Package Price quoted and accepted, and whether or not a Deposit has been paid in respect thereof, Dare to Explore reserves the right to adjust a Package Price due to any significant and relevant exchange rate fluctuation, in its sole discretion, and demand payment of such adjusted Package Price, including an adjusted Deposit in respect thereof.

## **9. Acceptance of Quotation and Payment**

- 9.1. The quotation will only be treated as having been accepted, and the Tour Package will only be confirmed, upon receipt by Dare to Explore of payment of the specified Deposit amount before expiry of the quotation.
- 9.2. Once accepted an itinerary in respect of the Tour Package will be provided.
- 9.3. In respect of travel taking place between 16 January to 14 December (off-peak) each year –
- 9.3.1. the Deposit will generally be 30% (thirty percent) of the Package Price set out in the quotation; and
- 9.3.2. the remaining portion of the Package Price must be paid at least 8 (eight) weeks prior to departure.
- 9.4. In respect of travel taking place between 15 December of one year to 15 January 15 the next year (peak) –
- 9.4.1. the Deposit will be 50% (fifty percent) of the Package Price set out in the quotation; and
- 9.4.2. the remaining portion of the Package Price must be paid at least 18 (eighteen) weeks prior to departure.
- 9.5. All amounts must be paid in USD into Dare to Explore's specified bank account, details of which will be set out in the quotation.
- 9.6. The Customer and/or Travel Agent will be provided with appropriate invoices.
- 9.7. In the case of computer or human quotation or invoicing errors Dare to Explore reserves the right to correct such errors and issue new quotation or invoices.

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9.8. Upon payment of the Deposit, the Customer and/or Travel Agent will be deemed –

- 9.8.1. to have irrevocably accepted the detail of the Tour Package in the quotation or any other document or communication and any cancellation will be subject to the cancellation provisions contained in this agreement
- 9.8.2. to have appointed Dare to Explore as representative and agent in making the relevant bookings and procuring the relevant Tourism Services on behalf of the Customer and/or Travel Agent; and
- 9.8.3. to have accepted and to have agreed to the terms and conditions contained in Terms of Business, read together with the booking information form, quotation and itinerary, all of which regulate.

## 10. Changes

- 10.1. Should, after acceptance of a quotation, there be any unavoidable changes to the Tour Package beyond the control of Dare to Explore, Dare to Explore will inform Customers and/or Travel Agents as soon as possible of such unavoidable changes as well as the nature and consequence of the event causing such change.
- 10.2. Should, after acceptance of a quotation, any changes be requested by the Customer or Travel Agent, Dare to Explore will assist to facilitate such changes with Service Providers. Such changes will be subject to availability, and may be subject to cancellation fees, change fees, and general price fluctuations. The cost of any such changes shall be for the account of the Customer and/or Travel Agent in addition to and separate from the initial Package Price.

## 11. Service Providers and Disbursements

- 11.1. Dare to Explore will make payment of the various amounts due by the Customer and/or Travel Agent to the relevant Service Providers as Disbursements on behalf the Customer and/or Travel Agent from the payment of the Package Price received.
- 11.2. The bookings, payments and/or arrangements that Dare to Explore makes on behalf of Customers and/or Travel Agents with the relevant Service Providers will be subject to those Service Providers' own terms and conditions regarding, amongst other things changes, cancellation, force majeure, refunds, indemnities, waiver or liability. Dare to Explore will assist Customers and/or Travel Agents in obtaining copies of the relevant Service Providers' terms and conditions upon request. Customers, Travel Agents and travellers shall be deemed to be familiar with such terms and conditions.
- 11.3. Where Service Providers cancel or make changes, Dare to Explore can assist the Customer or the Travel Agent to –
  - 11.3.1. make alternative arrangements with said Service Providers or alternative Service Providers (at the Customer or Travel Agent's cost); and/or
  - 11.3.2. obtain refunds, credits or vouchers from the Service Providers who cancelled or made the changes, on behalf of the Customer or Travel Agent, in accordance with such Service Providers' own terms and conditions.
- 11.4. Any such assistance shall not be construed as an admission or assumption of liability by Dare to Explore in respect of such cancellation or changes by the Service Providers.
- 11.5. While Dare to Explore takes care to only book Customer's and Travel Agents with reputable and reliable Service Providers, Dare to Explore does not warrant the quality and reliability of their services.

## 12. Cancellation

- 12.1. Should the Customer and/or Travel Agent cancel after acceptance of a quotation, the Customer and/or Travel Agent will be liable to pay Dare to Explore for all expenses incurred by Dare to Explore in relation to providing the Booking and Arranging Services to the Customer and/or Travel Agent and which cannot be recovered or recouped by Dare to Explore in money, as well as a cancellation fee equal to 15% (fifteen percent) of the relevant Package Price, which cancellation fee is charged in order to compensate Dare to Explore for any loss suffered as a result of the cancellation, including in respect of overhead costs.
- 12.2. Dare to Explore will be allowed to use any amounts already paid to Dare to Explore (including the Deposit) to cover the expenses incurred and the cancellation fee payable as above. Where the expenses incurred together with the cancellation fee exceed the amounts already paid to Dare to Explore, the Customer and/or Travel Agent will be liable for the amount by which the amounts are exceeded. Where the expenses incurred and the Cancellation Fee do not exceed the amounts already paid, Dare to Explore will repay the excess within a reasonable time after cancellation. The amount to be refunded shall be calculated in ZAR, and not in USD. Payment of the USD equivalent shall only happen subsequent to calculation of the refundable amount in ZAR.
- 12.3. Notwithstanding what has been said above, should the Customer and/or Travel Agent join the relevant tour after its commencement or leave it before completion for whatever reason, no refunds can be made.

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12.4. For the avoidance of doubt, in the event that a booking is cancelled, for whatever reason and irrespective of whether it was cancelled by the Customer or the Travel Agent or Dare to Explore, the Customer and/or the Travel Agent shall remain liable to Dare to Explore for all expenses incurred as part of the booking or as directly occasioned by the cancellation of the booking.

## 13. Transport

13.1. Dare to Explore shall not be held liable for any costs, losses or damages arising from cancellations or delays or other actions by transport Service Providers, such as airlines. Any such costs, losses or damages shall be for the Customer and/or Travel Agent.

13.2. Transport Service Providers, especially where light aircraft are used, impose additional baggage restrictions. Information regarding the specific baggage restrictions that may apply will be provided as part of the booking information documents prior to departure.

13.3. Excess baggage may have to be transported separately at a significant cost, which cost shall be for the Customer and/or Travel Agent.

13.4. Customers and Travel Agents must ensure that they comply with the terms, conditions and requirements of transport Service Providers.

## 14. Passport and Visa Requirements

14.1. It is the responsibility of the relevant Customer or traveller to ensure that they have valid passports, visas, permits and any other required travel documents at all relevant times and in respect of each relevant country that will be visited.

14.2. Failure to adhere to the relevant laws and requirements of the relevant countries in this regard may mean that you will not be allowed entry, or be detained, arrested and/or prosecuted.

14.3. Dare to Explore excludes any and all liability in respect of any such eventualities.

## 15. Health and Safety

15.1. The Customer or traveller must ensure that they understand the health and safety risks associated with the areas or places that they visit, the transport that they use, and the activities that they will engage in, and they must take the necessary precautions in respect thereof.

15.2. Health and safety risks associated with travelling to and visiting places include the risk of contracting diseases. For example, Tour Packages often include travelling to and visiting areas where there is a risk of contracting malaria, and in this regard necessary precautions must be taken. In respect of COVID-19, your attention is drawn to clause 16 below.

15.3. Dare to Explore strongly advises that the Customer or traveller seeks the advice of a reputable travel clinic, medical professional or other expert well in advance of departure.

15.4. It is the responsibility of the Customer or traveller to ensure that all local health and safety laws and regulations are complied with, and all requirements met, in respect of the countries or areas being visited, transport used, and the activities engaged in. This may include submission to medical screening, submission to medical testing or vaccination, quarantining, and adherence to prescribed health and safety standards and protocols, including the mandated use of personal protective equipment.

15.5. Dare to Explore excludes any and all liability to Customers, travellers and Travel Agents in relation to damages, injury, loss or death occasioned by travel to relevant areas and places, any transport used, or taking part in any particular activity.

15.6. A Tour Package includes Tourism Services that are provided by Service Providers that are independent of and not under the control of Dare to Explore. These Service Providers are each responsible for implementing their own health and safety standards and protocols. While Dare to Explore takes care in using reputable Service Providers, Dare to Explore makes no warranties or representations in respect of the quality or status of their health and safety standards and protocols that are in place or are required to be in place and excludes any and all liability to anyone for damages, injury, loss or death arising from inadequate health and safety standards and protocols or inadequate implementation thereof by Service Providers.

15.7. A Tour Package may also in general involve traveling to and visiting places, using transport, or engaging in activities, which are not under the control of Dare to Explore. Here too, Dare to Explore makes no warranties or representations in respect of the quality or status of any health and safety standards and protocols that may be in place or be required to be in place and excludes any and all liability to anyone for damages, injury, loss or death arising from inadequate health and safety standards and protocols or inadequate implementation thereof.

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15.8. The Customer and traveller must ensure, and undertake in favour of Dare to Explore, that they will adhere to all health and safety standards and protocols in place in relation to Service Providers, the places that they travel to and visit, the transport that they use, and the activities that they engage in, in respect of a Tour Package.

## 16. COVID-19

16.1. Customers and travellers must take note of the risk of COVID-19 and remain informed as to the latest international conditions and developments, as well as local conditions and developments in the places that will be visited or travelled to or through as part of the relevant Tour Package. This includes staying up to date on relevant laws and regulations, health and safety standards and protocols and travel restrictions. Customers and travellers are required to take all necessary and/or required precautions in relation to COVID-19.

16.2. Customers and travellers must specifically note that they may be required to submit to screening, testing, vaccination and/or quarantine prior to or during visits to places or travelling to or through such places in respect of a Tour Package. Customers and travellers may likewise be required to adhere to prescribed health and safety standards and protocols, including the mandated use of personal protective equipment, and must do so when required.

16.3. The health and safety terms contained in clause 15 above apply specifically also to matters relating to COVID-19.

16.4. Where a Tour Package is cancelled as a result of COVID-19 related reasons by a Customer or Travel Agent, including travel restrictions, the provisions of clause 12 will apply.

16.5. Where changes are requested by a Customer or Travel Agent as a result of COVID-19, the provisions of clause 10 will apply.

16.6. Where a Service Provider cancels a Tourism Service as a result of COVID-19 the provisions of clause 11 shall apply and where transport is cancelled or delayed or changed as a result of COVID-19 the provisions of clause 13 above shall apply.

16.7. Customers and travellers are strongly advised to have adequate insurance cover in place, as per clause 18, in respect of costs, expenses, damages, losses, injury or death resulting from COVID-19 and related matters.

16.8. Dare to Explore excludes any and all liability to anyone in respect of any costs, expenses, damages, losses, injury or death resulting from COVID-19 and related matters in respect of any Tour Package.

## 17. Excluded services and costs

17.1. Please note that some services and costs are not included in the Tour Package and Package Price. These excluded services vary from Tour Package to Tour Package and in addition to the Tourism Services and Package Price further services and costs can be excluded in a particular case and the itinerary and quotation should be considered carefully, well before departure. If there is any doubt as to whether a cost, charge, fee, levy, tax or duty is included or excluded please contact Dare to Explore for clarity.

17.2. The following services and costs are always excluded: insurance, medical, emergency evacuation, any excursions not listed in your itinerary, international airfares, visa costs and airport taxes/levies, and gratuities.

## 18. Insurance

18.1. Dare to Explore recommends that Customers and travellers purchase comprehensive insurance to cover themselves and their dependants or travel companions against risks in relation to the Tour Package and attendant activities.

18.2. Such insurance should include, but should not necessarily be limited to, cover for the cancellation or change of Tourism Services or travel/transport services, repatriations costs, medical costs, emergency costs including emergency evacuations costs, costs in relation to any personal injury, illness or disease, and damage or loss of personal property.

18.3. It should specifically be noted that Customers or travellers may be charged directly for emergency services provided by any relevant emergency service provider and without having the appropriate insurance in place, the Customer or traveller could be unable to access the relevant emergency services.

18.4. Although Dare to Explore recommends that travel insurance be obtained as described above, it remains the sole responsibility of the Customer or traveller to ensure that they have the correct comprehensive travel and medical insurance in place.

18.5. For the avoidance of doubt, Dare to Explore, its employees, management, owners, agents and representatives exclude all liability (to anyone) for costs, losses, damages or injury in relation to the risks described above.

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## 19. Age limits

19.1. Age limits vary per tour. All ages of Customers and travellers must be confirmed at time of booking.

## 20. Photo and video consent

20.1. The Customer and traveller specifically consent to the use of, or publication of, photo and video material taken on a relevant tour for marketing purposes, irrespective of whether such material was created by or the copyright vests in the Customer or traveller, a Service Provider, Dare to Explore or any other party, and irrespective of whether the Customer or traveller appears in such material.

20.2. The use or publication of such photo and video material shall be for no consideration and may be used with or without credit to the person who has created the material or in whom the copyright vests, or who appears in the material.

## 21. Law and consent to jurisdiction

21.1. The agreement between Dare to Explore and the Customer and/or Travel Agent (of which these Terms of Business form an integral part) shall be governed by, and interpreted in accordance with, the laws of the Republic of South Africa.

21.2. By accepting the Terms of Business, the Customer and/or Travel Agent consents to any dispute directly or indirectly relating to the agreement with Dare to Explore and/or these Terms of Business being adjudicated in the South Gauteng High Court of South Africa and submits to such Court's jurisdiction.

21.3. Notwithstanding anything, nothing in these Terms of Business should be understood to prevent either party from taking any dispute to any court, tribunal, commission, ombud or other body of competent jurisdiction.

## 22. General

22.1. No addition to, variation or consensual cancellation of agreement and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of these Terms of Business shall be of any force or effect unless in writing and signed by you and Dare to Explore.

22.2. For the benefit of all tour members, Dare to Explore reserves the right to reject or remove any tour member whose conduct is considered to be incompatible with the interests of other tour members or Service Providers. Dare to Explore is not responsible for any costs incurred if it has to terminate a tour member's tour due to unacceptable behaviour.

22.3. By signing this document or by indicating acceptance of an electronic version of this document by marking an electronic box or clicking an acceptance icon, or by continuing to engage and instruct Dare to Explore, the Customer and/Travel Agent agree to be legally bound by these Terms of Business.