

# **TRAVEL TERMS AND CONDITIONS OF THE NETHERLANDS ASSOCIATION OF ANVR TOUR OPERATORS (VERENIGING VAN ANVR REISORGANISATOREN)**

*These Travel Terms and Conditions of the Netherlands Association of ANVR Tour Operators (Vereniging van ANVR Reisorganisatoren) were revised in the summer of 2003 in consultation with the Consumers' Association in the framework of the Self-Regulation Coordination Group (Coördinatiegroep Zelfreguleringsoverleg) of the Social and Economic Council.*

## **ARTICLE 1 INTRODUCTORY PROVISION.**

### **Article 1, paragraph 1**

In these Travel Terms and Conditions:

- a. Travel organiser means: the party whose business consists of providing the public or a group of people with pre-arranged travel packages in its own name.
- b. Travel Contract means: the contract where the travel organiser undertakes towards the other party to provide a pre-arranged travel package offered by it, comprising an overnight stay or a period of more than 24 hours as well as at least two of the following services:
  1. transport;
  2. accommodation;
  3. another tourist service, not related to transport or accommodation, which forms a significant part of the travel package;
- c. Traveller means:
  - A. the other party entering into the contract with the travel organiser, or
  - B. the party on whose behalf the travel package has been arranged and who has accepted that arrangement, or
  - C. the party to whom the legal relationship with the travel organiser has been transferred in accordance with article 8 of these terms and conditions.
- d. Booking office means: the company that assists with the arrangement of the travel contract between the traveller and the travel organiser.
- e. Working days means: Mondays to Saturdays, with the exception of recognised public holidays.
- f. Office hours means: Mondays to Fridays inclusive from 9am - 5.30pm and Saturdays from 10am to 4pm, with the exception of recognised public holidays.

### **Article 1, paragraph 2**

These travel terms and conditions apply to all travel contracts as well as contracts relating to self-transport and shuttle coach services. The travel organiser can also stipulate that these travel terms and conditions apply equally to contracts relating to other travel services, provided this is stated in the publication.

### **Article 1, paragraph 3**

Prices stated in these terms and conditions include VAT (where applicable).

### **Article 1, paragraph 4**

Organisers of cruises, scheduled flight holidays, tours, adventure holidays and travel outside Europe and the Mediterranean countries may diverge from the provisions in article 3 paragraph 1, article 9 paragraph 2 and article 11. They must clearly inform the traveller of any such divergent provisions in advance.

*Transitional provision: Organisers of self-transport packages containing any form of accommodation such as bungalows, apartments, motorboats, sailing yachts, on-site caravans and campsite reservations may diverge from the provisions in article 3 paragraph 1 and article 9 paragraph 2 for travel packages with an arrival date not later than 31 December 2004. They must clearly inform the traveller of any such divergent provisions in advance.*

## **ARTICLE 2 CONCLUSION AND CONTENT OF CONTRACT**

### **Article 2, paragraph 1**

The contract is created upon the traveller's acceptance of the travel organiser's offer. Acceptance can be arranged either directly or through the services of a booking office.

After the conclusion of the contract, the traveller receives confirmation either on paper or electronically, optionally in the form of an invoice.

### **Article 2, paragraph 2**

The offer of the travel organiser is made without obligation and can be withdrawn by the travel organiser if necessary. Withdrawal must take place as soon as possible, stating reasons, and no later than 8 office hours after acceptance. Withdrawal in order to correct errors in the calculation of the travel sum is permitted; withdrawal in order to increase the travel sum must satisfy the requirements contained in article 4.

### **Article 2, paragraph 3**

The travel organiser has the right to terminate the contract with immediate effect if the number of bookings is smaller than the required minimum number stated in the publication.

Cancellation must take place in writing and within the term mentioned in the publication. Articles 10 and 12 are not applicable.

### **Article 2, paragraph 4**

- a. The traveller will provide the booking office or travel organiser, before or no later than at the time of concluding the contract, with all details about him/herself and the travellers for whom he/she has made bookings that may be relevant to the conclusion or fulfilment of the contract. Furthermore, he/she will mention any details regarding the nature or composition of the group of travellers whom he/she has booked that may be relevant to the proper fulfilment of the agreed travel package by the travel organiser.
- b. If he/she fails to meet this information requirement and the travel organiser is consequently compelled, in accordance with the provisions in article 15 paragraph 2, to exclude said traveller(s) from (further) participation in the travel package, the costs stated in said article will be charged to him/her.

### **Article 2, paragraph 5**

- a. Any person who enters into a contract on behalf of or for the benefit of another person (the booking party) is severally liable for all obligations arising from the contract.
- b. All communications and transactions (including payments) between the traveller(s) on the one hand and the travel organisation and/or booking office on the other hand are exclusively conducted through the booking party.
- c. The (other) traveller(s) is/are each liable for their own share.

### **Article 2, paragraph 6**

- a. If the agreed travel package is advertised in a publication of the travel organiser, the details contained therein form part of the contract.
- b. If the travel organiser has included general provisos in the general part of the programme which are in conflict with the travel terms and conditions, the provisions most favourable to the traveller will prevail.

- c. Evident errors and evident mistakes are not binding upon the travel organiser. Such errors and mistakes are errors and mistakes which – from the perspective of the average traveller – were or should have been instantly recognised as such.

#### **Article 2, paragraph 7**

Alternatives or additions to the travel package offered by the travel organiser may be requested on medical grounds (essential medical needs). The travel organiser will make a genuine effort to meet these requests unless it cannot in all reasonableness be expected to do so.

Essential medical needs are subject to the express written approval of the travel organiser.

In this case the travel organiser is entitled to charge the following costs:

- a. organisation costs arising from the alternative or additional service up to € 23.00 per booking (€ 11.00 in the case of self-transport per booking if shorter than 5 days or in the case of travel/accommodation within the Netherlands);
- b. communication costs;
- c. any extra costs charged by service providers involved in the fulfilment of the travel package.

The travel organiser shall exclusively consider requests regarding non-medical essential needs (other essential needs) if there is a reasonable chance of meeting such a request. In this case, the travel organiser is entitled to charge the following costs:

- a. the organisation costs arising from the request of € 27.00 per booking (€ 14.00 in the case of self-transport per booking if shorter than 5 days or travel/accommodation within the Netherlands);
- b. communication costs;
- c. any extra costs charged by service providers involved in the fulfilment of the travel package.

These requests also require the express written approval of the travel organiser.

#### **Article 2, paragraph 8**

If the travel package includes transport and the duration of the travel package is stated in the publication in days, then the days of departure and arrival count as full days, irrespective of the times of departure and arrival. This may entail that in some cases the actual stay at the destination amounts to fewer days than stated in the publication.

#### **Article 2, paragraph 9**

The travel documents will state the departure and arrival times for the transport components included in the travel package. These times are definite. The travel organiser may only alter these times within reasonable limits and if it cannot be reasonably required to adhere to these times. In this case, articles 11 and 12 are not applicable.

#### **Article 2, paragraph 10**

The travel organiser is not responsible for general information in photos, brochures, adverts, websites and other information carriers insofar as produced or published under the responsibility of third parties.

### **ARTICLE 3 PAYMENT.**

#### **Article 3, paragraph 1**

- a. Upon the conclusion of the contract, a deposit must be paid equal to 15% of the total agreed travel sum. Organisers of cruises, scheduled flight holidays, tours, adventure holidays and travel outside Europe and the Mediterranean countries may diverge from this. They must clearly inform the traveller of this in advance.

b. In the case of self-transport packages, the deposit is 20% of the travel sum.

**Article 3, paragraph 2**

The remainder of the travel sum must be received by the booking office no later than six weeks before the day of departure (in the case of self-transport, before the first planned date of arrival at booked accommodation).

In the case of late payment, the traveller is in default. He/she is advised of this in writing by or on behalf of the travel organiser, after which he/she has a further opportunity to settle the payable amount within 7 working days. If he/she fails to pay within that period, the contract will be deemed to have been cancelled on the day of default. The travel organiser is then entitled to charge the payable cancellation costs. In this case the provisions of article 9 are applicable and the sum already paid will be deducted from the payable cancellation costs.

**Article 3, paragraph 3**

If the contract is concluded within 6 weeks of the day of departure, the travel sum must be paid immediately and in full.

**ARTICLE 4 TRAVEL SUM.**

**Article 4, paragraph 1**

The advertised travel sum applies per person, unless otherwise indicated, and includes the services and facilities mentioned in the publication.

**Article 4, paragraph 2**

The advertised travel sum is based on the prices, exchange rates, levies and taxes as known to the travel organiser at the time the publication went to press.

**Article 4, paragraph 3**

As long as the travel sum has not been paid in full, the travel organiser is entitled until 20 days before the day of departure (in the case of self-transport packages, before the first date of arrival at booked accommodation) to increase the travel sum on account of changes in the transport costs (including fuel costs), payable taxes, levies and applicable exchange rates. The travel organiser will indicate how the increase was calculated. Said changes will also lead to a reduction in the travel sum unless the costs incurred in this connection are such that this cannot be reasonably required from the travel organiser.

**Article 4, paragraph 4**

a. Charter flight holidays in Europe

After the conclusion of the travel contract, the travel organiser will, contrary to the provisions in paragraph 3, not change the travel sum of charter flight holidays carried out by Dutch airline companies to European destinations and the Mediterranean countries.

b. Other forms of travel

After the timely payment of the entire travel sum, the travel organiser will, contrary to the provisions in paragraph 3, not change the travel sum during the period starting six weeks before the day of departure (in the case of self-travel packages, before the first date of arrival at booked accommodation).

c. Contrary to the provisions in a. and b. and exclusively in the case of unforeseeable

A. increases in payable taxes or levies;

or

B. extreme increases in transport costs

the travel organiser may increase the travel sum up to 20 days before the day of departure.

The Netherlands Association of ANVR Tour Operators and the Consumers' Association jointly determine whether such a situation exists. If no agreement is reached, an independent third party to be appointed in joint consultation will be requested to make a decision that is binding on both parties.

**Article 4, paragraph 5**

a. The traveller is entitled to reject an increase in the travel sum as referred to in the preceding two provisions. He/she must exercise this right – subject to forfeiture – within 3 working days of receiving advice of the increase.

b. If the traveller rejects the increase in the travel sum, the travel organiser is entitled to cancel the contract. It must exercise this right – subject to forfeiture – within 7 working days of the traveller receiving advice of the increase. In this event, the traveller is entitled to waiver of the travel sum or immediate restitution of sums already paid. Articles 10, 11 and 12 are not applicable.

**ARTICLE 5 INFORMATION.**

**Article 5, paragraph 1**

General information on passports, visas and health formalities (where applicable) will be supplied to the traveller, no later than upon concluding the contract, either by or on behalf of the travel organiser. The traveller him/herself will obtain any necessary additional information from the authorities and also make timely enquiries before departure to ascertain whether the earlier-obtained information has not changed in the meantime.

**Article 5, paragraph 2**

If the traveller is unable to take part in the (entire) trip because of the absence of any (valid) document, this and all resulting consequences will be for his account, unless the travel organiser has promised to supply that document and can be held responsible for the absence of that document or the travel organiser has failed in its obligation to provide information as stipulated in the above provision.

**Article 5, paragraph 3**

Upon departure and during the trip the traveller must be in the possession of the required documents, such as a valid passport or, where permitted, a tourist identity card and any required visas, proof of inoculations and vaccinations, driving licence and green card.

**Article 5, paragraph 4**

The traveller will be informed of the possibility of taking out holiday cancellation insurance and travel insurance either by or at the request of the travel organiser.

**ARTICLE 6 TRAVEL DOCUMENTS.**

**Article 6, paragraph 1**

The travel organiser will place the required travel documents in the possession of the traveller no later than 10 days before the day of departure (in the case of self-transport packages, before the first date of arrival at booked accommodation), unless this cannot be reasonably required of the travel organiser.

**Article 6, paragraph 2**

If the traveller has not yet received the required travel documents by at most 5 working days before departure, he/she will notify the travel organiser or the booking office without delay.

#### **Article 6, paragraph 3**

- a. If a travel package is booked within 10 days before the day of departure (in the case of self-transport packages: before the first date of arrival at booked accommodation), the travel organiser or the booking agency will indicate when and in what manner the required travel documents will be placed in the possession of the traveller.
- b. If the traveller has not received these accordingly, he/she will notify the travel organiser or the booking agency without delay.

### **Article 7 CHANGES BY THE TRAVELLER.**

#### **Article 7, paragraph 1**

- a. After the conclusion of the contract the traveller may request changes to the contract. These changes will be made insofar as possible up to 28 days before departure (in the case of self-transport packages, before the first date of arrival at booked accommodation) and in this case will be confirmed in writing by the travel organiser. This is subject to the condition that the traveller pays the changed travel sum less any payments already made.
- b. In addition he/she is required to pay booking change costs of €27.00 per booking (in the case of self-transport packages, €14,00 if shorter than 5 days or with travel/accommodation in the Netherlands) and any communication costs.
- c. Postponement of the date of departure or a reduction in the number of paying passengers is treated as a (partial) cancellation subject to article 9. In this case, no booking change or communication costs are payable.

#### **Article 7, paragraph 2**

- a. A decision about the request will be taken as soon as possible. Rejections will be motivated with reasons and promptly communicated to the traveller. The traveller can maintain or cancel the original contract. In the latter case, article 9 will be applicable.
- b. If the traveller fails to respond to the rejection of his/her request, the original contract will be carried out.

### **ARTICLE 8 SUBSTITUTION.**

#### **Article 8, paragraph 1**

The traveller may allow him/herself to be substituted by another person, provided this takes place in good time before departure. Substitution is subject to the following conditions:

- a. the other person meets all conditions governing the contract; and
- b. the request is submitted no more than 7 days before departure or in sufficient time to permit completion of the necessary actions and formalities; and
- c. the conditions of the service providers involved in the fulfilment of the contract do not oppose such a substitution.

#### **Article 8, paragraph 2**

The applicant, the traveller and the substitute are severally liable towards the travel organiser for the payment of the outstanding part of the travel sum, the costs of the change and communication mentioned in article 7, paragraph 1 and any extra costs resulting from the substitution.

## **Article 9 CANCELLATION BY THE TRAVELLER.**

### **Article 9, paragraph 1**

Travel packages subject to limitation of coverage imposed by the Calamiteitenfonds Reizen (Travel Calamity Fund) can be cancelled free of charge from 30 days before departure.

### **Article 9, paragraph 2**

If a contract is cancelled, the traveller is liable to pay cancellation charges in addition to any booking charges. The cancellation charges are as follows:

- a. cancellation up to the 42nd day (exclusive) before the day of departure: the deposit.
- b. cancellation from the 42nd day (inclusive) up to the 28th day (exclusive) before the day of departure: 35% of the travel sum.
- c. cancellation from the 28th day (inclusive) up to the 21st day (exclusive) before the day of departure: 40% of the travel sum;
- d. cancellation from the 21st day (inclusive) up to the 14th day (exclusive) before the day of departure: 50% of the travel sum;
- e. cancellation from the 14th day (inclusive) up to the 5th day (exclusive) before the day of departure: 75% of the travel sum;
- f. cancellation from the 5th day (inclusive) up to the day of departure: 90% of the travel sum;
- g. cancellation on the day of departure or later: the full travel sum.

### **Article 9, paragraph 3**

- a. If a travel package is compiled of various components that are subject to different cancellation provisions, the specific provisions governing each component will be applicable.
- b. Organisers of cruises, tours, adventure holidays and travel outside Europe and the Mediterranean countries may diverge from the provisions in paragraph 2. They must inform the traveller of this in advance.
- c. If the transport takes place by scheduled flight or special services are provided, such as camper hire, car hire, national parks and cultural or sports events, divergent cancellation provisions may be applicable to said transport or special services. These are communicated to the traveller in advance.

### **Article 9, paragraph 4**

The traveller who cancels the travel package is obliged to pay the cancellation costs in conformity with the provisions in the previous paragraphs, unless he/she can motivate why the loss suffered by the travel organiser is lower. In that case the travel organiser will charge the lower loss. Loss is understood to mean any losses suffered as well as lost profits.

### **Article 9, paragraph 5**

If the traveller opts for substitution rather than cancellation, article 8 is applicable.

### **Article 9, paragraph 6**

- a. The cancellation of a contract by one or more travellers who have jointly booked accommodation in a hotel room, apartment, holiday home or other type of accommodation will lead to the cancellation of all contracts, so that all travellers will be required to pay the sums mentioned in the previous paragraphs.
- b. If the remaining travellers so wish and the size of their group occurs in the price table for this accommodation, the respective contracts will remain valid. In this case, the provision contained in C will apply.

- c. The travellers referred to in B must pay the travel sum as stated in the price table for the remaining number of travellers.
- d. If the remaining travellers wish to enter into a new contract for the same period and the same accommodation, the cancellation charges received for the remaining traveller(s) will be deducted from the new travel sum(s).  
The total sum of cancellation charges plus the increased travel sum(s) will never exceed the total travel sum for the original travellers.

**Article 9, paragraph 7**

Cancellations outside office hours are deemed to have been made on the next working day.

## **ARTICLE 10 CANCELLATION BY THE TRAVEL ORGANISER.**

**Article 10, paragraph 1**

The travel organiser has the right to cancel the contract on account of substantial circumstances.

**Article 10, paragraph 2**

Substantial circumstances are circumstances that are of such a nature that the travel organiser can no longer be reasonably required to fulfil the contract.

**Article 10, paragraph 3**

A limitation of coverage imposed by the Calamiteitenfonds Reizen (Travel Calamity Fund) on the contract is a substantial circumstance.

**Article 10, paragraph 4**

1. If the cause of the cancellation is attributable to the traveller, the traveller is liable for the resulting loss.
2. If the cause of the cancellation is attributable to the travel organiser, the travel organiser is liable for the resulting loss. Whether this is the case is determined on the basis of article 12.
3. If the cause of the cancellation is attributable to neither the traveller nor the travel organiser, each party bears its own share of the loss as worked out in greater detail in article 13.

**Article 10, paragraph 5**

If the travel organiser saves money as a result of the cancellation, the traveller is entitled to his/her share of that saving.

## **ARTICLE 11 CHANGE BY THE TRAVEL ORGANISER.**

**Article 11, paragraph 1**

- a. The travel organiser has the right to make one or more substantial changes to the agreed service on the grounds of substantial circumstances as described in greater detail in article 10 paragraph 2. He shall notify the traveller of said circumstances within 72 hours (3 working days). From 10 days before the departure (in the case of self-transport packages, before the first date of arrival at booked accommodation), these circumstances must be communicated within 24 hours (1 working day).
- b. The traveller is entitled to reject the change(s).
- c. If the cause of the cancellation is attributable to the traveller, the traveller is liable for the resulting loss.
- d. If the cause of the cancellation is attributable to the travel organiser, the travel organiser is liable for the resulting loss. Whether this is the case is determined on the basis of article 12.

- e. If the cause of the cancellation is attributable to neither the traveller nor the travel organiser, each party bears its own share of the loss as worked out in greater detail in article 13.
- f. If the travel organiser saves money as a result of the cancellation, the traveller is entitled to his/her share of that saving.

### **Article 11, paragraph 2**

In the event of a change, the travel organiser will make the traveller an alternative offer if possible. This offer must be made within 72 hours (3 working days). From 10 days before the departure (in the case of self-transport packages, before the first date of arrival at booked accommodation), this offer must be made within 24 hours (1 working day).

### **Article 11, paragraph 3**

The alternative offer must be at least equal to the original offer. The equality of alternative accommodation must be assessed according to objective criteria and should be determined according to the following circumstances which must be evident from the alternative offer:

1. the situation of the accommodation in the place of destination;
2. the nature and class of the accommodation;
3. the other facilities offered by the accommodation.

The aforementioned assessment must be made, taking account of:

1. the composition of the group of travellers;
2. the special characteristics of the traveller(s) that are known to and have been confirmed in writing by the travel organiser;
3. the alternatives or additions to the programme requested by the traveller and confirmed and approved in writing by the travel organiser;
4. the personal circumstances that were made known and recorded in writing when the booking was made and which the traveller(s) indicated as being of essential importance.

### **Article 11, paragraph 4**

If the travel organiser's offer mentioned in paragraph 2 is rejected by the traveller or if no such offer is made, paragraph 6 will apply.

### **Article 11, paragraph 5**

The travel organiser is also permitted to change a non-substantial aspect of the contract on account of substantial circumstances that are promptly communicated to the traveller.

In this case the traveller is only entitled to reject the change if the disadvantage caused to him/her by the change can be deemed to be greater than negligible.

### **Article 11, paragraph 6**

- a. The traveller who exercises his/her right to reject the change or the alternative offer on the grounds of the previous paragraphs must make this known within 72 hours (3 working days) of receiving advice of the change. From 10 days before the departure (in the case of self-transport packages, before the first date of arrival at booked accommodation), this offer must be made within 24 hours (1 working day).
- b. In that case the travel organiser has the right to cancel the contract with immediate effect. It must exercise this right – subject to forfeiture – within 72 hours (3 working days) of the traveller receiving advice of the change. From 10 days before the departure (in the case of self-transport packages, before the first date of arrival at booked accommodation), the applicable term is 24 hours (1 working day).  
In that case the traveller is entitled to waiver or restitution of the travel sum (or, if part of the travel package has already been completed, to restitution of a proportionate part thereof)

within 2 weeks, without prejudice to any rights to compensation as intended in paragraph 7 of this article.

#### **Article 11, paragraph 7**

In the case of cancellation on the grounds of the previous paragraph, the travel organiser will compensate the traveller for any loss suffered by the latter, unless the cancellation is due to force majeure as referred to in article 12, paragraph 4, excluding overbooking.

#### **Article 11, paragraph 8**

- a. If, after the departure of the traveller(s), a significant part of the services agreed in the contract is not provided or if the travel organiser realises that it will be unable to provide a significant part of the services, the travel organiser will make appropriate alternative arrangements with a view to safeguarding the continuation of the trip.
- b. If such arrangements are impossible, or cannot be accepted by the traveller(s) for sound reasons, the travel organiser will provide the traveller(s) with equivalent transport that will take him/her/them back to the place of departure or other return destination agreed with the traveller(s).
- c. The loss that the traveller suffers as a result of this change is borne by the travel organiser if the failure to fulfil the contract can be attributed to the latter in accordance with the provisions of article 12.

#### **Article 11, paragraph 9**

Without prejudice to the provisions in article 15, paragraph 1, the travel organiser is obliged to inform the traveller of any changes made by it to the departure times.

In relation to the return journey, this obligation does not apply to travellers who have exclusively booked transport and/or whose accommodation address is not known.

## **ARTICLE 12 LIABILITY AND FORCE MAJEURE.**

#### **Article 12, paragraph 1**

Without prejudice to the provisions in articles 10, 11, 13, 14 and 15, the travel organiser is obliged to fulfil the contract in accordance with the expectations that the traveller was reasonably entitled to have on the basis of the contract.

#### **Article 12, paragraph 2**

If the travel package fails to meet the expectations referred to in paragraph 1, the traveller is obliged to advise those involved as soon as possible, as referred to in article 17 paragraphs 1 and 2.

#### **Article 12, paragraph 3**

If the travel package fails to meet the expectations mentioned in section 1, the travel organiser is obliged to compensate any loss or damage unless the failure to fulfil the contract cannot be attributed to it or the person assisting with the fulfilment of the contract, because:

- a. the failure to fulfil the contract can be attributed to the traveller; or
- b. the failure to fulfil the contract could not be foreseen or could not be remedied and is attributable to a third party who is not involved in the delivery of the services included in the travel package; or
- c. the failure to fulfil the contract is attributable to an event that the travel organiser or person assisting with the fulfilment of the contract could not, despite exercising all due care, foresee or rectify; or
- d. the failure to fulfil the contract is due to force majeure as mentioned in paragraph 4 of this article.

#### **Article 12, paragraph 4**

Force majeure refers to abnormal and unforeseeable circumstances that took place independently of the will of the person invoking such circumstances and the consequences of which could not be avoided despite all precautions.

### **ARTICLE 13 AID AND ASSISTANCE.**

#### **Article 13, paragraph 1**

- a. The travel organiser is obliged, depending on the circumstances, to afford the traveller aid and assistance if the trip does not live up to the expectations that the latter could reasonably have on the basis of the contract. The ensuing costs are borne by the travel organiser if the failure to fulfil the contract can be attributed to it in accordance with the third paragraph of article 12.
- b. If the cause is attributable to the traveller, the travel organiser is only obliged to afford aid and assistance insofar as this can be reasonably required. In this case, the costs are borne by the traveller.

#### **Article 13, paragraph 2**

If the trip fails to meet the expectations that the latter could reasonably have on the basis of the contract due to circumstances attributable to neither the traveller nor the travel organiser, each party will bear its own loss. For the travel organiser this will include the use of additional manpower; for the traveller this will include additional accommodation and repatriation costs.

### **ARTICLE 14 EXCLUSION AND LIMITATION OF TRAVEL ORGANISER'S LIABILITY**

#### **Article 14, paragraph 1**

- a. If any service included in the travel package is governed by a Treaty that acknowledges or permits exclusion or limitation of the service provider's liability, the service provider's liability is accordingly excluded or limited.
- b. Nor is the travel organiser liable if and insofar as the traveller has been able to claim his/her loss under an insurance policy, such as a travel and/or holiday cancellation insurance policy.

#### **Article 14, paragraph 2**

If the travel organiser is liable towards the traveller for loss of enjoyment, the compensation will not exceed the travel sum.

#### **Article 14, paragraph 3**

Without prejudice to the preceding provisions of this article, the travel organiser's liability for loss resulting from causes other than the death or injury of the traveller is limited to at most three times the travel sum, unless the travel organiser is guilty of wilful intent or gross negligence, in which cases the liability is unlimited.

#### **Article 14, paragraph 4**

The exclusions and/or limitations of the travel organiser's liability in this article also apply to the staff of the travel organiser, the booking office and the service providers involved, as well as their staff, unless this is excluded by a Treaty or Act.

### **ARTICLE 15 TRAVELLER'S OBLIGATIONS.**

#### **Article 15, paragraph 1**

- a. The traveller(s) is/are obliged to comply with all instructions of the travel organiser to promote the proper fulfilment of the travel package and is/are liable for loss caused by any improper

conduct on his/her/their part. The criterion for judging whether conduct is improper will be the conduct of a properly behaved traveller.

b. Every traveller must check the exact time of departure for the return journey with the holiday representative or the travel organiser's local representative no more than 24 hours before the indicated time of departure.

#### **Article 15, paragraph 2**

a. The traveller who causes or may cause so much nuisance or trouble that the proper fulfilment of a travel package is or may be greatly hindered can be excluded from (continuing) the trip by the travel organiser, if the latter cannot be reasonably required to fulfil the contract.

b. All ensuing costs are borne by the traveller if and insofar as the consequences of the nuisance or trouble can be attributed to him/her. If and insofar as the cause of the exclusion cannot be attributed to the traveller, the travel sum will be wholly or partly refunded to him/her.

#### **Article 15, paragraph 3**

The traveller is obliged wherever possible to avoid or limit any loss or damage, particularly by meeting his/her reporting obligation as described in greater detail in article 17 paragraphs 1 and 2.

#### **Article 15, paragraph 4**

The traveller loses all right of action one year after the termination of the travel package (or, if the travel package did not take place, one year after the original date of departure).

### **ARTICLE 16 INTEREST AND COLLECTION COSTS**

The traveller who fails to fulfil a financial obligation to the travel organiser on time is required to pay legal interest over the outstanding amount. In addition, he/she is required to refund any out-of-court settlement costs equal to 15% of the claimed sum, unless this amount, given the collection work involved and the payable amount, is unfair.

### **ARTICLE 17 COMPLAINTS**

#### **Article 17, paragraph 1**

- a. A shortcoming in the fulfilment of the contract as referred to in article 12, paragraph 2, must be reported as soon as possible to the relevant service provider so that the latter can arrive at a suitable solution. If the shortcoming is not resolved within a reasonable term and the quality of the trip suffers as a consequence, this must be reported without delay to the holiday representative.
- b. If the holiday representative is not available or cannot be reached, the traveller must immediately contact the travel organiser in the manner prescribed by the latter.
- c. The communication costs will be refunded by the travel organiser unless it turns out that there was no good reason to incur said costs.
- d. If it later turns out that the traveller failed to meet this reporting obligation and the travel organiser was consequently not given an opportunity to rectify the shortcoming, his/her right to compensation may be accordingly excluded or limited.

#### **Article 17, paragraph 2**

- a. If, after this, the shortcoming has still not been satisfactorily resolved and leads to a complaint, the traveller must report this as soon as possible in writing to the holiday representative (complaints report) or, if this is impossible, to the travel organiser in the manner prescribed by the latter.

- b. If it later turns out that the traveller failed to meet this reporting obligation and the travel organiser was consequently not given an opportunity to rectify the shortcoming, his/her right to compensation may be accordingly excluded or limited.
- c. If a complaint is not satisfactorily resolved, it must be submitted in writing with reasons to the booking office within one month after the termination of the travel package or received service (or after the original date of departure).
- d. If the complaint does not concern the fulfilment of the contract but the actual contracting procedure, it must be submitted to the booking office within one month of the traveller ascertaining the facts relating to the complaint.
- e. If the traveller fails to submit the complaint in time, the travel organiser will not take it into consideration unless the late submission cannot be reasonably attributed to negligence on the part of the traveller. The travel organiser will inform the traveller of this in writing or electronically.

#### **Article 17, paragraph 3**

- a. If a complaint is not resolved in a timely and satisfactory manner or if no satisfaction has been given in this respect, the traveller has the option, up to a maximum of three months after the termination of the trip (or after the original date of departure), to submit the dispute in writing to the Disputes Committee for the Travel Industry (“Geschillencommissie Reizen”), P.O. Box 90600, 2509 LP The Hague.
- b. The Disputes Committee reaches a decision under the terms and conditions laid down in the relevant regulations. The advice of the Disputes Committee is binding upon parties. The handling of a dispute is subject to a fee.

#### **Article 17, paragraph 4**

- a. All disputes between the travel organiser and the traveller are subject to Netherlands law.
- b. The traveller who does not wish to make use of the binding advisory procedure mentioned in the preceding paragraph has the right to take the matter to the competent court. This right lapses one year after the return from the trip (or, if the trip did not take place, one year after the original date of departure). These disputes are exclusively subject to the competence of a Dutch court.

#### **Article 17, paragraph 5**

- a. The ANVR will take over the obligations of a member towards the traveller, imposed upon it in a binding advice by the Disputes Committee for the Travel Industry, if the member fails to meet these obligations within the relevant term set in the binding advice, unless the member submits that binding advice to the court for a decision within two months of the date of said advice.
- b. This guarantee is only applicable if invoked by the traveller by means of a written request to the ANVR.

© **Copyright Netherlands Association of ANVR Tour Operators.**

De Meern, 17.11.03

#### **Additional condition OUT!:**

OUT! collects your personal details for commercial purposes, in accordance with the Dutch legislation. Therefor the OUT! database (Outfors) is registered with the Dutch ‘Registratiekamer’ under number P0020543. For your details and in case of objections: [www.outvak.nl](http://www.outvak.nl); button ‘For the guest’; ‘Personal details’.

OUT! Holiday Homes, ANVR-number 4102/SGR-number 2658