

**Disclaimer: Whilst every care has been taken in the preparation of this sample document, intended as a guide only. Members are advised to seek specific legal advice before taking any decision as a result of the content of this sample document. The ITAA accepts no responsibility for any errors or omission in same.**

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This model document has been prepared, having regard to the guidance which was issued to the ITAA by Revenue, dated 15<sup>th</sup> January, 2015 and contains such provisions which, *at a minimum*, would be expected to feature in the type of agency agreement, contemplated in Revenue's guidance note. It is intended to be adapted for an agent's own use as required.

Other provisions in relation to operational and/or commercial matters, which would be particular to the operation of each individual business, need to be inserted.

This matters would be items such as\*:-

- Remittance Terms
- Booking Procedures
- Product Information
- Amendments & Cancellations
- Staff Training
- Information Technology
- Suppliers Booking Conditions

(Note: \*this list not exhaustive)

## MODEL AGENCY AGREEMENT

THIS AGREEMENT is dated    day of   , 2015 between

[                      ] (“**the Travel Agent**”) Company Registration No. [                      ], having its principal place of business at [                      ]; and

[                      ] (“**the Supplier**”) Company Registration No. [                      ], having its principal place of business at [                      ].

Together “the Parties”.

The Parties hereby agree as follows:

The Travel Agent shall be entitled to sell the products and services (“Products”) of the Supplier to the Customer (“Customer”) as the Supplier’s agent.

This Agreement supersedes and replaces any other agreements or terms of trading currently or previously in place between the Parties.

### **1. LEGAL CAPACITY**

1.1 The Supplier accepts the legal status of principal and appoints the Travel Agent as their authorised non-exclusive agent.

1.2 The Supplier authorises, and warrants that it is duly empowered to so authorise, the Travel Agent to both sell directly to the Customer and appoint its own agents.

### **2. INDEMNITY**

2.1 The Supplier undertakes to indemnify and hold harmless the Travel Agent, any members of the Travel Agent’s group of companies, its and their shareholders, directors, employees, agents and representatives against any claims made against the Travel Agent, any members of the Travel Agent’s Group of companies, its and their shareholders, directors, employees, agents and representatives and/or any cost, expense, fines, penalties, loss or damage of whatever nature incurred by the Travel Agent, any members of the Travel Agent’s Group of companies, its and their shareholders, directors, employees, agents and representatives where such claims, costs, expense, fines, penalties, loss or damage are as a consequence of any matters arising from this Agreement, save to the extent that such claims arise as a result of the negligence of and/or breach of this Agreement by the Travel Agent, its servants or agents under its control.

2.2 If any Customer makes a claim or notifies an intention to make a claim against the Travel Agent which may reasonably be considered likely to give rise to a liability under this indemnity (a “Claim”), the Travel Agent shall as soon as reasonably practicable, give written notice of the Claim to the Supplier, specifying the nature of the Claim in reasonable detail and shall

- not make any admission of liability, agreement or compromise in relation to the Claim without the prior consent of the Supplier, which shall not be unreasonably withheld;
- give the Supplier and its professional advisers access at reasonable times, and on reasonable notice, to its officers and employees, to any relevant documents and records within its control,

so as to enable the Supplier and its professional advisers to examine them and to take copies, at the Supplier's expense, for the purpose of assessing the Claim; and

- subject to the Supplier granting security to the Travel Agent, acceptable to the Travel Agent, against any claim, liability, cost, expense, damages or losses which may be incurred, the Travel Agent shall take such action as the Supplier may reasonably request to avoid, dispute, compromise or defend the Claim.

2.3 The Supplier warrants that it holds full and adequate liability insurance for any single claim (copy attached ), with a reputable insurer, for all risks commonly insured by suppliers of hotel or holiday accommodation or other Product and for the risks that are the subject of this indemnity. The risks insured by the Supplier shall include, but not be limited to, all third party risks, including liability for damages for any personal injuries whatsoever, or death, suffered by Customers.

2.4 In respect of the supply of accommodation-only Products, the Supplier warrants that such accommodation is, and will at all times remain safe and operated to a proper standard so as to avoid as far as reasonably possible any, or any risk of, injury to health, and that such accommodation companies with and will continue at all times to comply with all applicable national and local laws, regulations, codes or other standards regarding health and safety.

### **3. PAYMENT**

The amount of any commissions and the amounts of the payments between each of the Parties will be as set out in the Schedule to this Agreement.

### **4. TERMINATION**

4.1 This Agreement shall continue to apply to all sales of the Products by the Travel Agent unless terminated in accordance with one of the following provisions for termination.

4.2 Without prejudice to any other rights or remedies that either party may have to terminate this Agreement and without prejudice to the obligations and rights of each party available at law, either party shall have the right:-

4.2.1 To serve a notice terminating this Agreement forthwith if the other:-

- (i) is unable to pay its debts generally as and when they become due; and/or
- (ii) is unable to pay its debts within the meaning of Section 570 of the Companies Act 2014 or any statutory modification or re-enactment thereof; and/or
- (iii) is the subject of legal process intended to or likely to result in a declaration that it is insolvent; and/or
- (iv) ceases or threatens to cease the carrying on of its business; and/or
- (v) enters into liquidation (whether compulsory or voluntary) or compounds or makes any voluntary arrangement with its creditors or a receiver over all or any part of its assets or takes or suffers any similar action in consequence of debt;
- (vi) undergoes a change of ownership or control.

- 4.2.2 To serve a notice terminating this Agreement forthwith in the event that the other breaches an obligation under this Agreement and has failed to remedy such breach within 14 days of receiving a notice identifying the breach and requesting that it be remedied
- 4.2.3 To serve a notice terminating this Agreement upon 30 days' prior notice should the other party implement a major business decision which seriously undermines the nature, purpose or spirit of this Agreement;
- 4.3 Without prejudice to any other rights or remedies that either party may have to terminate this Agreement, and without prejudice to the obligations and rights each party may have available at law, either party shall have the right to serve a notice terminating this Agreement on at least 90 day's written notice.
- 4.4 The termination of this Agreement is without prejudice to any obligation of either party expressed to continue after termination.

## **5. DATA PROTECTION**

5.1 Each party warrants to the other that it is properly and sufficiently registered under the provisions of the Data Protection Acts 1988 and 2003 (the "DPAs").

5.2 Each party warrants to the other that it will comply with all applicable requirements of the DPAs in performing its duties and obligations under this Agreement.

## **6. ENFORCEABILITY**

Should any part, term or provision of this Agreement be declared by any Court to be or be accepted by the parties as being in conflict with the law or unenforceable, the validity and enforceability of the remainder of this Agreement shall not be affected thereby. In such a case the offending part term or provision shall be deemed not to be part of this Agreement and any resulting necessary consequential amendments shall be deemed to be incorporated herein.

## **7. FORCE MAJEURE**

Either party's obligations under this Agreement may be suspended where circumstances of force majeure occur which prevent a party from proper performance of this Agreement. Events include but are not limited to war, act of God, terrorism and if they persist for 6 months or more the other may terminate this Agreement on one month's notice.

## **8. WAIVER**

The failure of either party in any one or more instances to insist on strict performance of one or more terms hereof or to exercise any right or remedy shall not be construed as a waiver of any future breach of any terms or the right to enforce the same.

## **9. VARIATION**

This Agreement may only be varied by agreement in writing and signed by at least one Director of each party.

## **10. SERVICE OF NOTICE**

Any notice, claim or demand required to be given or made under or in connection with this Agreement may be given or made by sending the same by prepaid first class post, facsimile, electronic mail or by delivering the same by hand at the relevant address shown above or such other

address as shall have been notified (in accordance with this clause) by the party concerned to the other party. Any notice so sent by post shall be deemed to have been served 3 business days after posting (or 5 business days in the case of international mail, which must be sent by airmail) and, in proving such service, it shall be sufficient to prove that the notice was properly addressed, stamped and put into the post. Any notice sent by facsimile, or electronic mail shall be deemed to have been served on the date next following the date of successful transmission thereof which is a business day.

## **11. GOVERNING LAW**

This contract and all relationships created hereby will in all respects be governed by and construed in accordance with Irish law.

## **12. JURISDICTION**

It is irrevocably agreed that the Irish courts are to have jurisdiction to settle any disputes which may arise out of or in connection with this contract or its performance and accordingly that any suit, action or proceedings so arising may be brought in such courts. This clause is for the exclusive benefit of the Travel Agent and nothing in this clause will limit that party's right to take any suit, action or proceedings ("Proceedings") against any other party or parties in any other court of competent jurisdiction, nor will the taking of Proceedings in one or more jurisdictions preclude the taking of Proceedings in any other jurisdiction, whether concurrently or not.

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SIGNED FOR AND ON BEHALF OF  
[INSERT NAME OF THE TRAVEL AGENT]

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SIGNED FOR AND ON BEHALF OF  
[INSERT NAME OF THE SUPPLIER]

**[SCHEDULES]**