

NON-CREDIT

## **CARNIVAL CRUISE LINES RETAIL TRADING TERMS**

### **SALES PERIOD: 01 December 2010 – 31 December 2011 inclusive for departures January – December 2011**

The following terms and conditions apply to all bookings made by travel agencies appointed as non-exclusive agents for the sale of our Holidays (as defined below) in the United Kingdom, Republic of Ireland, Isle of Man and the Channel Islands (hereinafter referred to as “you” or “your”), in addition to any commercial terms agreed individually with you. Please read these terms carefully as you will be bound by them whenever you make a booking. Note that if you have entered into a separate written contract with us for the above sales period, such contract will prevail over these terms.

#### **1. Parties and Definitions**

**1.1.** Your contract is with SeaVacations UK Limited, company number 3633566 with its registered office address at Carnival House, 5 Gainsford Street, London, SE1 2NE trading as Carnival Cruise Lines (“we”, “us”, “our”).

**1.2.** In this Agreement unless otherwise stated:

“**Agency Website**” means any and all websites under your direct or indirect control that are used for marketing and/or displaying travel services;

“**ATOL**” means the Air Travel Organiser’s Licence of the CAA;

“**ATOL Regulations**” means The Civil Aviation (ATOL) Regulations 1995 and The Civil Aviation (Air Travel Organiser’s Licensing) (Amendment) Regulations 2003;

“**Base Commission**” means the base rate of commission that we agree to pay you in respect of Qualifying Bookings;

“**Bookings**” means a confirmed reservation for a Holiday;

“**Booking Conditions**” means the booking conditions contained in the Brochure;

“**Booking Payment**” has the meaning given in clause 6.5;

“**Brochure**” means the brochure entitled Carnival Cruise Holidays 2011-2012;

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

“**CCL**” means Carnival Cruise Lines, Limited of 3655 N.W. 87<sup>th</sup> Avenue, Miami, Florida 33178-2428, the operator of the cruise ships used to provide the Holidays;

“**CCL Content**” means CCL’s Property or content contained on CCL’s Website or material otherwise provided by CCL expressly for the purpose of download or copying to the Agency’s Website;

“**CCL’s Property**” means the names (including ship names) logos, trade marks domain names, distinctive signs, know-how, information, copyright, designs, any identifying material, in each case whether registered or unregistered and including applications for registration and any other proprietary right thereto, owned by or available to CCL now or at any time hereafter and used in connection with this Agreement, including, without limitation, the names, marks and designs set out in Schedule C;

“**CCL’s Website**” means [www.carnivalcruise.co.uk](http://www.carnivalcruise.co.uk)

“**Commercial Terms**” means the commercial terms in Schedule A, together with any other commercial terms agreed between the parties including, without limitation, Base Commission and Qualifying Bookings;

“**Departure Date**” means the first day on which we are to provide travel or accommodation under the Holiday Contract as stated in the Brochure or as otherwise specified;

“**Deposit**” means the part of the full price of the Holiday (plus payment of the airline portion of the Holiday where necessary) as specified by us from time to time which must be collected by you and is payable to us when a Holiday is booked by you;

“**Full Price**” means the price of the Holiday, including the Deposit, VAT (where applicable) and any supplemental charges, such as insurance or amendment charges;

“**Holiday**” means one or more cruise holidays (whether it is a package holiday or otherwise) as advertised and described in the Brochure;

“**Holiday Contract**” means a contract for a Holiday between us and the customer;

“**Late Booking**” means a booking made less than 75, 90 or 120 days before the departure date, dependent upon the length of sailing, as indicated in our Brochure or other promotional material or as advised by our sales representatives from time to time;

“**NCA**” means non-commissionable amount;

“**Net Price**” means the base cruise holiday fare as detailed in the Brochure (including the Deposit), less any fare reduction applied by us for whatever reason (including, but not limited to, promotional discounts and goodwill/compensation offers), plus the price of any hotel or land tour packages forming part of the Holiday, but excluding (without limitation):

- a. any flight upgrade supplements;
- b. air deviation fees;
- c. domestic flights;
- d. pre-paid shore excursions;
- e. any hotel stays or land tours not part of the package;
- f. gift orders and ‘Collection Packages’;
- g. gratuities (sometimes prepaid);
- h. administration fees;
- i. future cruise credits
- j. travel to and from U.K. departure/arrival point;
- k. car parking fees;
- m. VAT;
- n discount and cruise vouchers;
- o. fuel supplement charges;
- p. surcharges;
- n. Taxes; and
- o. NCAs.

“**Organiser**” has the meaning given in the Package Travel Regulations;

“**Package**” has the meaning given in the Package Travel Regulations;

“**Package Travel Regulations**” means The Package Travel, Package Holiday and Package Tours Regulations 1992;

“**Qualifying Bookings**” all those bookings made by you for Holidays departing during the Sales Period excluding (a) any full or partial ship charters, (b) any bookings placed by you through a wholesaler or tour operator, (c) travel agent concessions/company guest places, and (d) cruise-only bookings based upon net/net rates or wholesale rates;

“**Retailer**” has the meaning given in the Package Travel Regulations;

**“Sales Period”** means the period from 1 January 2011 to 31 December 2011 inclusive;

**“Taxes”** means certain taxes, fees and charges imposed by governmental or quasi-governmental authorities, including port authorities, relating to any aspect of the holiday; and

**“Territory”** means the United Kingdom, Republic of Ireland, Isle of Man and the Channel Islands.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.

1.3 A reference to a clause or a schedule is a reference to a clause of, or schedule to, this Agreement. A reference to a paragraph is to a paragraph of the relevant schedule.

1.4 Words in the singular shall (where appropriate) include the plural and vice versa.

1.5 The Schedules to this Agreement form part of this Agreement and shall have effect as if set out in full in the body of this Agreement.

## **2. Appointment**

2.1. We appoint you as our non-exclusive agent to sell Holidays in the Territory subject to the following terms and conditions and those contained in the Commercial Terms.

2.2. This appointment is with effect from the date upon which you start making Qualifying Bookings and shall continue until all Holidays sold under this Agreement are completed unless terminated earlier under clause 14.

2.3. Nothing in this Agreement shall prevent you from acting as agent for any other supplier or from selling your own travel or travel-related services and products.

2.4. This Agreement applies only to Holidays sold by you as Retailer. You must notify us of any Holidays that you wish to sell as part of a Package of which you are the Organiser. Any Holidays intended to be sold by you in this way must be the subject of a separate Agreement with us.

### 3. **Obligations of the parties**

- 3.1. You may make Bookings on our behalf as our agent without reference to us as long as all Holiday Contracts are made subject to our Booking Conditions and otherwise in accordance with the procedures and requirements set out in this Agreement.
- 3.2. When making Holidays Contracts on our behalf you will act dutifully and in good faith, using due care and diligence and applying sound commercial principles.
- 3.3. You will not on our behalf:
  - 3.3.1. promise to give credit to anyone;
  - 3.3.2. enter into any contracts other than contracts for the sale of our Holidays and other services which we may offer to customers; or
  - 3.3.3. incur any other liabilities.
- 3.4. You will carry out any reasonable instructions we give you for handling bookings and dealing with customers from time to time and as soon as practicable after taking a booking you will provide us with the name, address and telephone number of the customer, for emergency contact purposes.
- 3.5. You will use your best endeavours to collect any money owing to us from customers.
- 3.6. You will not do anything that may damage our reputation, the reputation of our holidays, or the goodwill in any or all of our brand names.
- 3.7. In all dealings with third parties on our behalf you will describe yourself as our "approved agent". You may not use our brand names or images otherwise than as authorised under this Agreement.
- 3.8. You will employ enough qualified and trained staff to fulfil your obligations under this Agreement.
- 3.9. You will have and maintain suitable retail outlet premises, administration equipment, storage space and display space to enable you to fulfil your obligations under this Agreement.
- 3.10. You will comply with all applicable laws, regulations, including the Package Travel Regulations, the ATOL Regulations and codes of conduct or practice in force from

time to time as they relate to retailers (including but not limited to those relating to the advertising and/or sale of goods and/or services to consumers).

- 3.11. You will keep full, proper and up to date books of accounts and records showing clearly all enquiries, transactions and proceedings relating to the sale of our holidays and will, upon reasonable notice and at a reasonable time, supply such copies of such accounts and records to us which are reasonably necessary for us to address any issue arising in connection with your acting as agent for us, or allow our authorised representatives access to such books of account and to take copies if required. You will keep such records for a period of not less than 24 months from the date of the balance being due or from the date any disputed items are settled, whichever period is longer.
- 3.12. You must not knowingly sell any Holidays on to third parties who intend to re-sell the Holiday without our prior written consent. You must not transfer any Bookings to a third party, unless you have obtained our prior written agreement.
- 3.13. You must not sell the Holiday as part of Package that you are organising as Organiser without our prior written consent.
- 3.14. You must advise customers to complete CCL'S online immigration form before departure.
- 3.15. You must advise customers that shore excursions are not included in the price of the Holiday and that these must be booked separately by the customer either on the CCL Website once the FUNPASS registration has been completed, or on board the ship.

#### **4. Promotion, advertising and content**

- 4.1. You will actively promote and sell our Holidays and promote our brand names in the Territory by carrying out directions and instructions we may give you from time to time, as well as in accordance with any business development plan that we agree under the Commercial Terms.
- 4.2. We will at our expense supply to you with such number of Brochures as you shall from time to time reasonably request. You may not copy, amend, adapt or use promotional material for any purpose without our prior written consent.
- 4.3. We will inform you as soon as possible of any material changes to our Brochures or other promotional material and will provide you with new editions of Brochures if applicable.

- 4.4. You will display at least one of each of our current brochures in a predetermined number of your outlet premises and comply with any detailed brochure racking requirements set out in Schedule A. If your outlet premises are too small to accommodate brochure displays, we may agree instead that you display our promotional leaflets.
- 4.5. The display of any other promotional material we may occasionally send you will be at your discretion.
- 4.6 We will only agree to meet the cost of marketing activity if you have our written consent in advance of incurring the expenses. Further details of any marketing activity and spend is set out in the Commercial Terms.
- 4.7 From time to time we may agree with you that you will promote the Holidays to contacts that are included on a database or mailing list belonging to and/or controlled by you. If we do this you will indemnify us in respect of any liability we incur as a result of the breach by you of the warranty given in clause 16.
- 4.8 You must not promote Holidays in countries or territories other than the Territory, whether by website, newspapers, magazines, other media, direct or email mailings or any other forms of promotion.
- 4.9 All use of CCL's Property must be for the specific purpose of marketing and selling the Holidays in accordance with this Agreement, unless you have received express prior written approval from us for a different purpose.
- 4.10 All promotions of Holidays by you must be done in compliance with all applicable laws and regulations and shall include information identifying your company (including name, address and telephone number). We reserve the right to require you to cease any promotional activity involving the Holidays which we, in our sole discretion, determine may impair or damage our or CCL's reputation.
- 4.11 Approved advertisements of Holidays must include the current CCL logo which is available for download on the CCL Website.
- 4.12 Trade mark symbols either "TM" or ® must appear with the ship name, brand name or other CCL logo at the first mention in the copy and in the first most prominent position in the advertisement. You agree to check the CCL Website for the current list of CCL's Property on a regular basis, as content is updated periodically.
- 4.13 Where ships are mentioned in an advertisement, the particular ship's registry must also be indicated. If a specific ship is not mentioned in an advertisement, then registries encompassing all CCL ships must be indicated.



- 4.14 CCL's Property may not be used in any competitions or prize draws without our prior written consent.

**5. Trademarks and other intellectual property**

- 5.1 You may only use that part of CCL's Property that we have approved for your use during the term of this Agreement and for the sole purpose of promoting and selling the Holidays in the Territory. This permission is subject to clause 5.5 and provided that we may revoke this right at any time at our absolute discretion.
- 5.2 All right, title and interest in and to CCL's Property and the associated goodwill, including any that may attach in the future as a result of your use of CCL's Property, is and will continue to be owned by CCL and/or one of its or affiliates. You recognise that ownership and agree never to contest it or the validity of the trade mark applications or registrations filed or obtained by CCL or its affiliates. You must not act in any way which might, in our or CCL's sole discretion, impair, infringe or dilute any part of CCL's right and title in CCL's Property or its right to use CCL's Property. Any consent given by us or CCL may be withdrawn in our sole discretion at any time.
- 5.3 You agree that you will make only proper usage of CCL's Property and will include the appropriate indication "TM" or ® at all appropriate times.
- 5.4 All representations of CCL Property that you intend to use shall be submitted to us for approval, in our sole discretion, before use.
- 5.5 You are not authorised to use any of CCL's Property or any mark resembling any of CCL's Property as part of your corporate, business or trade names, nor in advertising, marketing, promotions or public relations, nor to give the appearance of identifying its own businesses and programs, nor elsewhere without first obtaining our prior written approval, unless such advertisement or other material is provided by us to you for an express purpose, and in that case CCL's Property shall only be used in the exact form we provide.
- 5.6 You must not represent or give the impression that you have any ownership rights in CCL's Property, including by virtue of domain name registration, or that you are affiliated or sponsored by us or CCL (other than as may be expressly set forth in this Agreement), and you acknowledge by any use thereof that such use shall not create in your favour any right title or interest in or to CCL's Property, including any goodwill deriving from CCL's Property, nor prevent CCL from using and/or registering CCL's Property for goods and services in which CCL has any current or

potential interest. All use of CCL's Property by you shall inure to the sole benefit of CCL.

- 5.7 You are not permitted to register CCL's Property, nor any names, tag lines, slogans, trademarks, logos, designs, domain names, imagery or other copyrighted material substantially similar to CCL's Property. You hereby waive any rights that you may acquire by virtue of your use of CCL's Property and in any trade marks, names, slogans, domain names and imagery confusingly similar thereto.
- 5.8 You agree that you are not permitted to list in any telephone or other directory under the heading "Carnival" or "Carnival Cruise Lines" or anything substantially similar thereto without first obtaining our prior written approval.
- 5.9 You may not use CCL's Property in any manner that would appear to identify programs developed by you, particularly discount programs and "specials" that we have not expressly authorised, offered, promoted or endorsed.
- 5.10 You may not use CCL's Property directly adjacent to or in combination with any word not expressly authorised by CCL, particularly your corporate and business names.
- 5.11 You may not under any circumstances offer or distribute to any other travel agency, CCL's products, inventory, pricing or any of CCL's Property via the internet or other distribution system (including any GDS system) without our prior written consent. This restriction includes, without limitation, any link or connectivity established by a third party with or through any of your web sites or GDS system which provides any other travel agency access to CCL products, pricing or inventory. If you breach this clause 5.11, without limitation to any other remedies that we shall have under this Agreement or otherwise, we shall have a right to immediately terminate this Agreement at our absolute discretion and to require you to return to us any commissions paid by us to you in respect of such unauthorised bookings. In addition, we may set-off any commission due to you in respect of Qualifying Bookings against any payments of commissions paid for such unauthorised bookings.
- 5.12 You will comply fully with the requirements regarding internet content, domain names and paid search and search optimisation set out in Schedule B.
- 5.13 Upon the earlier of (a) our request and (b) termination of this Agreement, and at all times thereafter, you will immediately stop using CCL's Property or any confusingly similar trade mark or trade name in every way, and will, as requested by us, either deliver to us all material provided to you on which CCL's Property appears or

destroy such material and certify in writing to us that you have returned or destroyed such materials and have not kept any copies of such materials.

5.14 CCL shall have the right to enforce the provisions of the entirety of this clause 5.

## 6. Booking procedure

7. When advising customers on their choice of Holiday you will only describe the Holidays in accordance with, and make the representations about the Holidays that are contained in, our Brochure or other written material produced by us.

6.2 You will pass to us any request for information about the Holidays that you cannot answer. We will do our best to answer questions relating to our Holidays and you will accurately relay our answers to the customer.

6.3 Before taking a booking from a customer you will:

6.3.1. provide the customer with all information they request about the Holiday they want to book (which as a minimum must include the relevant brochure issued by us);

6.3.2 advise the customer of any other information about the Holiday which may affect its suitability for them;

6.3.3 ensure that all customers comply with the age requirements of CCL;

6.3.4. tell the customer about any amendments to the Brochure or other information which we have informed you about;

6.3.5 tell the customer that the Holiday is governed by our Booking Conditions contained in our Brochure, a copy of which must be produced to the customer (or, if the booking is taken by telephone, the customer's attention must be drawn to the Booking Conditions in the Brochure) and explain all material terms including the following as they are specifically set out in the Brochure:

(a) payment terms (including the need to take the correct deposit at the time of booking and for the customer to pay the balance before the due date or in the case of a Late Booking to make full payment at the time of booking);

(b) our financial protection measures including repatriation in the event of our insolvency;

- (c) the passport, visa and health requirements of the Holiday;
- (d) the requirement for the customer to obtain suitable travel insurance;  
and;
- (e) our amendment and cancellation terms.

6.4 To take a booking from a customer you will:

- 6.4.1 obtain from the customer the personal information about them and their travelling companions that we notify you as being required by us to effect the booking, including, for flights included in the package, any Advanced Passenger Information required by the relevant airline;
- 6.4.2 tell the customer that by authorising you to make a booking by phone or on screen they are accepting the Booking Conditions;
- 6.4.3 ensure that a completed booking form (where applicable) is signed by the customer;
- 6.4.4 ensure that the customer takes out a insurance policy which complies with our requirements for cover and obtain evidence of this cover having been taken out before the holiday commences;
- 6.4.5 make the customer aware that a holiday contract between that customer and us is only formed upon payment of the Booking Payment (as set out in clause 6.5, below) by the customer as specified in our Booking Conditions;  
and
- 6.4.6 collect the Booking Payment from the customer immediately.

6.5 The Booking Payment is:

- 6.5.1. the Full Price of the Holiday, if the Booking is a Late Booking or if the Booking carries a specific rate code where the Full Price is required; or
- 6.5.2 the Deposit, if the Booking is made at any other time,

and, in the case of certain flight bookings made with us as part of the Holiday, the full airfare (as advised by us at the time of booking).

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- 6.7 Subject to clause 6.8, a Booking will not be deemed to have been made unless the Booking Payment is collected at the time of booking. You will not be entitled to earn commission under clause 9 until the time of payment of the balance of the Full Price by you.
- 6.8 As an exception to clause 6.5.2, you may collect from the customer a Booking Payment of less than the Deposit only if you have our prior written permission to do this, in which case you are liable to pay to us the balance of the Deposit even if you cannot collect it from the customer.
- 6.9 You will use your best endeavours to collect the Full Price from the customer by the balance due date stated in the Brochure issued by us.
- 6.10 When you make a booking on behalf of a customer for a Holiday which is subject to ATOL regulations you will:
- 6.10.1 immediately give the customer an ATOL receipt (as prescribed by the CAA) for the payment received; and
- 6.10.2 via the agreed booking system, let us have the information necessary for us to send you an ATOL confirmation invoice.
- 6.11 When a booking has been made, we will send you two confirmation invoices (one for you and one for the customer) which you must immediately check for accuracy. You will promptly send the customer confirmation invoice to the customer. Our confirmation invoices comply with all relevant legislation, the ATOL Regulations and CAA guidelines. For the avoidance of doubt, payment of the balance of the Full Price must be paid to us in accordance with the terms of clause 8 and the confirmation invoices merely confirm the details of the Booking.
- 6.12 We will usually send you the travel documents at least 14 (fourteen) days before the departure date so long as we have received the balance payment from you (except travel documents for Late Bookings which we may allow the customer to collect at the place of departure). However you may only send the travel documents (and any coupons or vouchers) to the customer if you have collected from them the Full Price of the holiday. You will reimburse us for the cost of sending tickets to customers by courier or other means of special delivery. E tickets are only made available to customers once the Full Price has been paid to us.
- 6.13 If you do not receive from a customer the balance of the Full Price owing by the close of business on the date due for payment stated in the Brochure, you must, no later than the close of the business on the next day (excluding Sundays) telephone us and send to us an email giving details of the Booking and confirming that payment has

not been received by you, so that we may send you a cancellation invoice which you will promptly send to the customer.

## **8. Amendments, cancellations and complaints**

7.1 If a customer wishes to amend or cancel their Booking you will:

7.1.1 advise the customer of any applicable charges under our Booking Conditions;

7.1.2 promptly inform us, giving full details;

7.1.3 in the case of an amendment, promptly use your best endeavours to negotiate an amendment acceptable to us and the customer;

7.1.4 as appropriate, collect any applicable charges, retain the Deposit and/or collect the balance of any payment due to us for the Holiday.

7.2 A cancellation will only be valid from the date it is received by us and cancellation charges will be calculated from the date of our receipt. It may therefore be necessary to fax or email the cancellation and to confirm our receipt.

7.3 When a cancellation occurs, the cancellation fees for that cancellation (whether the deposit amount or a larger percentage of the price of the Holiday) shall be immediately due from you to us on behalf of the customer.

7.4 We will send revised confirmation invoices to you, but you will normally be expected to pay any refund, whether received from us or held by you, direct to the customer.

7.5 You will inform us promptly in writing, giving full details, if a customer makes any complaint or claim in respect of our Holidays with which you cannot deal.

7.6 We agree to deal promptly and fairly with any customer complaints and we agree to indemnify you against all liabilities relating to customer complaints and claims, except to the extent that they are attributable to your negligent or fraudulent acts or omissions.

## **9. Payment**

9.1. All payments to us must be made in accordance with the Booking Conditions and by one of the methods set out in Schedule A.

- 9.2. Any and all monies collected by you for a Holiday (as defined) or ancillary services sold under this Agreement (including, without limitation, payments for insurance, cancellation or amendment charges and shore excursions), will be owned absolutely and beneficially by you but, as soon as a contract is made between us and the customer, a sum equal to such monies will be a debt due from you to us, and such debt will be paid in accordance with the terms of this clause 8.
- 9.3. If no contract is made between us and the customer pursuant to clause 6, you will promptly return to the customer any money you hold in respect of the prospective contract.
- 9.4. If a contract is made, you will pay us the booking payment you receive from the customer and the balance of the full price received by you from the customer (less any permitted deduction under clause 8.5), as soon as you have received such payments from the customer, and in any event to be received by us no later than the payment dates specified in Schedule A.
- 9.5. In respect of a particular Holiday, you may deduct the Base Commission and VAT on that Base Commission (where applicable) that we owe to you from the balance of the Full Price (but not Deposit) collected from the customer and due to be paid to us.
- 9.6. Other than the deduction permitted under clause 8.5, you may not make any deduction from the sums you receive from the customer, whether because commission is owed to you by us in respect of another holiday or for any other reason.
- 9.7. If you fail to collect a payment due to us by the date due for payment by the customer, we:
- 9.8. may treat that payment as a debt due to us from you; and
- 9.9. we reserve the right to contact the customer direct to establish why the sums are outstanding.
- 9.10.** We will discharge you from your liability under clause 8.7.1 and will not take the action set out in clause 8.9 if you comply with clause 6.13 in full.
- 9.11. If you fail to pay us any sum by the date you are due to pay it to us under clause 8.4 we may, without limitation:
- 9.12. require a same day payment from you by CHAPS into our bank account;

- 9.13. forthwith and in our absolute discretion either suspend trading with you or terminate this Agreement;
- 9.14. in circumstances where we have suspended trading with you or terminated this Agreement contact the customer direct for the purpose of establishing whether they have paid you the sums outstanding and whether they have been offered any discount or rebate by you on the Full Price;
- 9.15. cancel any Booking made by a customer who has not paid you by the due date; and
- 9.16. in circumstances where we have suspended trading with you or terminated this Agreement require you forthwith to provide us with details of all holiday contract effected by you as our agent (in written and/or electronic form, as we may require) including without limitation passenger names, contact details, booking reference numbers, departure dates, discounts or rebates offered by you on the Full Price, amounts paid by the customer and the dates of any demands for payment made by you.
- 9.17. If you have bona fide reasons to dispute that you owe any part of the amount we say you owe to us, you must give us full details of the amount you dispute with your reasons for disputing it is owed at least 14 days before the date that payment would otherwise have been due. You agree to pay the undisputed amount by the date it is due. Where we agree the item and amount disputed, we will amend our records as soon as reasonably practicable. Where we do not agree the item or amount disputed both parties shall use their reasonable endeavours to promptly settle the matter by negotiations in good faith.
- 9.18. You shall not pledge, cede, promise or otherwise transfer to a third party any claims to monies due to you or us, but not yet cancelled, for a holiday or ancillary services under this Agreement, including applicable commission which you are entitled to claim under this Agreement.
- 9.19. In the event of your insolvency (as defined under clause 14.5), then all monies due to us or held on our behalf in connection with this Agreement shall become immediately due and payable.



## 10. Commission

11. You are, subject to the provisions of this Agreement, entitled to earn Base Commission on the Net Price of Qualifying Bookings made in accordance with clause 5 and subject to any special conditions that we may agree.
12. For the avoidance of doubt, Base Commission is not payable on any 'Ancillary Items' which include, but are not limited to, flight supplements or upgrades, UK domestic flight add-ons, hotel stays and add-ons, insurance (where relevant), fuel supplements and surcharges, flight deviation fees, land tours, and any other items excluded from the definition of Net Price in clause 1.1.
13. If a Booking is cancelled (other than for any reason attributable to your acts or omissions, including a breach of this Agreement), you will not be entitled to the Base Commission on the Full Price of the Holiday, but only to 10% commission on the amount actually received by us from the customer including any cancellation fees paid, (base commission *is* paid where the cancellation penalty is 100% of the holiday fare) and we may reclaim from you any commission already paid to you before the customer cancelled that is greater than the amount due to you in respect of the cancellation under this clause.
14. We may, by informing you in writing, make occasional temporary changes in the level of base commission for the purpose of late tactical promotion offers or strategic offers.
15. If this Agreement is suspended or terminated for any reason you will only be entitled to commission provided that payment in respect of all Holidays sold by you as our agent has been collected and paid to us in full by you. Upon request by us, at the date of suspension or termination you will promptly pay us the full amount of monies which you are holding but are due to us without deducting or retaining any commission thereon.
16. We may recover from you as a debt (or set off against any sum owed to you) any commission that we have paid to you but to which you are not entitled.

## 17. Indemnities

18. The Holiday Contracts are made between us and the customer and the provision of the Holidays is our responsibility. We will indemnify you and hold you harmless against any claim made against you in relation to a Holiday, provided that you have acted properly and diligently within your authority as our agent and in accordance with this Agreement and that you:

19. notify us promptly of any claim;
  20. do not make any admission of liability, agreement or compromise in relation to the claim without our prior written consent; and
  21. do not take any action in relation to the handling of the claim without our prior consent.
22. You will indemnify us and hold us harmless against any and all liabilities, losses, damages, claims or expenses that we may suffer as a result of your acts or omissions, whether negligent or otherwise, or which are in breach of this Agreement or outside its scope.

### **23. Insurance**

You agree to maintain comprehensive general and professional liability insurance in amounts consistent with industry standards for the size and operations of your agency business.

### **24. Confidentiality**

25. This Agreement is confidential and we both agree not to divulge its contents to any person who is not a party to it.
26. Both parties agree not to divulge to any other person any confidential information (which, without limitation, will include financial details, customer details and any information disclosed (whether before or after the date of this Agreement, in writing, orally or otherwise and whether directly or indirectly) by or on behalf of the disclosing party to the receiving party in connection with the selling of Holidays by you as our agent) belonging to the other without the other party's prior written consent (except in respect of either party's professional advisers who are bound by equivalent duties on confidentiality).

### **27. Waiver and variation**

28. Any waiver or variation of the terms of this Agreement is binding only if:

29. made or recorded in writing;
30. signed on behalf of both parties; and
31. expressly stating an intention to vary the terms of this Agreement.

32. You may not assign, transfer or subcontract the benefits or obligations under this Agreement to any other person without our prior written agreement. We may not assign or transfer our rights and obligations under this Agreement.

**33. Termination**

34. This Agreement will apply to all Qualifying Bookings and will terminate automatically upon completion of the all the Holidays sold under this Agreement, unless and until terminated earlier according to the provisions of this clause 14.

35. Either party may terminate this Agreement at any time:

36. immediately by written notice to the other party if the other party ceases trading or becomes insolvent (as defined below); or

37. by giving sixty (60) days' written notice to the other party.

38. In addition to our rights under clause 14.2, we may suspend or terminate this Agreement immediately by written notice if:

39. you fail to pay any amounts due by the due date;

40. you breach this Agreement and fail to put right that breach within 30 (thirty) working days of being asked to do so;

41. we may reasonably consider that you have by your act or omission damaged our goodwill or any CCL's Property or have acted in any way inconsistent with the agent-principal relationship; or

42. you undergo a significant change in ownership or management.

43. If this Agreement is terminated (for whatever reason), your right to act as our agent ends, but (subject to the provisions in this Agreement relating to payment of commission) any rights or obligations of either party in respect of Holiday contracts made before the termination date will continue to exist. Without limitation, if you have dealt on our behalf with any customers with whom holiday contracts have not been made before the termination date, we may require you promptly to:

44. notify us in writing giving full details of such customers;

45. send us a copy of the relevant booking files; and/or

46. send us any money you are holding for those customers.

47. A party is insolvent if:

48. it is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or any statutory modification or re-enactment thereof; and/or
49. it (or any item of its property) becomes the subject of
50. a formal insolvency procedure (such as receivership, liquidation, administration, voluntary arrangement or bankruptcy);
51. an application or proposal for a formal insolvency procedure; or
52. an application, proposal or procedure overseas with similar effect or purpose.

53. On termination of this Agreement (howsoever arising) clauses 10, 12 and 15 shall survive and continue in full force and effect.

**54. General**

55. The law that applies to this Agreement is English law and the English courts have exclusive jurisdiction.

56. This Agreement sets out the entire agreement and understanding between the parties and supersedes any previous agreement between the parties relating to the subject matter of this Agreement. Nothing in this clause will limit or exclude any liability for fraud.

57. If any term of this Agreement is unenforceable as drafted:

58. it will not affect the enforceability of any other term; and
59. if it would be enforceable if amended, it will be treated as so amended.

60. Any notice under this Agreement must be served by leaving it at or delivering it to (by first class post or fax) the registered office address set out in of either party, or such other address as shall be specified in writing by a party to the other party for the receipt of notices under this Agreement from time to time.

61. A person who is not a party to this Agreement shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 except where such rights are expressly granted by clause 5.14.

62. If any issue between the parties arising out of or in connection with this Agreement cannot be resolved amicably through ordinary negotiations in good faith by appropriate representatives of the parties, the matter will be referred in writing by either party to our Head of Sales & Marketing and your Managing Director or their equivalent. Such representatives of the parties will meet in order to attempt to resolve the matter by negotiation within 14 days of a written notice from the other party to them giving details of the dispute.

63. The commercial arrangements between us under this Agreement do not make you our partner, nor do they create a joint venture between us.

64. You may not assign any of your rights or obligations in relation to this Agreement (including, for the avoidance of doubt, any bookings you have made on our behalf) without our prior written consent.

65. You will promptly notify us if there is a significant change in ownership or management of your business.

**66. Data protection**

67. You will comply at all times with all applicable requirements of the Data Protection Act 1998 and all regulations, orders and rules under that Act, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable codes of practice and/or guidance issued by or with the approval of the Information Commissioner or any trade association or body of which you are a member.

68. Before making a Booking, you will draw the customer's attention to the provisions about the use of their personal data in the Booking Conditions.

**SCHEDULE A**  
**COMMERCIAL TERMS**

1) ADDITIONAL PAYMENT TERMS FOR NON-CREDIT AGENTS

The amount of the deposit payable in respect of a holiday will be as specified in the latest Carnival Cruise Lines brochure, or in the case of Cruise Only bookings, on Amadeus Cruise, bookccl.com or on the CCL Website, or as otherwise specified by our sales representatives.

Payments collected from customers pursuant to clause 5 of the Agreement must be paid so as to be received by us in CLEARED FUNDS no later than 75 days before departure.

Payments must be made only in British pounds sterling by BACS or CHAPS transfer, or by credit card (in which case the credit card charges stated below apply).

Clause 8 of the Agreement applies to any failure to make payments to us on the due date.

Tickets will not be released until payment has been made and cleared.

2) CANCELLATION CHARGES

The following cancellation charges apply to customer cancellations as set out in the Brochure. These charges include the cost of flight cancellations, however in circumstances where the airline requires early ticketing and no refunds are available, the Company reserves the right to pass the full cost of the flight onto the Customer:

**European Cruises:**

|   |         |
|---|---------|
| From date of booking until 58 days before departure | Deposit |
| 57 to 15 days before departure                      | 50%     |
| Less than 15 days before departure                  | 100%    |

**All other cruises:**

|   |         |
|---|---------|
| From date of booking until 48 days before departure | Deposit |
| 47 to 8 days before departure                       | 50%     |
| Less than 7 days before departure                   | 100%    |

For fly cruises, the departure date is the date of the flight departure.

### 3) MARKETING SUPPORT FUND AND MARKETING MATERIALS

Subject to the development of a mutually agreed business development plan (“the Plan”), we will consider making a contribution to the total promotional funds expended by you on a 50:50 basis in support of the implementation of the plan.

The Plan must be agreed and approved by our appointed Business Development Manager in advance. We will make payment against invoices for activity that has not been approved/ agreed in advance. Copies of all supporting supplier invoices and bona fide invoices and relevant tear sheets from the actual newspapers and back up materials of promotional activity for the activities agreed in the Plan, must be presented in order to receive contribution to any agreed marketing budget. The contribution of marketing support funds shall be at our absolute discretion. Unspent allocations are not redeemable for cash and may not be transferred or rolled over to any subsequent period and may be withdrawn with or without notice at any time.

All marketing materials used by you or on your behalf which include reference to Carnival Cruise Lines (as set out at the start of this Agreement) must be sent at least 7 clear working days to us in advance for copy approval to ensure that product guidelines are achieved.

Invoices and documentation must be submitted no later than 30 days post promotion/marketing activity and cannot be paid later than November 15<sup>th</sup> of financial year 1 December – 30 November.

### 4) BROCHURE DISPLAY:

The minimum requirements for the display of our brochures under clause 4.4 of the main body of this Agreement are:

Where you have racking space which is seen by consumers, you undertake, to rack all current brochures for Carnival Cruise Lines:

#### **Main brochures**

Carnival cruise holidays 2011-12

In addition to the above you agree to display any new brochures from any of the above brands along with any promotional literature that we may provide from time to time. You undertake to do your best to ensure you have full stocks at all times of all brochures.

### 5) SUPPORT, TRAINING AND EVENTS

## NON-CREDIT

We will provide access to your staff to training opportunities to ensure a high standard of product knowledge. Training materials such as on-line systems training sessions, self-teach packages, classroom style seminars and workshops are available. You will be invited, where reasonably possible to any Carnival Cruise Lines events. We shall where possible provide structured educationals and ship visits to improve your sales staff product knowledge and experience. You will also be offered to join Carnival Cruise Lines Fam trips when available.

### 6) STAFF SALES INCENTIVES

We will provide staff sales incentives at certain times of year and in consultation and agreement with you.

### 7) WEBSITE

Please access the CCL Website for information, itineraries and pricing.

### 8) BOOKING SYSTEMS

Pricing on Amadeus Cruise and bookccl.com is available in USD for Cruise Only.

### 9) TRAVEL DOCUMENTS

Travel documents will only be released once full payment has been made.

**Without prejudice to any of our other rights under this Agreement, we reserve the right to withhold or withdraw marketing support funds (where relevant), and commission at any time if you fail to make payments within the time scales set out in this Agreement or if, in our sole discretion, the level of outstanding payments due to us at any time is not within the tolerances (if any) we may from time to time allow. Any allowance that we might make at any time for outstanding payments does not constitute a waiver of our rights under this Agreement.**

#### **Important Information:**

##### **'Payment by Bank Transfer'**

Please contact us for bank details

##### **'Credit Card Charges'**

If you wish to pay by Credit Card, the following charges apply:-

Visa & Mastercard – 1.5% charge

Amex – 1.5% charge

Switch/Delta – No charge



## SCHEDULE B

### Internet Content and Advertising

#### 1. Internet content and advertising requirements

##### Site content

- 1.1. Each web page in any Agency Website must clearly indicate that you are the website operator, with the name of the agency prominently displayed. If you develop a website for a third party's private use, the third party website user must be identified in the website consistent with the foregoing requirements. You must not state, whether implied or express, that the Agency Website is an official CCL website, that you or the party for whom you have developed the Agency Website is an official CCL agency or that we or CCL is associated with or has endorsed you or the Agency Website.
- 1.2. You may only download or copy such CCL Property, including CCL Content, as we agree for the express purpose of marketing Holidays in accordance with this Agreement and may not, whether manually or with an automated tool, download or copy any of CCL's Property for any other purpose.
- 1.3. Our consent to you use CCL Content under clause 1.2 above is expressly limited to those uses and activities that are directly related to the promotion by you of Holidays and does extend to any other use or activity without our prior written consent. Furthermore our consent is granted on the following conditions:
  - 1.4. You may not alter CCL Content in any way except as may be specifically directed by us or CCL in writing;
  - 1.5. You may not use CCL Content in any manner which implies that we or CCL has sponsored or endorsed your agency or your business, product or activities;
  - 1.6. You may not use CCL Content in any manner which we or CCL determines undermines or disparages CCL, its services and products, or in connection with the products and services of a competitor of us or CCL
- 1.7. You must use any CCL Content in accordance with applicable national, foreign or local laws, statutes, rules and regulations and must not violate the rights of any third party.

- 1.8. The consent to use CCL Content may be revoked by us or CCL at any time, with or without cause and with or without prior notice. On revocation, you agree to cease any activity being conducted by you in reliance upon this Agreement.
- 1.9. We or CCL may require you to remove CCL Content from use in the Agency Website at any time.
- 1.10. You must use the appropriate trademark notice symbol "TM" or ® adjacent to the trademarks at all reasonable times.
- 1.11. Our or CCL's failure to exercise any of its rights under this clause or otherwise in connection with the Agency's Website shall not be construed to be a waiver of such rights.
- 1.12. The consents granted are not assignable.
- 1.13. The consents granted under this Agreement specifically exclude:
  - 1.14. any photographs taken by parties other than CCL, as noted near or below such photos;
  - 1.15. any and all photographs and text that shows or names CCL employees or other individuals.
- 1.16. By using the CCL Content, you acknowledge that it is provided "as is" without warranties of any kind, express or implied, including, but not limited to, the implied warranties of merchantability or fitness for a particular purpose or of non-infringement. Under no circumstances shall we or CCL be liable for your use of the content or for any error, failure, defect or delay in your ability to access or use the CCL Content, including but not limited to, any direct, incidental, indirect or consequential damages resulting from the same, even if we or CCL have been informed of the possibility of such damages. In no event shall our or CCL's liability to you for use of the content exceed the amounts, if any, you have paid to access the CCL download website.

**Domain names, subdomains and URLs**

- 1.17. You may not use CCL's Property or any substantially similar variation of CCL's Property including, but not limited to, variations of CCL's Property where several characters or symbols are reversed, replaced or inserted ("**Typos**") in any part of a domain name, URL path or subdomain, without the express prior written consent of the Managing Director of Carnival Cruise Lines, UK & Ireland.

- 1.18. If you own or control a domain name in any “Top Level Domain” or jurisdiction that contains CCL’s Property, anything substantially similar to CCL’s Property or Typos, you agree to assign all right, title and interest in the domain name and sCCLI immediately, upon request by us or CCL, take whatever steps are necessary to transfer the domain name, or allow the domain name to be transferred as relevant, to CCL or other entity that CCL designates at a domain name registrar designated by CCL. You shall be responsible for all costs and expenses, including legal fees incurred by CCL in enforcing the requirements of this provision. Upon our request, you must, within 7 days produce a list of all domain names, subdomains and URLs under your direct or indirect control, which contains CCL’s Property, anything substantially similar to CCL’s Property or Typos.

### **Paid search and search optimisation**

- 1.19. If you participate in paid search advertising (e.g. sponsored listings or “pay-per-click” advertising) or any other forms of online targeted advertising with companies offering search engines (e.g. Google, Yahoo) , travel search sites (e.g. TripAdvisor), comparison sites (e.g. NexTag or Sidestep) or other third party operated web sites (any such advertising being hereinafter defined as a “**Paid Search**”):
- 1.20. you must not bid on keyword terms containing CCL’s Property, whether alone or in conjunction with other terms;
- 1.21. when purchasing generic cruise-related keywords such as “cruise” or “ship” or when purchasing destination and port keywords (e.g Europe, Caribbean, Alaska) on broad match keyword term programs, you must ensure that your ads do not appear for consumer searches which include CCL’s Property or Typos in combination with generic keywords (this is inclusive of all campaigns (such as geo-targeting and day-parting)). Accordingly, to comply with this clause, you must list the following elements of CCL’s Property as negative keywords at the level in search engines that encompasses negative matching for all campaigns (note that exact negative setting is not sufficient): “CCL”, “Carnival” “Carnival Cruise Lines” and such other keywords listed on CCL Website. For the avoidance of doubt, it would be a breach of this clause if a consumer search using a keyword phrase such as “CCL Alaska cruises” triggers your ad to appear if “Alaska cruises” was originally bid by you without the negative keyword of “CCL” in quotes;
- 1.22. you may not include CCL’s Property or anything substantially similar to CCL’s Property or Typos in any hyperlink that you cause to be displayed as a result of a Paid Search;

- 1.23. you may only use CCL's Property or Typos in the ad text of an advertisement triggered by a Paid Search if (a) CCL's Property is not included in the search terms you have purchased; (b) the advertisement links to a landing page that is operated by you in compliance with this Agreement and which does not violate any law, regulation or rights of any other party; and (c) the landing page, other than any search or site navigation feature, is dedicated exclusively to the marketing of Holidays and does not have any references or links to other holidays, including, without limitation, other cruise lines.
- 1.24. If you own or operate a website either directly or indirectly that advertises Carnival cruises:
- 1.25. You must not present your site as an "official Carnival website" or otherwise suggest that your site is sponsored or endorsed by Carnival whether by means of keywords anywhere in the meta data or title tags or otherwise;
- 1.26. You must not use repetition of CCL's Property or anything substantially similar to CCL's Property or typos as keywords within meta data or site content for the purpose of skewing search result (known as keyword stuffing);
- 1.27. You may not present one type of page content to the search engines to achieve rankings on a Carnival Cruise Lines related search, but redirect users to another page that contains different or unrelated content or content that does not comply with this Agreement;
- 1.28. You must not place text in your website that contains CCL's Property or typos on a page that is the same colour as the background or otherwise hide text containing CCL's Property, anything substantially similar to CCL's Property or typos including by using CCL's Property or typos as alternative text for images or in the <alt> html tag, causing it to be hidden from the viewer, but not from search engine spiders.
- 1.29. For the avoidance of doubt, the provisions in clause 1.15 applies to any profile, account, page, or post on a social networking website (including by example, but not limited to Facebook, MySpace, Twitter, LinkedIn etc.) blogging website including by example, but not limited to Blogspot.com, Wordpress.com, etc.), Video Website (including by example, but not limited to YouTube etc.) or any other website operated by a third party, directly or indirectly controlled by posted by you ("**Social Media Website**").

- 1.30. You may not use or download to a user's computer any spyware, adware, malware or similar tool or toolbars or other navigational elements that integrate with or frame the CCL Website and are designed to divert traffic from the CCL Website to competitive websites.
- 1.31. You may not screenscape (evaluate and extract information from a web page through the use of software or programs) or use any data mining, robots, or similar automated data gathering, extraction, and/or analysis tools on any web page from a CCL website or database connected thereto.
- 1.32. Without prejudice to any other remedy available to us or to CCL under this Agreement or in law once we or CCL has notified you that you have breached any of the requirements in this clause 1.19, you must take the following steps:
  - 1.33. For a breach of the Paid Search requirements, you must disable non-conforming links, ads or web page or make changes to each link, ad text, ad title or web page as directed by us;
  - 1.34. For breaches of domain names, subdomains and URL requirements except in the case of domain names which are addressed above, you must disable any non-conforming subdomains or URLs as directed by us;
  - 1.35. For breaches of Social Media Website requirements, you must, at our discretion, disable or transfer exclusive control to us or CCL or any non-conforming username, account name, profile name, page name, or similar and disable any page, post application or advertising on any Social Media Website if allowed by the operator of the website.
- 1.36. If you breach the above requirements for a second time, or you fail to remedy a previous breach notified to you, we reserve the right to temporarily suspend or permanently revoke (a) your authorisation to book or sell Holidays and/or (b) payment of commissions for Holidays that are made during the period that the breach has not been remedied.

## SCHEDULE C

### CCL Property

CCL's Property includes the following:

"A-B-Seas", "Agency of Funology", "Batchelor's of Fun", "BookCCL.com", "CCL", "CCL University" and design, "CCLU Virtual Campus", "Camp Carnival" and design, "Carnival Capers", "Carnival", "Carnival Cruise Lines", "Carnival Cruises", "Carnival Fun Points", "Carnival Fun Shop", "Carnival's Got the Fun!", "Carnival Comfort Bed", "The Carnival Comfort Collection", "Carnival Concierge Club", "Carnival's Cruise Vacation Protection Plan", "Carnival Platinum", "Carnival Players Club" and design, "Carnival Rewards", "Carnival's Seaside Theater", Carnival's ship names (*Carnival Destiny*, *Carnival Fantasy*, *Carnival Legend*, *Carnival Pride*, *Carnival Triumph*, *Carnival Miracle*, *Carnival Liberty*, *Carnival Ecstasy*, *Carnival Spirit*, *Carnival Valor*, *Carnival Inspiration*, *Carnival Sensation*, *Carnival Conquest*, *Carnival Fascination*, *Carnival Paradise*, *Carnival Imagination*, *Carnival Elation*, *Carnival Victory*, *Carnival Freedom*, *Carnival Glory*, *Carnival Splendor*, *Carnival Dream*, *Carnival Magic*), "Carnival's Total Choice Dining", "Carnival's Twister Waterslide", "Carnival University" and design, "Carnival Vacation Club", "Carnival's Vacation Guarantee", "The Carnival Vacation Store", "Carnival WaterWorks", "Circle C" and design, "Cloud 9 Spa", "Club Carnival", "Club 02" and design, "Club 21 Pairs", "Currents", "Fly Aweigh", "Fountain Fun Card", "Fun 21", "Fun for All. All for Fun.", "Fun Day at Sea", "Fun Force", "Fun Pairs", "FunPass", "Fun Points", "Fun Rewards", "Fun Ship", "Fun Ship Films" and design, "Fun Ship Freddy", "Funship Island", "Fun Ship Points", "Fun Ship Weddings", "the Fun Ships", "FunShipPay", "the Fun Shops of Carnival", "Funville", "GoCCL.com", "H2Ocean", "Magical Flying Beach Chair", "Master's of Memories", "Ocean Pals", "Ocean Players Club" and design, "PH.D. in Fun", "PH.D. of Awesome", "The Players Quarterly", "Preferred Awards", "Sail & Sign", "SeaNotes", the Ship Funnel design, the side and three-quarter view Ship Funnel Designs, "Spa Carnival", "Today's Carnival", "Total Choice Dining", "Vacation Interchange Privileges" and design, "VIP Vacation Interchange Privileges" and design, "World's Leading Cruise Lines", "The World's Most Popular Cruise Line", "Your Choice Dining", "Your Kind of Fun", "Your Time Dining"