

Travel Agreement

Entered into by and between:

Name: _____

Southbound Tours CC; R/3377 Klein Windhoek, Sam Nujoma Drive

Address: _____

email: info@southboundtours.com

(herein after referred to as "SBT")

Email: _____

and

(herein after referred to as the "Client")

1. The Agreement

1.1 SBT is a business in the tourism industry that offers luxury flights, guided and self-drive tours.

1.2 SBT shall act as an intermediary or agent for products and services not directly supplied by SBT (e.g. transportation, accommodations, meals, activities).

1.3 SBT does not co-vent such products and services.

1.4 SBT's role as agent is therefore limited to facilitating reservations and arranging payments and applicable refunds for travel services.

1.5 The Client accepts the terms and conditions outlined in this Agreement.

1.6 For purposes of this Agreement, and where the context so requires, "Client" shall include the person whose details are provided for above, as well as the entire group of persons on whose behalf such person is making the reservation.

2. Interpretation

2.1 The headings to the clauses and annexes to this Agreement are for reference purposes only and shall in no way govern or affect the interpretation of, nor modify, nor amplify the terms of this Agreement, nor any clause or annexure hereof.

2.2 Any reference in this Agreement to –

2.2.1 "authorisation" includes an approval, authorisation, consent, exemption, filing, licence, notarialisation, registration and resolution;

2.2.2 "best endeavours" in relation to an action or omission, that Party shall do all such things as are or may be necessary or desirable so as to achieve that action or omission and, to the extent that the action or omission is frustrated, hindered or otherwise difficult to attain, each of the Parties shall consult and co-operate with each other and continue to take action so as to achieve that action or omission until each of the Parties agree that it is not reasonable to take the action or is reasonable to omit taking an action, provided that any actions or omissions required to be undertaken:

2.2.2.1 shall at all times be commercially reasonable as regards all Parties; and

2.2.2.2 shall not be such as to result in a breach of fiduciary duty or contravention of any law;

2.2.3 "business hours" shall be construed as being the hours between 08h00 and 17h00 on any business day. Any reference to time shall be based upon Namibian Standard Time;

2.2.4 "days" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or a recognised public holiday in Namibia;

2.2.5 "determines" or "determined" means, unless the contrary is indicated, a determination made at the discretion of the person making it;

2.2.6 "directly" or "indirectly" means (without limitation) either alone or jointly with any other person, whether on his own account or in partnership with another (or others) as the holder of any interest in or as officer, employee or agent of or consultant to any other person;

2.2.7 "include", "including" and "in particular" shall be construed as being by way of example or emphasis only and shall not be construed, nor shall they take effect, as limiting the generality of any preceding words;

2.2.8 "laws" means all constitutions, statutes, regulations; by-laws; codes, ordinances; decrees; rules; judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings, or awards; policies; voluntary restraints; guidelines; directives; compliance notices; abatement notices; agreements with, requirements of, or instructions by any government body; and the common law, and "law" shall have a similar meaning;

2.2.9 "material" and "materially" means, when used as an adjective in conjunction with an event, condition, circumstance, effect or other item that there is a substantial likelihood that a reasonable person will in the matter concerned, attach importance to the event, condition, circumstance, effect, or item in evaluating the Party to which it relates and/or the event, condition, circumstance or effect contemplated in the Agreement;

2.2.10 "N\$" means Namibia Dollars, the lawful currency of Namibia;

2.2.11 "Namibia" means the Republic of Namibia;

2.2.12 "other" and "otherwise" shall not be construed *eiusdem generis* with any preceding words if a wider construction is possible;

2.2.13 "person" means any person, company, close corporation, trust, partnership or other entity whether or not having separate legal personality;

2.2.14 "shall" and "will" and "must" used in the context of any obligation or restriction imposed on a Party have the same meaning.

2.3 Unless inconsistent with the context and save where the contrary is expressly indicated:

2.3.1 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it appears only in this clause 2 (*Interpretation*), effect shall be given to it as if it were a substantive provision of this Agreement;

2.3.2 where any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a business day, in which case the last day shall be the next succeeding business day;

2.3.3 in the event that the day for performance of any obligation to be performed in terms of this Agreement should fall on a day which is not a business day, the relevant day for performance shall be the subsequent business day;

2.3.4 any reference in this Agreement to a provision of law is to the provision as at the signature date hereof and as amended or re-enacted from time to time;

2.3.5 any reference in this Agreement to this Agreement or any other agreement or document shall be construed as a reference to this Agreement or, as the case may be, such other agreement or document as same may have been, or may from time to time be amended, varied, novated, reinstated or supplemented;

2.3.6 defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning;

2.3.7 where any word or expression is defined within the context of any particular clause in this Agreement the word or expression so defined, unless it is clear from the clause in question that the word or expression so defined has limited application to the relevant clause, shall bear the meaning in ascribed to it for all purposes in terms of this Agreement, notwithstanding that such word or expression has not been defined in this definitions and interpretation clause;

2.3.8 where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention;

2.3.9 in the event of an incorrect clause reference, the clause number shall be inferred from the context of the referring clause;

2.3.10 the rule of construction that this Agreement shall be interpreted against the Party responsible for the drafting of this Agreement, shall not apply; and

2.3.11 the expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

2.4 Unless inconsistent with the content, an expression which denotes:

2.4.1 any one gender includes the other genders; and

2.4.2 the singular includes the plural and vice versa.

2.5 The annexes to this Agreement form an integral part hereof and words and expressions defined in this Agreement shall bear, unless the context otherwise requires, the same meaning in such annexes, to the extent that there is a conflict between the annexes to this Agreement and the provisions of this Agreement, the provisions of this Agreement shall prevail.

2.6 This Agreement shall inure for the benefit of and be binding on and enforceable by the executors, administrators, trustees, permitted assigns or liquidators of the Parties as fully and effectually as if they had signed this Agreement in the first instance and reference to any Party shall be deemed to include such Party's executor, administrators, trustees, permitted assigns or liquidators, as the case may be.

3. Reservations

3.1 The person making the reservation request warrants their authority to enter into this Agreement on behalf of the Client and all persons included in the reservation.

3.2 The Client shall be liable for the total amount due and payable to SBT in terms of the reservation.

3.3 Acknowledgment of the Client's reservation request will be sent to the Client's email address within 2 (two) business days of receipt of the reservation request as well as a copy of the signed Agreement from the Client.

3.4 Quotes and itineraries will be provided as soon as reasonably possible after the date of sending the acknowledgement of receipt of the reservation request.

3.5 Quotes will remain valid for a period of 14 (fourteen) days. Should the Client not accept the quote in writing within this time, the Client will have to request a new quote.

3.6 Quotes will be provided in Namibian Dollars. However, if services are to be rendered in a country where services are normally quoted in United States Dollars (USD), quotes may be in USD.

3.7 Services will be provided as per the itinerary and quote provided to the Client, subject to availability. SBT reserves the right to use alternative services of a similar or higher standard where circumstances necessitate this.

3.8 Reservations will be confirmed with suppliers as soon as possible after receipt of proof of payment of the deposit as set out in clause 4 (*Payment Policy*).

4. Payment Policy

4.1 As soon as possible after the date that SBT receives acceptance of the Quote from the Client, SBT shall send the Client an Invoice.

4.2 Subject to clause 4.3, a 25% (twenty five percent) non-refundable deposit is required to confirm any reservation, and must be paid within 30 (thirty) days.

4.3 Certain third-party services may require a higher deposit, as indicated on the quote.

4.4 The remaining balance shall be payable at least 60 (sixty) days prior to the Client's arrival.

4.5 The Client is responsible for transfer fees.

4.6 Late payments shall incur interest at a rate of 20% (twenty percent) per annum from the due date until the date of full and final payment and SBT shall be entitled to cancel reservations at its discretion, and to hold the Client liable for cancellation charges as set out in clause 5 (*Cancellation Policy*).

4.7 Invoices in foreign currencies must be paid by the specified date. Late payments shall require an updated invoice to take into account any currency fluctuations.

4.8 Credit card payments shall incur an additional 4.5% (four and a half percent) charge.

5. Cancellation Policy

5.1 Cancellations must be sent to SBT's provided email address.

5.2 Cancellations will be effective upon SBT's written acknowledgment of receipt thereof.

5.3 Cancellation fees are determined by suppliers and include the abovementioned non-refundable deposit.

5.4 All service providers have their own cancellation policies, and therefore SBT's ability to refund the Client shall be limited, regardless of this clause 5 (*Cancellation Policy*). For the avoidance of doubt: if any lodge, transport supplier, airline or other service provider has a stricter cancellation policy than SBT, such service provider's cancellation policy shall apply.

5.5 The date on which SBT receives the cancellation notification from the Client shall determine the cancellation fees, which are estimated to be as follows:

More than 60 days' notice: Cancellation fees as charged by suppliers plus the 25% non refundable deposit;

45-60 days' notice: 50% retained;

Less than 45 days: 100% retained

No Show: 100% retained

5.6 Special conditions may apply to the amounts referred to in clause 5.5, subject to the absolute discretion of SBT.

5.7 Individual cancellations in group reservations may result in additional or increased fees for the remaining persons.

5.8 No refund will apply to no-show services.

5.9 SBT may cancel a reservation, without giving rise to any liability, based on the Client's or the Client's group's illness or illegal behavior.

5.10 The Client waives all benefits to which it may have been entitled in terms of the Conventional Penalties Act No. 15 of 1962.

6. Online Payment Link T's and C's

6.1 Return and Refunds policy

6.1.1 A 1% (one percent) cancellation fee will be charged in addition to the that which is outlined in clause 5 (*Cancellation Policy*).

6.2 Privacy policy

6.2.1 SBT shall take reasonable measures to protect the personal information of the Client and persons in the Client's group. For the purpose of this clause, "personal information" shall be understood as detailed in the Promotion of Access to Information Act 2 of 2000 (PAIA).

6.3 Payment options accepted

6.3.1 Payment may be made via Visa and MasterCard, or by bank transfer into the SBT's bank account, the details of which will be provided.

6.4 Card acquiring and security

6.4.1 Card transactions will be acquired for SBT via DPO Group, who are the approved payment gateway for Namibian Acquiring Banks. DPO uses the strictest form of encryption, namely Secure Socket Layer 3 (SSL3) and no Card details are stored on the website.

6.5 Client details separate from card details

6.5.1 Client details will be stored by SBT separately from card details which are entered by the client on DPO's secure site.

6.6 Merchant Outlet country and transaction currency

6.6.1 The merchant outlet country at the time of presenting payment options to the cardholder is Namibia. Transaction currency is Namibian Dollar (NAD).

6.7 Responsibility

6.7.1 SBT takes responsibility for all aspects relating to the transaction including sale of goods and services sold on this website, customer service and support, dispute resolution and delivery of goods.

7. Amendments and Alterations

7.1 SBT reserves the right to change itineraries due to unforeseen circumstances beyond its control.

7.2 Quotes are based on provided information; SBT may adjust costs if rates/prices increase more than 3%.

7.3 SBT may cancel due to late payment, offering alternative reservations or a refund.

7.4 SBT may cancel a tour without notice, refunding all funds. Changes by the client may incur charges.

7.5 While it's possible to deviate from the planned itinerary, any extra expenses are the client's responsibility, and no refunds for unused services are provided. Amendments and cancellations en-route must be made directly to SBT.

7.6 In case of a vehicle breakdown during a tour, SBT will expedite repairs and may alter the itinerary. SBT is not liable for cancellation fees or client time lost due to unforeseen circumstances.

8. Governing Law and Jurisdiction

8.1 This Agreement shall be governed by, construed, and interpreted in accordance with the laws of Namibia.

8.2 Each Party hereto irrevocably agrees that the High Court of Namibia shall have jurisdiction and determine any suit, action or proceeding and to settle any disputes which may arise out of or in connection with this Agreement and for such purposes, irrevocably submit to the non-exclusive jurisdiction of such Court.

9. Force Majeure

9.1 Force Majeure" refers to circumstances beyond SBT's control, including acts of God, natural disasters, war, civil disturbance, government intervention, or weather conditions.

9.2 SBT shall not be held liable or pay any compensation if its contractual obligations are affected by any act of force majeure.

9.3 SBT shall not be liable or pay compensation if an third-party "Force Majeure Policy" is more restrictive than this clause 9 (*Force Majeure*).

10. Comprehensive Travel Insurance

10.1 Comprehensive travel and cancellation insurance (which includes trip cancellation/interruption) is a mandatory responsibility of the Client, and proof thereof shall be provided to SBT within 7 (seven) days of payment of the deposit referred to in 4 (*Payment Policy*).

11. Limitation of Liability

11.1 SBT and its representatives shall not be liable for any loss or damage arising from any cause whatsoever, including errors in documentation, reservation delays, or loss caused by delays, sickness, injury, or death.

11.2 SBT shall not be responsible for damage or loss of any personal items.

12. Health

12.1 Clients confirm their medical fitness and shall declare any pre-existing medical conditions.

12.2 Clients acknowledge risks in adventure travel and undertake tours at their own risk.

13. Claims and Complaints

13.1 The Client shall inform SBT immediately of any complaints for timely investigation and redress, by a detailed email or digital message.

14. Passports and Visas

14.1 Clients must ensure valid passports and visas, and SBT shall not liable for entry refusals.

15. Baggage

15.1 Standard luggage allowance is 10–20kg per person, but allowances may vary based on passenger weight, at SBT's discretion.

15.2 Soft bags are mandatory for flights on small aircraft or shared overland tours.

16. General

16.1 Whole Agreement

16.1.1 This Agreement constitutes the whole of the agreement between the Parties relating to the matters dealt with herein and, save to the extent otherwise provided herein, no undertaking, representation, term, or condition relating to the subject matter of this Agreement not incorporated in this Agreement shall be binding on any of the Parties.

16.1.2 This Agreement supersedes and replaces any and all agreements between the Parties and undertakings given to or on behalf of the Parties (and other persons, as may be applicable) in relation to the subject matter hereof.

16.2 Variation to be in Writing

16.2.1 No addition to or variation, deletion, or agreed cancellation of all or any clauses or provisions of this Agreement, including this clause 16.2 (*Variation to be in Writing*) will be of any force or effect unless in writing and signed by all of the Parties.

16.3 No Indulgences

16.3.1 No latitude, extension of time or other indulgence which may be given or allowed by any Party to the other in respect of the performance of any obligation hereunder, and no delay or forbearance in the enforcement of any right of either Party arising from this Agreement and no single or partial exercise of any right by any Party under this Agreement, including this clause 16.3 (*No Indulgences*) shall in any circumstances be construed to be an implied consent or election by that Party or operate as a waiver or a novation or otherwise affect any of its rights in terms of or arising from this Agreement or estop or preclude him/her from enforcing at any time and without notice, strict and punctual compliance with each and every provision or term hereof. Failure or delay on the part of any Party in exercising any right, power or privilege under this Agreement including this clause 16.3 (*No Indulgences*) will not constitute or be deemed to be a waiver hereof, nor will any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

16.4 No Waiver or Suspension of Rights

16.4.1 No waiver, suspension or postponement by any Party of any rights arising out of or in connection with this Agreement shall be of any force or effect unless in writing and signed by that Party. Any such waiver, suspension or postponement will be effective only in the specific instance and for the purpose given.

16.5 Provisions Severable

16.5.1 All provisions and the various clauses of this Agreement are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of this Agreement, which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as pro non scripto and the remaining provisions and clauses of this Agreement shall remain of full force and effect. The Parties declare that it is their intention that this Agreement would be executed without such unenforceable provision if they were aware of such unenforceability at the time of execution hereof.

16.6 No Assignment

16.6.1 Neither this Agreement nor any part, share or interest herein nor any rights or obligations hereunder may be ceded, delegated or assigned by any Party without the prior signed written consent of the other, save as otherwise provided herein.

16.7 Co-operation

16.7.1 The Parties hereby undertake to:

16.7.1.1 do and to procure the doing by other persons, and to refrain and procure that other persons will refrain from doing all such acts; and

16.7.1.2 pass to and procure a passing of all such resolutions of directors or shareholders of any company to the extent that same may lie within such Parties' powers,

16.7.2 as may be required to give effect to the import and intent of this Agreement or contract pursuant to the provisions of this Agreement.

16.8 Independent Advice

16.8.1 Each Party acknowledges that it has been free to secure independent legal advice as to the nature and effect of all the provisions of this Agreement and that it/ has either taken such independent legal advice or dispensed with the necessity of doing so. Further, each Party acknowledges that all the provisions of this Agreement and the restrictions herein contained are fair and reasonable in all the circumstances and are part of the overall intention of the Parties in connection with this Agreement.

17. Signature

17.1 This Agreement is signed by the Parties on the dates and at the places indicated below.

17.2 This Agreement may be executed in counterparts (including facsimile or electronic scanned copies exchange via electronic mail or otherwise), each of which shall be deemed an original, and all of which taken together shall constitute one and the same Agreement as at the date of signature of the Party last signing one of the counterparts or the facsimile/electronic copy, as the case may be.

17.3 The persons signing this Agreement in a representative capacity warrant their authority to do so.

17.4 The Parties record that it is not required for this Agreement to be valid and enforceable that a Party have its signature of this Agreement verified by a witness.

Name: Marco Theron

Signature: 

For and on behalf of **Southbound Tours CC**

SIGNED Windhoek on this 11th day of November 2024

Name: _____

Signature: _____

For and on behalf of **The Client**

SIGNED at _____ on this _____ day of _____ 20____