

We are ARC Divers Ltd, a limited company incorporated in England trading as ARC Adventure and ARC LuxE (company number 8984061) whose registered address is Tunnel Cottage, Haywood Lane, Ashperton, Herefordshire, HR8 2SB, United Kingdom. The terms 'we', 'us', and 'our' refer to ARC Divers Ltd and the trading names ARC Adventure, ARC SCUBA and ARC LuxE. We are specialists in bespoke travel arrangement. Our business operates out of the UK and our services are as advertised.

#### **Application of these terms and conditions**

The following terms and conditions, together with any other terms and conditions notified to you prior to your entering into a contract with us, including terms and conditions in our brochures and on our website which are relevant to your booking and any other terms and conditions we both otherwise agree will be binding on ARC Divers Ltd and you once a contract is made between us (our terms). A contract will exist between us once you have made your booking with us, paid your deposit or the fee agreed to pay at the time of booking (which may be a full payment in the case of a late booking) and we have issued you with your booking confirmation. Our contract with you is also subject to the terms and conditions of all suppliers used including air carriers which you agree will be incorporated in our contract. You should read these terms and conditions carefully and ensure you understand each section. If any part of terms is found to be invalid or unenforceable, then the remainder of the terms and conditions will not be affected and will remain valid and enforceable.

#### **English Law**

The contract between us will be governed by English Law and any dispute will be resolved exclusively by the English courts. Our Terms do not affect your statutory rights.

#### **ATOL**

Most of the air holidays and flights we offer are ATOL protected, since we hold an Air Travel Organiser's Licence (ATOL) number T7604 granted by the Civil Aviation Authority (CAA). "When you buy an ATOL protected flight or flight inclusive holiday from us you will receive an ATOL Certificate. This lists what is financially protected, where you can get information on what this means for you and who to contact if things go wrong.

We, or the suppliers identified on your ATOL Certificate, will provide you with the services listed on the ATOL Certificate (or a suitable alternative). In some cases, where neither we nor the supplier are able to do so for reasons of insolvency, an alternative ATOL holder may provide you with the services you have bought or a suitable alternative (at no extra cost to you). You agree to accept that in those circumstances the alternative ATOL holder will perform those obligations and you agree to pay any money outstanding to be paid by you under your contract to that alternative ATOL holder. However, you also agree that in some cases it will not be possible to appoint an alternative ATOL holder, in which case you will be entitled to make a claim under the ATOL scheme (or your credit card issuer where applicable).

If we, or the suppliers identified on your ATOL certificate, are unable to provide the services listed (or a suitable alternative, through an alternative ATOL holder or otherwise) for reasons of insolvency, the Trustees of the Air Travel Trust may make a payment to (or confer a benefit on) you under the ATOL scheme. You agree that in return for such a payment or benefit you assign absolutely to those Trustees any claims which you have or may have arising out of or relating to the non-provision of the services, including any claim against us, the travel agent (or your credit card issuer where applicable). You also agree that any such claims may be re-assigned to another body, if that other body has paid sums you have claimed under the ATOL scheme.

#### **TTA**

We are a Member of the Travel Trust Association (TTA), membership number Q4266. We maintain a high standard of service to you according to TTA's Code of Conduct. We provide you with certificates of insurance which protect you from us as the provider and put protection in place for your booking making bookings provided by ARC Divers Ltd 100% financially protected.

#### **Financial Protection**

We provide financial protection for our package holidays as follows:

1. For flight-based holidays this is through our Air Travel Organiser's Licence number T7604. When you buy an ATOL protected flight or flight inclusive holiday from us you will receive an ATOL Certificate. This lists the flight, accommodation, car hire and/or other services that are financially protected, where you can get information on what this means for you and who to contact if things go wrong. We will provide you with the services listed on the ATOL Certificate (or a suitable alternative). In some cases, where we aren't able to do so for reasons of insolvency, an alternative ATOL holder may provide you with the services you have bought or a suitable alternative (at no extra cost to you). You agree to accept that in those circumstances the alternative ATOL holder will perform those obligations and you agree to pay any money outstanding to be paid by you under your contract to that alternative ATOL holder. However, you also agree that in some cases it will not be possible to appoint an alternative ATOL holder, in which case you will be entitled to make a claim under the ATOL scheme (or your credit card issuer where applicable).

2. When you buy a package holiday that does not include a flight, we protect your ground arrangements by issuing 'Supplier Failure Cover Agreements' (SFC's) which provides you with financial cover against the provider of the ground arrangements.

#### **Data Protection**

We observe the requirements of the Data Protection Act 1998 (the Act) in respect of all personal data held by us at any time. We will not use any personal data relating to you which we hold at any time for any purpose other than in connection with your booking. We will not pass on such data to third parties save where this is necessary in connection with the performance by us of our contract with you or as otherwise authorised by you. We may use such data to notify you of our services, offers and promotions from time to time. If you do not wish us to notify you please make us aware and we will not add you to our mailing list. We have notified the Information Commissioner. In order to find out more about our notification and the requirements of the Act you should visit the site of the Information Commissioner at [ico.org.uk](http://ico.org.uk).

#### **Brochure and website content**

We take reasonable care to ensure the accuracy of the information contained in our brochures and on our website. However, content is subject to change, often due to the actions of our suppliers (eg. airlines, hotels, activity providers, car hire companies etc). We will endeavour to notify you of any change known to us and affecting your holiday prior to issuing you with our booking confirmation and after that, as soon as we are notified by our Suppliers. We do not generally use linking or framing. We are not responsible for the content, policies and services of any sites linked to or accessible via our website.

#### **Packages**

A 'package' is a pre-arranged combination of at least two of the following, booked by you through us at an inclusive price, and where the combination lasts for a period of more than 24 hours or involves overnight accommodation: (a) transport; (b) accommodation; (c) other services not ancillary to transport or accommodation and a significant part of the booking.

Where the arrangements which you make with us for your holiday do not amount to a 'package' (as defined above) our obligation is limited to using reasonable skill and care in selecting a suitable supplier for the component you have booked e.g. accommodation and your contract will be with the supplier and not us, who will act as an agent.

#### **Booking Conditions**

All holidays are subject to availability. When you make a booking with us you are making an offer to us to buy some of our advertised services. We reserve the right to refuse to accept and/or not to proceed with any booking at any time in our sole discretion. Once the contract is made between us we will use reasonable skill and care to perform our obligations to you in accordance with our Terms and Conditions.

All bookings must be made by a person aged eighteen years or over. Where your booking is for more than one person, the first-named person in your party aged eighteen years or over will be treated by

us as the 'lead name' for your booking. The lead name will be responsible for making all payments due to us in accordance with our contract.

Completion and confirmation of your booking will be treated by us as confirmation that you have read, understood and accepted all our Terms and Conditions.

It is important that you provide accurate information when completing a booking with us as all documents, notices and other information relating to your holiday will be sent to this address. It is your responsibility to ensure that the details which you supply to us are correct.

### **1. Payment**

You will be notified at the time of booking of the price of your holiday. You will be required at the time of booking to pay us a non-refundable deposit, the amount which will be agreed during the booking process. On occasions, our suppliers require additional amounts up to full payment in advance. If a deposit payment is made, your balance payment is usually required 12 weeks before you travel but will be confirmed to you when you make the booking. If we do not receive the balance by this time then we will treat the booking as cancelled by you and you will be liable to pay our cancellation charges and that of suppliers used to make up the components of your booking.

We accept bank transfers and credit or debit card. However, due to the fee levied on us by the card companies, a charge will be made on credit card payments. If your booking is made so close to the departure date that it is necessary to issue your documents on departure or send them to you by special delivery, there will be an administration charge payable by you of £25 per booking. An administration charge also applies to any changes carried out by us at your request (for example a name change).

### **2. Prices**

The prices quoted in our brochures, on our website or in our publicity and promotions from time to time are correct at the time of publication. In the event of any change in our prices to those stated we will notify you prior to accepting your booking. All our prices are quoted in GBP £ Sterling.

#### **(a) Packages**

We guarantee the price of your holiday stated in our booking confirmation. We may however pass on to you certain additional charges resulting from increased transportation costs (including the cost of fuel), dues, taxes, landing taxes or embarkation or disembarkation fees at ports and airports or fluctuations in the exchange rate. We will not pass on any such charges occurring within 30 days of your scheduled date of departure nor which would result in an increase of less than 2% in the total cost of your holiday.

#### **(b) Other holiday arrangements**

We reserve the right to pass on any charges levied on us from time to time by our suppliers in respect of any other holiday arrangements made by us on your behalf:

- Return transportation costs including luggage allowance as confirmed
- Overseas transfers/transportation
- Accommodation, meals
- The services of a representative, tour guide or an appointed local agent, including a 24-hour emergency contact (except cruises)
- All UK departure taxes, fees and passenger charges
- Any applicable overseas port charges
- Child discounts

Our holiday price does not normally include:

- Visa fees, overseas airport departure charges payable locally, portage, personal expenditure, hotel extras, fuel and extras for car hire
- Taxes or compulsory charges introduced by Governments, regulatory bodies or airlines after you have booked
- Security charges introduced or increased after you have booked relating to transportation costs
- Holiday insurance

The price payable by you for your holiday and what this price includes will be confirmed to you by us at the time of booking and set out in our booking confirmation.

(c) Group bookings and discounts

Some bookings or prices are dependent on the number of participants or occupants and if this applies to your holiday arrangements you will be notified by us at the time of booking. We reserve the right to make further charges where numbers fall below those required to qualify for the discount offered or price otherwise appropriate.

**3. Changes or cancellation by you**

3.1. Changes

(a) Transfers

Where you are or any member of your party is prevented from travelling for any reason (including death, illness or jury service) we will transfer your booking to any other person satisfying all the requirements relating to your holiday notified to us by you in writing a reasonable time prior to your due date of departure.

(b) Other changes

If you wish to make any other change to your booking at any time after our booking confirmation has been issued, we will try but cannot promise to meet your request. On some occasions, if members of a group booking withdraw, there are fixed costs which mean the remaining travelling party must pay more per person. We require your authority in writing before we can make any change. In the event that any change is requested in relation to a group booking we require the authority in writing of the lead name before we can make the change.

(c) Administration fee

In each of the above circumstances, an administration charge will be payable of £30 per person where your request is received by us 60 days or more prior to your date of departure and £50 per person where the request is received less than 60 days prior to your date of departure. This charge is non-refundable. However if an air ticket has already been issued and the flight cannot be changed to another name then the full cost of that ticket will be due.

(d) Treatment of changes by our suppliers

Many of our suppliers, particularly airlines and safari operators, do not permit us to change names or travel dates and impose full cancellation charges. We will pass these on to you in addition to our administration charge, where applicable.

3.2. Cancellations

If you wish, following the issue to you by us of our booking confirmation, to cancel your booking or any part of it relating to any person (in the case of a group booking), we will require your authority in writing or (in the case of a group booking) the authority in writing of the lead name to do so.

Our cancellation charges will apply (see the table 'cancellation charges' below). These are calculated with reference to the date on which we receive your authority in writing. We will not refund to you any deposits, administration charges, insurance premiums or any other fees or charges made by us and paid by you relating to your holiday in the event of cancellation by you.

We incur costs from the time you make your booking and you agree that if you cancel your booking you will compensate us for our losses and expenses, as per the table below. Our cancellation charges increase the nearer the cancellation is made to your departure date as we may not be able to resell your holiday without making significant price reductions, or at all.

We strongly recommend that you take out insurance cover for cancellation adequate to cover the value of your holiday. ARC Divers Ltd can recommend suitable insurers.

3.3. Cancellation charges

Number of days left before your due date of departure when your authority in writing is received by us. Cancellation charge (expressed as a percentage of the total holiday price).

60 days or more Deposit only

59 - 43 days 40 %

29 - 42 days 60 %

7 - 28 days 90 %

6 days or less 100 %

Cancellation of components by our suppliers may incur more than the cancellation fees listed above. In this case the terms and conditions by any suppliers used for the components of your booking will be honoured by you as part of incorporation of all our suppliers terms and conditions into our terms and conditions.

#### **4. If we have to change or cancel your holiday**

We will take reasonable care to deliver the holiday which we are contracted to provide to you. As we put in place the arrangements necessary to enable us to offer our range of holidays many months in advance, we may occasionally have to make changes and reserve the right to do so at any time.

##### **(a) Packages**

Our obligation to you depends on whether the changes are considered 'minor' or 'major'. A 'major' change is one which results in a significant alteration to the essential terms of the contract between us.

'Major' changes include:

- price
- your UK departure airport (unless this is between Heathrow and Gatwick or vice versa)
- your city/resort/place of destination
- your accommodation (except on tours/safaris) to a lower star grading
- your scheduled departure time from the UK or the duration of your holiday by more than 12 hours (excluding delays outside of our control following check-in).

Minor changes:

A minor change is any other change which is not a major change. We will try to tell you as soon as reasonably possible prior to your due departure date about any minor changes, although we are not obliged to do so. We are not obliged to compensate you for any 'minor' changes made.

Major changes:

If we have to make a 'major' change we will notify you as soon as possible and you will have one of the following options:

- to agree the changes and accept their impact (including any on price)
- to transfer to another holiday offered by us (subject to availability) of equivalent or superior quality
- to transfer to another holiday offered by us (subject to availability) of lower quality and receive a refund for any difference in price
- to cancel your holiday and receive a refund of all monies paid by you to us (including all deposits and administration charges)

##### **(b) Other holiday arrangements**

We will try to tell you of any changes as soon as possible prior to your due departure date, although we are not obliged to do so. We are not obliged to compensate you. However, in the event that we are forced to cancel your holiday for any reason other than our insolvency or any circumstances beyond our reasonable control we will refund to you the full price paid by you for your holiday.

##### **(c) Circumstances beyond our control**

We will not pay compensation or accept any liability where any change is due to circumstances outside of our reasonable control, including (without limitation) any strikes, lock-outs or other industrial action; labour disputes; acts of God; war; riot; civil commotion; malicious damage; compliance with any law or governmental order, rule regulation or direction; impossibility of the use of any means of public or private transport or any action of any government or regulatory body; accident; break-down of plant and machinery; fire; flood or storm; other adverse weather conditions (including heavy rainfall, hail, snow, fog or frost) affecting any airport, port or any other transport link, embarkation or disembarkation point and their operation; flight delays; other matters affecting air

traffic control (including failure of equipment, systems and software); siege; acts of terrorism; police or security alerts or precautionary measures taken.

## **5. Our liability to you**

### **(a) Packages**

- i. We will take reasonable skill and care in performing our contractual obligations and if we or our agents or suppliers fail to use reasonable skill and care or are negligent and you are able to prove we have caused you loss or damage, we may, subject to these Terms & Conditions, accept responsibility for compensating you.
- ii. If you feel that any part of your holiday arrangements is not provided as promised, you must, as soon as possible, notify our supplier and either our appointed local representative (where one is appointed) or ourselves (where a local representative is not appointed) as soon as possible. You must provide us with details in writing at the earliest opportunity.
- iii. Where, as a result of our failure to properly perform our obligations, we have failed to provide you with a significant proportion of the services which you have contracted with us to provide, if you are still on holiday through us we will (where possible and appropriate to the circumstances), endeavour to organise suitable alternative arrangements at no extra cost to you and may pay you an amount in compensation. Where, as a result of our improper performance, we have failed to provide you with a significant proportion of the services which you have contracted with us to provide and suitable alternative arrangements are not available or are unacceptable to you for good reasons then (where appropriate) we will make arrangements for you (and where other members of your party are affected, those members of your party) to return to your place of departure at no extra cost to you. In all other cases (i.e. where we have not failed to provide you with a significant proportion of the services which you have contracted with us to provide) our obligation following your notification to us is to investigate matters and (where appropriate) make prompt efforts to find appropriate solutions.
- iv. Our liability in all cases shall be limited to a maximum of 2x the total cost of your holiday (including deposits and administration charges). We do not accept responsibility for the acts and/or omissions of any third parties with whom you may have made any bookings or arrangements direct.
- v. None of the provisions of this paragraph 5(a) shall have the effect of excluding or limiting our liability in respect of any personal injury or death of you or any member of your party during your holiday directly resulting from our own acts or omissions or the negligent acts or omissions of our employees, agents or suppliers whilst acting within our authority or instructions in the performance of our contractual obligations to you. We do not accept any responsibility for death, injury or illness caused by any act or omission whether of any third parties acting outside of our authority, instructions or control or with whom you may have made any bookings or arrangements direct or any cause which we could not reasonably prevent.
- vi. We are not liable to you where our failure or the improper performance of any of our obligations to you is due to:
  - any fault or failure of you or of any member of your party
  - any fault or failure of any third party unconnected with us and the provision of the services for which you have contracted with us to provide which are unforeseeable or unavoidable
  - circumstances beyond our or beyond our suppliers' reasonable control (which circumstances are without limitation described in paragraph 4(c)) although we will endeavour following notification to us to provide you with our prompt assistance where our failure or improper performance results from circumstances not due to any fault or failure of you or any member of your party.
- vii. In respect of travel by air, sea and rail and the provision of accommodation, our liability is additionally limited in the manner provided by the relevant International which you agree are incorporated into these Terms & Conditions.
- viii. You should note that any acceptance of liability on our part is subject in all cases to set off or reduction of the amount of any claim made against us to take into account any amount paid to you or any member of your party at any time arising from the same cause or circumstances by any of our suppliers or pursuant to a policy of insurance.

ix. Our suppliers and our local representatives are instructed not to act as our agents in booking any alternative activities other than those approved and offered by us and which you have purchased directly from us. Any assistance they may offer at your request in relation to such activities does not imply they have acted as our agent or with our authority or approval. We are not responsible for such activities and have no liability to you in respect of any of them.

(b) Special requirements

If you have any special requirements (dietary or otherwise) you must inform us of these at the time of booking so that we can pass these onto our suppliers. We cannot guarantee that your requirements will be met, however, and we are not liable to you in the event that your wishes are not met.

**6. Your responsibility**

(a) It is your responsibility to ensure that you and everyone travelling with you have valid passports, appropriate visas and vaccinations. Some countries (particularly in Southern Africa) require your passport to have two blank pages for a visa stamp. As a result if you are travelling in more than one country that requires this you will need to have more blank pages - for example, if you visit South Africa and Namibia, both of which require two free pages, and re-enter South Africa to fly home, you would need six blank pages. If you have any doubts about the number of pages required, we advise erring on the side of caution, even if this means applying for a new passport. Please ask us for clarification. Women 28 weeks or more into pregnancy at the time of return travel must have a doctor's certificate confirming that they are fit to travel (note airlines normally require certification at 32 weeks). We are not liable for any costs, delays or illness resulting from your failure to meet requirements.

(b) You are responsible for ensuring that any existing medical conditions or disabilities which may require assistance are declared to us before you book your holiday or, if newly diagnosed, before your due date of departure so that we can pass these details on to our suppliers in good time. We are not in any circumstances liable if any carrier refuses you or any member of your party as a passenger as a result of any medical condition or disability.

(c) You are responsible for your behaviour and that of your party. We and our suppliers reserve the right to refuse your booking or the right to board or the right to travel and to remove you and/or any member of your party from any transport, accommodation or any part of holiday if you or any member of your party is drunk or under the influence of drink or drugs; if you are or we reasonably believe that you are in unlawful possession of drugs; or are behaving violently, disruptively, dangerously or irresponsibly or in any manner whatsoever which presents a risk to others or is causing a nuisance or annoyance to others. No refund will be given or compensation paid and no costs or expenses for which you become liable or which are incurred by you will be made by us or be recoverable by you from us in such circumstances. You may also become the subject of police inquiry or security measures or investigation and liable in the event that any offence is committed to criminal prosecution and penalties whether in the UK or in any other country having jurisdiction in respect of the alleged activity. You must fully cooperate with and follow any safety procedures and instructions given by any organisation which is running the activities which you do while on holiday. It is possible that such organisations will require you to sign a waiver form in respect of the activity being carried out.

(d) Despite our best endeavours to ensure your holiday runs as smoothly as possible, problems can occur. If you do experience difficulties that cannot be dealt with at the time by the hotel, lodge or camp you are staying at, then please contact (where applicable) our local representatives. If they cannot be reached, please contact us on our 24-hour emergency number (+44 (0)1531 800388) Please remember that we will be unable to help if you only mention the issue on your return from holiday. If you have a medical emergency, you must notify your travel insurance providers on their 24-hour emergency telephone number (which should be visible on the cover note). If you cannot make contact, please ring us and we will attempt to reach them.

(e) Many of our trips take place in destinations where local conditions vary enormously, and the people we deal with on the ground may be less time-conscious or meticulous in planning than

ourselves, and while we will do our best to ensure that the holiday goes according to plan, we ask that those who travel with us do so with a spirit of adventure, in a positive frame of mind, and in good humour.

#### **7. Dealing with complaints**

If you have a problem during your holiday, please immediately inform the relevant supplier whose service is involved (e.g. your hotelier) and our local representative (or if none, ARC Divers Ltd), who will endeavour to put things right. It is unreasonable and in breach of your contractual obligations to us to take no action whilst on holiday, but then to write a letter of complaint upon return. If the problem cannot be resolved locally and you wish to complain, full details must be sent to ARC Divers Ltd in writing to arrive within 28 days of your return giving your booking reference and all other relevant information. Please keep your letter concise and to the point. It is strongly recommended that you communicate any complaint to the supplier of the services as well as to our representative without delay and complete a report form while on holiday. If you fail to follow this simple procedure we will have been deprived of the opportunity to investigate and rectify your complaint whilst you were on holiday and this may affect your rights under this contract resulting in reduced or no compensation if any was merited.

#### **8. Insurance**

You must be fully insured for your holiday and must make sure that all of the activities which you will be carrying out are covered by such insurance. This insurance must include adequate cancellation insurance to the value of your holiday, emergency evacuation and repatriation costs in respect of all of your activities. Please note that the travel insurance provided by some credit card providers often only offers the minimum coverage and, whoever your insurer, you should always check for any exclusion of activities that you might be undertaking. In response to public concern, some insurers now offer specific insurance against cancellation, delay and abandonment due to volcanic ash disruption. This can be taken out as an add-on to some travel insurance policies or as stand-alone cover.