

# Gap Year South Africa Terms & Conditions

*Last update February 21st, 2012*

These Terms and Conditions set out the agreement made between Gap Year South Africa Limited, a company registered in England with Registered No. 6090323 whose address is 85 Church Road, Hove, East Sussex, BN3 2BB hereinafter referred to as, 'The Company', and 'The Client', as further defined below, in respect of a Project arranged by the company.

## 1. Definitions

"Application Form" means the form provided by The Company to those wishing to apply for a Project, The Client signature on which indicates The Clients intention to be bound by these Terms and Conditions.

"Booking Confirmation" means a confirmation email from The Company stating that The Client has been accepted for a Project subject to the provisions of Clause 2.3 below.

"Contract" means a signed Application Form together with a Booking Confirmation and these Terms and Conditions.

"Deposit" means the sum payable by The Client with the submission of The Clients Application Form for a Project.

"Full Balance" means the balance of the Project Fee after deduction of the Deposit paid.

"Project" means The Clients place on a project organized by The Company and includes accommodation and selected social activities plus those specific additional items set out in the Project description on The Company website at [www.gapyearsouthafrica.com](http://www.gapyearsouthafrica.com). For the avoidance of doubt a Project does NOT include flights, insurance, visas, vaccinations, United Kingdom or foreign taxes or personal spending money. Unless stated otherwise in the Project description, a Project does not include internal travel within your chosen destination country.

"Project Fee" means the full price of the Project as set out on the invoice in accordance with the provisions of Clause 3.2.

"Significant Change" to a Project is defined as a change where change in the duration of the Project by any more than 1 week (excepting factors beyond The Company's reasonable control, as listed in Clause 4 below). For the avoidance of doubt, Significant Change will not include changes to planned social activities, or any other event or factor beyond those specified above.

"Sub-contractor" means a third party providing goods or services in respect of The Clients Project where these goods or services are a material part of the Project as defined above and the costs for such goods or services are included within the Project Fee.

"Third Party Supplier" means a third party providing goods or services to The Clients through a direct contractual relationship with The Client.

"The Client" means the applicant whose name appears on the Application Form, and the terms "The Clients", "He or She" and "His or Her" shall be construed accordingly. If the applicant is under the age of 18 years at the time of application, then the person who has signed the Application Form i.e. the parent or legal guardian of the applicant will be bound by these Terms and Conditions and will be responsible both for the acceptance of the risks and liabilities set out herein on behalf of the applicant and for the compliance of the applicant with these Terms and Conditions until the applicant reaches 18 years of age, after which if the applicant continues with the Project then the applicant will be deemed to have accepted and shall be bound by these Terms and Conditions.

## 2 Conditions of Entry

2.1 The Company will endeavour to confirm or refuse The Clients application for a Project within 14 working days of the receipt of The Clients completed Application Form and Deposit. If The Client is not accepted for The Clients desired Project, then The Company will offer The Client a possible alternative or immediately refund the Deposit that The Client has paid. The Client may, at The Clients discretion, refuse any offered alternative and in this event The Company shall immediately refund the Deposit that The Client has paid.

2.2 If The Company is able to offer The Client a suitable Project then The Company shall send The Client a Booking Confirmation via email together with an invoice for the Full Balance.

2.3 The Clients Booking Confirmation is subject to the following conditions:

(a) The Client shall pay the Full Balance no later than ten (12) weeks prior to The Clients Project scheduled start-date;

(b) The Client shall provide His or Her travel details, including flight numbers, evidence of full travel and medical insurance for the duration of the Project, and emergency contact information within the timescales specified by The Company on the invoice;

(c) The Client shall disclose any medical conditions that may affect The Clients full participation in any activity on The

Clients Project and warrant that The Client is medically fit to participate. If The Company requests it, The Client shall undergo a full health check and produce a medical certificate in respect of such health check no later than 12 weeks prior to The Clients Project's scheduled start-date. If The Client applies to complete a marine conservation, ocean adventure or scuba-diving qualification, The Client shall confirm that He or She is medically fit to participate in such a course by providing a dive certificate of health prepared by a qualified Doctor no later than 12 weeks prior to The Clients Project's scheduled start-date;

(d) If The Client has applied for a Project where He or She will be working with children or other vulnerable persons then The Clients Project shall be subject to acceptable references and/or a police check through an umbrella organization registered to, and authorized by, the Criminal Records Bureau (CRB). The Client will be notified in advance if either or both of these are required;

(e) The Client shall abide by Our Code of Conduct which can be viewed at Clause 12 below and by the terms and conditions set out herein; and

(f) The Client shall comply with the laws, customs, foreign exchange and drug regulations of all countries visited during His or Her Project. If The Client is found to be violating such laws and regulations or otherwise interfering with the wellbeing of other Clients, staff, or Third

Party Suppliers, this will result in the in country Project Coordinator taking the action detailed in Clauses 2.4 and 10.

2.4 In the event that The Client does not comply with the provisions of Clause 2.3 then The Company may at The Company's discretion deem The Clients Project to be terminated in accordance with the provisions of Clause 8 or offer The Client an alternative Project. In the particular case of The Clients breach of the provisions of paragraphs (e) or (f) of Clause 2.3 then The Client may be required by the in country Project Coordinator to leave the Project and, if appropriate, the country, without reimbursement of The Clients Project fees.

2.5 If in the reasonable opinion of The Company or in country Project Coordinator The Clients continued participation in a particular activity or Project may result in either personal harm to The Client or other participants or disruption of the activity or Project then the in country Project Coordinator may at their sole discretion instigate the Disciplinary Process as set out in Clause 10.

### **3 Our Projects**

3.1 You accept that any information supplied by The Company regarding Projects, including content published by third party advertisers, is provided in good faith and based on the knowledge and information available to The Company prior to publication of the written material and sometimes months prior to the date of departure. The Client accepts that for the latest information on Projects, including Project prices The Client should speak, write or email directly to a Company representative using the contact details on The Company website at [www.gapyearsouthafrica.com](http://www.gapyearsouthafrica.com).

3.2 Our Project prices are set as given on the website, either on the date of The Clients signature on the Application Form, or no more than 5 working days before the receipt of the completed Application Form at The Company Postal Address, whichever is the later. The price in force at this time shall be reflected on the invoice sent to The Client with His or Her Booking Confirmation.

3.3 Note that the price of items outside the scope of the Project, such as visas, airfares, United Kingdom or foreign taxes or costs associated with local events and activities not included in the Project may vary and The Company accept no liability for any increases in such prices.

3.4 The Client accepts that dates for flights to and from His or Her Project may fall outside of The Clients invoiced Project duration. In the event that The Clients require accommodation for days falling outside of His or Her Project duration, then, provided The Company has sufficient accommodation available, The Company may offer this to The Client at the prevailing local rate.

3.5 The Company reserves the right (in very rare circumstances) to make alterations to a Project without notice, including alterations to the itinerary. If the alterations cause a Significant Change in the structure or duration of the Project prior to the start-date of The Clients Project, The Client will be entitled to change His or Her choice of Project, or receive a refund of the Project Fee, if paid. This shall be the limit of The Company's liability in the event of a significant change to the Project. Should the change be effected during the Project, The Company's liability shall be limited to a refund of the Project Fee pro-rata according to the percentage of the total planned Project time that has already elapsed (for example if 50% of the Project has taken place, then The Company will refund 50% of the Project Fee).

3.6 The Client shall comply with all reasonable requests of the in country Project Coordinator with respect to matters relating to the organization of the Project and the safety and wellbeing of The Client and others.

3.7 The Client agrees to abide by the Terms and Conditions of all Third Party Suppliers who may provide The Client with other products or services during, or in travelling to the Project. If The Company has provided The Client with the details of such Third Party Suppliers or assisted The Client in procuring the services of such Third Party Suppliers this information and/or assistance is given for The Clients convenience only and does not constitute an endorsement of the said Third Party Supplier. The Company accepts no liability in respect of products or services procured by The Client from Third Party Suppliers, such as but not restricted to, travel agents, insurance providers and local suppliers.

## **4 Liability**

4.1 Nothing in this Agreement shall exclude or limit The Company liability for (i) fraud or other criminal act, (ii) personal injury or death caused by the negligence of The Company's employees in connection with the performance of their duties hereunder or by defects in any product supplied pursuant to this Agreement, or (iii) any other liability that cannot be excluded by law.

4.2 Subject to Clause 4.1 in no event will The Company be liable under this Agreement for any damages resulting from: (i) cancellation of flights or costs resulting from missed flights, (ii) loss of opportunity, and/or (iii) any indirect or consequential loss. Such liability is excluded whether such damages were reasonably foreseeable or actually foreseen.

4.3 Except as provided in Clause 4.1 The Company's maximum aggregate liability to The Client for any cause whatsoever shall be for direct costs and damages only and will be limited to a sum equivalent to 125% of the Project Fee paid and payable by The Client under this Agreement.

4.4 The Company hereby excludes to the fullest extent permissible under the applicable law all liability that The Company has not expressly accepted in this Agreement. These limitations will apply regardless of the form of action, whether under statute, in contract, tort, including negligence, or any other form of action. For the purposes of this Clause 4, "The Company" includes The Company's employees, Sub-contractors, licensors and suppliers who shall therefore have the benefit of the limits and exclusions of liability set out in this Clause in terms of the contracts (Rights of Third Parties) Act 1999.

4.5 Save as provided in Clause 4.6 The Client shall have no remedy in respect of any representation (whether written or oral) made to The Client upon which The Client relied in entering into this Agreement.

4.6 Nothing in this Agreement shall exclude or limit The Company's liability for any misrepresentation made by The Company fraudulently.

4.7 We will not accept any responsibility for any illness, accident or loss, weather conditions, fire, civil or military disturbance, criminal activity, industrial action, mechanical breakdown, quarantine, border closures, government intervention or other event of force majeure where such events arise for reasons other than The Company's negligence. Although such circumstances are beyond our control, The Company shall make every effort to provide The Client with assistance if The Client is in difficulty. Should it become necessary to abandon a Project because of such an event, The Company will be entitled to retain such monies received necessary to cover costs incurred.

4.8 The Client accepts that weather conditions may prompt the cancellation of scheduled events within a Project, and that The Company cannot be held responsible for such cancellations. Cancellation of events or sessions due to adverse weather conditions will be entirely at the discretion of the instructors or the in country Project Coordinator. No reimbursements will be made by The Company for events or sessions lost to bad weather.

4.9 We accept no liability in respect of products or services procured by The Client from Third Party Suppliers or in respect of activities undertaken by The Client that are outside of those specified for The Clients Project.

## **5 Health and Safety**

5.1 The Client is advised that the host country's for The Company's Projects does not supply comprehensive free health services.

5.2 Whilst The Company is committed to ensuring the safety of The Client, The Company does not accept liability for any negligence on the part of Third Party Suppliers or any other agents used by The Client, which are not connected to The Clients Project. Otherwise, The Company will provide as much assistance as is possible, whilst limiting that assistance to non-financial support. Any further help will be provided at the discretion of the in country Project Coordinator.

5.3 Should The Company, in case of emergency, provide The Client with any financial support, The Client is obliged to reimburse all monies given to The Client by The Company within 4 weeks of the Project end-date. The provision of such financial support is entirely at The Company's discretion.

5.4 The Client accepts that all The Company's Projects carry some risk of personal injury. The Client has the right to refuse the taking of any risks which He or She believes may endanger His or Her health and safety, or which are not covered by The Clients insurance as set out in Clause 6.1 below, and The Client agrees that The Company will not be held liable for any injury or damage caused to The Client where The Client has taken a risk willingly, and the injury or damage arose other than as a result of The Company's negligence.

## **6 Insurance**

6.1 The Client accepts that it is compulsory to obtain travel insurance to cover personal accident, medical and hospital expenses and repatriation. The Clients insurance must cover cancellation, curtailment, repatriation, legal

expenses, medical and emergency travel, personal accident, personal liability, rescue and assistance, hijack, and travel delay. The Client is obliged to ensure that His or Her policy covers all sporting activities that The Client may be involved in during His or Her Project, which is provided by The Company's approved suppliers.

6.2 The Clients Policy cover should extend beyond the planned length of the Project by at least two weeks. The Client acknowledges that, although The Company has said this is the minimal level, it still may not be adequate. The Company recommends that independent advice be taken.

6.3 The Company accepts no responsibility for the loss of or damage to The Clients personal property unless it is caused by The Company's negligence, and it is recommended that The Client has personal insurance to cover loss of personal property by theft or accident.

6.4 The Client agrees to indemnify The Company in respect of any claim for loss or damage arising from any accident, personal injury, loss of life or damage to property caused by The Client during the course of the Project.

6.5 In the event of any damage caused by The Client to The Company property The Client agrees to reimburse The Company in respect of any such costs and damages within 4 weeks of the Project end-date.

6.6 The Client is also advised to be aware of current Foreign Office travel advice in respect of countries to which The Client is travelling.

## **7 Visas**

7.1 Where a visa is required for the Project, The Company will provide The Client with visa application forms, a letter of invitation where necessary and advice on filling in the necessary forms.

7.2 Please note that all visas are issued entirely at the discretion of the embassy concerned.

7.3 The Company is not responsible for the issue of visas. The Client is responsible for ensuring that His or Her passport, visas and any other travel documents are valid for the duration of The Clients Project.

## **8 Cancellations and Amendments Policy**

8.1 The Client acknowledges that His or Her payment for a Project contributes to the overall costs of equipment, staff and administration, incurred by The Company in planning and organizing The Clients Project, and that The Company will have incurred the largest part of The Company's costs on a non-recoverable basis before the Project start-date. Therefore if The Clients Project is terminated either by The Company in accordance with Clause 2.4 above or by The Client for any reason other than The Company's breach of this Agreement then the deposit is non-refundable. If the termination takes place:- up to 60 days prior to departure we shall refund to You 100% of the Project Fee, if paid, except for the deposit amount – less than 60 days prior to departure, all monies are non-refundable.

For the avoidance of doubt, in the event that The Client has not paid the applicable Project Fee as at the date of termination then The Client shall be liable for the balance of the Project Fee due less any amount due to be refunded.

8.2 Any request from The Client to amend a booking must be put in writing and sent to The Company Postal Address. If The Company agrees to transfer The Clients booking to an alternative Project, then provided such an alternative Project commences within 12 months of the original booked Project start-date, The Company will transfer the Project Fee or any part of the Project Fee that The Client has paid to the new Project less a sum of £50.00 to cover The Company costs incurred in re-arranging the booking.

8.3 In the unlikely event of The Company canceling The Clients Project before the specified start-date other than as a result of a force majeure event as set out in Clause 4.7 above, The Company will refund to The Client whatever portion of the Project Fee The Client has paid. This will be the full extent of The Company's liability.

8.4 In the event of cancellation of a Project as a result of a force majeure event as set out in Clause 4.7 above then The Company shall retain whatever portion of the Project Fee paid is necessary to cover The Company's reasonable expenses incurred in organizing the Project and refund to The Client the remainder. This will be the full extent of The Company's Liability.

8.5 If The Client leaves His or Her Project before the specified Project end-date other than as a result of The Company breach of this Agreement, no refund will be made to The Client.

## **9 Complaints**

9.1 With regard to any complaint or claim in connection with The Clients Project, The Client agrees:

9.1.1 to ensure that, at the earliest possible opportunity, any perceived failure in the performance or improper performance of the contract, whether by The Company or The Company Sub-contractors, is communicated to the in country Project Coordinator so that The Clients concerns can be addressed; and

9.1.2 to notify The Company in writing at The Company Postal Address as set out above with regard to any

unresolved complaint or claim within 30 days of the Project end-date, setting out:

- (a) the details of The Clients Project
- (b) the nature of The Clients complaint or claim
- (c) how best The Client feels The Company can resolve The Clients complaint or claim.

9.2 Any complaints directed against the in country Project Coordinator should be raised by phone or email directly to The Company.

9.3 Upon receipt of The Clients complaint or claim The Company shall investigate the details set out in The Clients notification and shall use The Company's reasonable endeavours to contact The Client within 14 working days of receipt of The Clients notification to address The Clients complaint or claim.

## **10 Disciplinary Procedures**

10.1 The Disciplinary Procedure may be invoked under Clause 2.3 or Clause 2.4 at the sole discretion of the in country Project Coordinator. If at any stage The Client feels that this procedure is being applied unfairly or without cause, The Client should raise this directly with the in country Project Coordinator and, if The Client feels the matter has not been resolved to His or Her satisfaction, The Client may raise a complaint in accordance with Clause 9 above.

10.2 The Disciplinary Procedure is as follows:

(a) Upon the first incident of unacceptable behaviour or a breach of the Code of Conduct, the in country Project Coordinator shall warn The Client verbally that His or Her behaviour is unacceptable and shall explain to The Client the reasons for this unacceptability.

(b) If such behaviour or breach continues, the in country Project Coordinator shall provide The Client with a written warning, stating that any recurrence may result in The Client being required by the in country Project Coordinator to leave the Project and, if appropriate, the country, without reimbursement of The Clients Project fees.

(c) Upon a subsequent repeat of the unacceptable behaviour or upon a serious breach of the Code of Conduct the in country Project Coordinator may, at their sole discretion, require that The Client leave the Project and, if appropriate, the country, without reimbursement of The Clients Project fees.

10.3 In the event that the Disciplinary Procedure is invoked under Clause 10.2 and The Client is required to leave His or Her Project and, if appropriate, the country, The Client agrees to do so without causing fuss, disturbance or aggravation and at the time specified by the in country Project Coordinator.

## **11 Personal Data and Image Rights**

11.1 The Company may retain The Clients contact details after the Project end-date, for the purpose of providing The Client with information regarding other products or services that may be of interest to The Client. If The Client prefers not to receive such information, please notify The Company in writing or by email.

11.2 The Company own the copyright and all intellectual property rights in any photographic, audio or video material produced by The Company employees or agents which is produced during The Clients Project (the "Material"). You agree that The Company may use any such Material in which The Client appears for promotional and marketing purposes only and provided always that The Company use of such Material shall not be in The Company's reasonable opinion defamatory or damaging to The Clients personal reputation. If The Client would prefer The Company not to use such Material as described herein, please indicate this to The Company in writing or by email. In the event that The Client believes either during or after His or Her Project that some Material may be defamatory or otherwise detrimental to The Client, The Client shall notify The Company in writing or by email as soon as possible and The Company shall use its reasonable endeavours to withdraw any such Material already published and shall cease to use any such Material in any further marketing or other publications forthwith.

## **12 Code of Conduct**

12.1 You understand that by undertaking a Project arranged by The Company you will be representing The company throughout the entire time you are living, working and interacting with the local community in your chosen destination. Furthermore, The Client will owe a duty of care to anyone who is involved with His or Her Project. Therefore, The Client agrees to abide by the following Code of Conduct during His or Her Project and accept that should The Clients behaviour fail to comply with any of the conditions outlined below, the in country Project Coordinator reserves the right to commence the Disciplinary Procedure in accordance with the provisions of Clause 10 above which may ultimately result in the termination of The Clients Project and accommodation agreement.

12.2 The Code of Conduct is as follows:

(a) The Client will at all times respect local attitudes, cultures and beliefs. Specifically, The Client will not make comments of a derisory, sexist, or racist nature to anyone during The Clients stay.

(b) The Client will not act in any way that is considered to be an anti-social manner by the in country Project

Coordinator or local inhabitants at any time during The Clients stay. The Client will adhere to this specifically while under the influence of alcohol.

(c) If The Client agrees to attend the minimum hours of His or Her Project provided by and agreed by The Company. The agreed hours will be a minimum of four (6) hours per weekday (Monday – Friday) unless otherwise expressly stated by the in country Project Coordinator.

(d) The Client will arrive at His or Her Project on time each day and, in the event that The Client is delayed or cannot attend His or Her Project altogether, The Client will notify the in country Project Coordinator as far in advance as is reasonably possible. Alternatively, The Client may notify another individual, such as an instructor or local staff member associated with His or Her Project, provided that this individual has been expressly nominated in advance by the in country Project Coordinator.

(e) The Client will not take any time out from His or Her Project in order to undertake personal in-country travel or to spend time with friends or family unless The Client has obtained the express permission from the in country Project Coordinator.

(f) The Client will not spend the night away from His or Her accommodation unless The Client has obtained the express permission from the in country Project Coordinator.

(g) The Client will not allow any person to enter or spend the night at His or Her accommodation unless The Client has obtained the express permission from the in country Project Coordinator.

(h) The Client will leave His or Her accommodation on the Project End Date stated on The Clients invoice unless He or She has obtained the express permission from the in country Project Coordinator. This includes local home-stay families that The Client may have stayed with during His or Her Project which The Company sourced and introduced to The Client.

(i) The Client will ensure that any equipment used by The Client, whether personal belongings or otherwise, are cleared away and kept tidy and orderly at all times, in both personal and communal living areas of the accommodation.

(j) The Client agrees to drink alcohol only in moderation throughout The Clients entire time in their chosen destination. The in country Project Coordinator will explain the drinking rules that apply to The Clients Project on arrival at your chosen destination, if The Client is informed of any local customs by the in country Project Coordinator, for example, concerning prohibitions or limits on alcohol consumption, The Client will adhere to and respect those customs. Furthermore, unless otherwise permitted by the in country Project Coordinator, The Client will not consume any alcohol from all day Sunday up until Friday evening. This rule may be relaxed on Friday evening and Saturday provided The Client has obtained the express permission from the in country Project Coordinator. The Client understands that The Company has a zero-tolerance policy on this matter and anyone who is caught consuming alcohol or is suspected of consuming alcohol outside the times permitted by the in country Project Coordinator may be asked to leave their Project and accommodation immediately in accordance with the provisions of Clause 10.2(c) of these Terms and Conditions.

(k) The Client will not buy, handle or consume any illegal substance during His or Her stay. The Client understands that The Company has a zero-tolerance policy on this matter and anyone who is caught in possession of illegal substances or is suspected of using or handling them may be asked to leave their Project and accommodation immediately in accordance with the provisions of Clause 10.2(c) above.

(l) The Client acknowledges that The Company explicitly advise against The Client developing sexual relations with any persons while staying in your chosen destination and The Client does so at His or Her own risk. Specifically, The Client accepts and understands that there may be different attitudes to sexual relations in your chosen destination, and that this could result in danger to The Client. The Client also accepts that health facilities may be of a lower standard in your chosen destination and that HIV/AIDS and other sexually transmitted diseases may also be common. The Client acknowledges that He or She is aware of the risks of unplanned pregnancy, HIV/AIDS and other sexually transmitted diseases involved in unprotected sexual relations. The Client also acknowledges that He or She is aware that drugs are sometimes used in cases of rape/non-consensual sex and this may be a risk while socializing during His or Her Project.

## **13 Agreement to Terms and Conditions**

13.1 It is important that The Client read and understand these Terms and Conditions prior to submitting His or Her Application Form. If The Client has any questions or concerns about the meaning of any item in these Terms and Conditions, The client is requested to raise these with The Company before submitting His or Her Application Form.

## **14 Law**

14.1 This contract is subject to English law and is subject to the exclusive jurisdiction of the English Courts.

