

# 36TH AMERICA'S CUP - BOOKING TERMS AND CONDITIONS

Experience Group provides certain hospitality and travel related services specific to the Events.

The following terms and conditions (the "Terms and Conditions") govern all requests and purchases of a Package by the Customer from Experience Group with regard to the Events and Packages. Accordingly, in requesting or purchasing a Package, the Customer (including any Agent, to the extent that the Agent makes a Booking on behalf of a Customer) acknowledges that they have read and accepted these Terms and Conditions and agree to be legally bound by them. These Terms and Conditions shall take effect notwithstanding any inconsistency with any other term or condition that relates to any Package. Please direct any queries regarding these Terms and Conditions to Experience Group, before any request for a Package.

Experience Group's Website Terms of Use and Privacy Policy (on the Website) are incorporated into these Terms and Conditions.

## 1.0 DEFINITIONS

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1.1. In these Terms and Conditions, the words and expressions set out below shall, unless the context otherwise requires, have the following meanings:

"Accreditation" means an accreditation pass (as applicable) allowing the Customer (and Guests) access to the relevant Hospitality Area which forms part of the Customer's Package;

"Agent" means any agent appointed to make a Booking on behalf of a Customer;

"America's Cup Match" means the final series of races for the 36th America's Cup to be held in Auckland, New Zealand during March 2021 between Emirates Team New Zealand and the winner of the Challenger Selection Series;

"Booking" means the reservation of a Package in accordance with these Terms and Conditions;

"Booking Acknowledgment" means the confirmation sent by Experience Group to the Customer in accordance with clause 2 of these Terms and Conditions;

"Claim" means all actions, proceedings, suits, claims and demands of any nature whatsoever;

"Customer" means:

(a) any person that requests or purchases a Package from Experience Group (and to the extent that an Agent makes a Booking on behalf of a Customer, that Agent); and

(b) any end user of a Package, including (without limitation) Guests;

"Experience Group" means Sports Marketing Limited and/or Spencer Enterprises Limited (as applicable);

"Event" means:

(a) America's Cup Match;

(b) Any other event which relates to the America's Cup Match and which relates to a Package;

"Event Organisers" means any contracted party who holds rights to the relevant Event to which a Package relates or who is responsible for the organisation, supervision and/or provision of certain activities, goods and services at the relevant Event to which the Package relates;

“Force Majeure Event” means any event or circumstances beyond the reasonable control of Experience Group, including (without limitation), industrial or civil disputes, war, governmental action, riot, fire, flood, drought or an act of God, terrorism (including the threat of terrorism), epidemics and pandemics;

“Guests” means any person who is a guest of a Customer and who receives the benefit of a Package;

“GST” means goods and services tax, as that term is defined in the Goods and Services Tax Act 1985 (NZ);

“Hospitality Area” means the hospitality areas under which a Package may be provided, including (without limitation):

- (a) Venues (such as temporary marquees, structures and existing facilities) used to host an Event which relates to a Package; and
- (b) Vessels;

“Loss” means all damage, loss, liability, cost and expense (including legal expenses between solicitor and client) of any nature whatsoever;

“Operators” means, as relevant:

- (a) The owner and/or operator of the Hospitality Area and their representatives/personnel;
- (b) Police officers or other law enforcement authorities or security officials at the Hospitality Area; and
- (c) The operator/skipper of the relevant Vessel;

“Other Terms and Conditions” means the terms and conditions relevant to:

- (a) a Supplier in the provision of providing its services which relate to a Package as the same may be announced, disclosed published, displayed by the Supplier, provided to the Customer or otherwise; and/or
- (b) the use of Accreditation with respect to the relevant Event as determined by the Event Organisers.

“Package” means in relation to an Event, the services to be provided and / or sold to the Customer by Experience Group and / or third parties, as confirmed in a Booking Acknowledgment. Such services may include, but are not limited to, Accreditation to access and use Hospitality Areas, catering, hospitality and travel;

“Package Fee” means the fee recorded on the Booking Acknowledgment (as relevant) for the Package(s);

“Suppliers” means, in relation to any Package, any third-party suppliers of services which form part of the Package (including Operators) and “Supplier” means any one of them;

“Vessel” means any vessel / charter boat that is designated by Experience Group to be used as part of a Package (including as a Hospitality Area (or similar));

“Website” means <http://www.experiencegroup.co.nz/>;

“Working Day” means a day (other than a Saturday, Sunday or public holiday) on which registered banks are open for normal banking business in Auckland, New Zealand.

## 2.0 BOOKING

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2.1 Following a booking request being made by the Customer on the Website or via calling an Experience Group authorised representative, confirmation of the Package and the Package Fee for the Package will be issued by Experience Group ("Booking Acknowledgement"). It is the Customer's responsibility to check the Package(s) and Package Fee(s) detailed in the Booking Acknowledgement are correct at the time the Booking Acknowledgment is issued. Payment is required at the time a Booking Acknowledgment is issued by Experience Group in accordance with the procedure set out on the Booking Acknowledgment and Website, unless Experience Group agrees in writing that the Customer can make payment of the Package Fee in accordance with clause 2.2.

2.2 The Customer can request that Experience Group issue the Customer with an invoice for payment of the Package Fee(s). For the avoidance of doubt, Experience Group has absolute discretion as to whether it consents to a request in accordance with this clause 2.2. Unless otherwise agreed in writing by Experience Group, any invoice issued by Experience Group pursuant to this clause 2.2 must be paid in full by the Customer within seven (7) days of issue of the relevant invoice by Experience Group. If payment is not made within this timeframe, Experience Group reserves the right to cancel the Customer's booking in accordance with clause 5.7.

2.3 It is always possible that, despite Experience Group's best efforts, the Booking Acknowledgment may be incorrect. If Experience Group discover an error in any Booking Acknowledgment, Experience Group will inform the Customer in writing of this error and will give the Customer the option of:

- (a) Paying any additional Package Fee to the extent that it was incorrectly detailed in the Booking Acknowledgment; or
- (b) Cancelling the relevant Booking and receiving a full refund.

2.4 The Customer, on making a booking request in accordance with clause 2.1, agrees and acknowledges that they have read and understood these terms and conditions and that the Customer (including Guests) shall be bound by, and shall comply with, the Terms and Conditions together with any other terms relating to the Package(s) and any other requirements and/or conditions that may be otherwise required by Experience Group. In the event that the Customer is in the form of an Agent, to the extent that the Agent makes a Booking, the Agent warrants that they have the full power and authority to bind each person comprising the Customer (including Guests) to these Terms and Conditions and any other term relating to the Package(s) and that the Agent has made the Customer (including Guests) fully aware of these Terms and Conditions and they have acknowledged and accepted the same.

2.5 Experience Group reserves the right to cancel a Booking or to use all reasonable efforts to provide the Customer with (in Experience Group's reasonable opinion) a fair and reasonable alternative package if Experience Group considers, at its absolute discretion, that there have been insufficient sales of Packages for an Event. Where possible Experience Group shall advise the Customer as soon as possible of such cancellation and shall refund in full all payments made by the Customer for each Package(s) so cancelled (except in circumstances where Experience Group is acting purely as a sales agent).

2.6 The Customer acknowledges that Experience Group will not allocate any Accreditation or any other element forming part of any Package to the Customer (including Guests), until payment of the relevant Package Fee is made in full by the Customer to Experience Group.

2.7 After Experience Group has provided the Customer with a Booking Confirmation, the Customer may from time to time request that Experience Group add items to that Customer's Package(s). Where Experience Group accepts such a request, it may charge a fee for the additional items ("Special Request Fee"). The Special Request Fee must be paid by the Customer within 7 days of Experience Group issuing a corresponding tax invoice. Experience Group may only provide the extra items following full payment of the Special Request Fee.

## 3.0 PACKAGES

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3.1 Experience Group does not make any warranty or representation in relation to the standard of any goods or services that are provided by third parties (including but not limited to Event Organisers and Suppliers) that form part of the Package(s), or the fitness for purpose, suitability, presentation, or availability of services or amenities in relation to any goods or services provided by third parties as part of the Package(s).

3.2 Experience Group exercises care in the selection of reputable Operators and Suppliers, however, it does not have control over, or liability for, the services provided by Operators and Suppliers. All bookings with Suppliers (such as Operators of Vessels which relate to a Package) are made on the Customer's (and its Guests) behalf and are subject to the Other Terms and Conditions, including conditions of carriage and limitations of liability, imposed by those Suppliers. Experience Group can provide Customers with copies of the relevant Other Terms and Conditions on request. Each Customer (and its Guests) legal rights in connection with the provision of Supplier services forming part of a Package are against the specific Supplier and, except to the extent any Loss or Claim is directly caused by fault or negligence on Experience Group's part, are not against Experience Group.

3.3 In requesting and purchasing a Package, the Customer:

- (a) Warrants that all details provided to Experience Group on behalf of the Customer (including Guests) are complete and accurate;
- (b) Warrants and represents that the person confirming the Booking has the power and authority to bind the Customer (including Guests);
- (c) Subject to clause 3.2, appoints Experience Group as its duly appointed agent for the purposes of dealing with all Event Organisers, Suppliers and Operators for the purpose of procuring the goods and services that form part of the Package;
- (d) Acknowledges that Experience Group has brought to the attention of the Customer these Terms and Conditions;
- (e) Formally accepts and agrees to be bound by (and to comply with) these Terms and Conditions any relevant Other Terms and Conditions and any other laws, rules, regulations and/or conditions relating to the provision of the Package;
- (f) Accepts responsibility for making due payment of all monies payable in respect of each Booking.

3.4 Each Package is non-transferable unless Experience Group agrees otherwise and confirm the same in writing. Customers shall not re-sell, or advertise for sale, any Package, or any part of it, to another person, company or organisation. If a Customer breaches this obligation, then the relevant Event Organisers and/or Suppliers may cancel any Accreditation relating to the Package and Experience Group reserve the right to cancel the relevant Booking (without liability to the Customer) and to retain all monies paid to Experience Group in relation to the relevant Booking.

## 4.0 EVENTS / ACCREDITATION / VESSELS

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4.1 The Customer acknowledges that use of any Accreditation (where applicable) shall be subject to the Other Terms and Conditions and any rules and/or regulations with regard to any relevant Hospitality Area, in addition to the terms and conditions contained herein.

4.2 Experience Group finalises all arrangements for Packages on the express condition that it shall not be liable to Customers (and Guests) for any injury, loss, accident, delay or irregularity

which may be occasioned by reason of any defect through the acts or default of any Event Organiser, Supplier, Operator, or any other third party company or person engaged in carrying out arrangements relating to a Package.

4.3 The right of admission using Accreditation is subject to the Other Terms and Conditions (as applicable), copies of which shall be made available on request.

4.4 Accreditation will be void if on sold, traded, scalped or used as a competition prize or for promotional purposes without written authority from Experience Group.

4.5 Entry may be refused if Accreditation is damaged or defaced in any way or are not purchased directly from Experience Group or its authorised points of sale.

4.6 Experience Group does not warrant or represent that any Event will be held.

4.7 Experience Group, Event Organisers, Suppliers and Operators have the right to remove any person who in its reasonable opinion is not observing their obligations (including the relevant Other Terms and Conditions).

4.8 The Customer shall not use a Package for marketing or promotional purposes. This includes, but is not limited to, being used as a part of an incentive, prize or lottery without the prior written approval of Experience Group.

4.9 Where a Package includes Accreditation to access and use of a Vessel, the Customer acknowledges and agrees to the following:

(a) It is the responsibility of the Customer to ensure that all of its Guests are aware of the risks that may arise from being on board the Vessel and that failure to comply with the relevant Other Terms and Conditions and other instructions and orders of the Vessel Operator and/or Experience Group may result in injury or death. Without limitation to the aforesaid, the Customer acknowledges that there are a lot un-even surfaces, ledges and lips on a Vessel which are tripping hazards and can cause injury and it is important that the Customer and its Guests take care when moving around the Vessel particularly around doorways and stairs and use the rails provided;

(b) It is the responsibility of the Customer (and its Guests) to ensure it arrives at designated pick-up locations at the times designated and notified by Experience Group. Failure to do so may result in the relevant Customer (and/or its Guests) missing its Accreditation to the relevant Vessel and the Customer will have no right to any type of refund;

(c) Without limitation to the Other Terms and Conditions, all health and safety requirements of the Vessel must be strictly followed by the Customer and its Guests at all times. Experience Group takes no responsibility for any Customer and/or Guests who fail to comply with such requirements. The Operator of the Vessel and/or Experience Group reserve the right (in their absolute discretion) to remove from the Vessel any Customer (including Guests) who refuses to comply with the instructions of the Operator and/or Experience Group or in their opinion is likely to cause distress, damage, danger or annoyance to other persons on the Vessel;

(d) Each Customer (and its Guests) legal rights in connection with the operation and safety of the Vessel are against the specific Supplier/Operator of the Vessel and, except to the extent caused by fault or negligence on Experience Group's part, are not against Experience Group;

(e) Experience Group does not guarantee that Customers will be 'covered' at all times while occupying the Vessel and the 'dryness' of Customers (and its Guests) is subject to the facilities of the relevant Vessel and the weather conditions prevailing at the time. For this purpose, the Customer accepts all risks associated with such weather conditions;

(f) All Vessel departures are subject to wind and weather conditions any will be dependent on certain orders or instructions of the relevant Operator of the Vessel;

(g) The course of the Vessel is at the sole discretion of the Operator in conjunction with relevant rules and regulations (including, but not limited to Navigation Safety Bylaw 2014, which governs use of the Auckland Harbour). No guarantee is given or implied by Experience Group that the Vessel will depart or travel to certain destination(s) or take certain routes. Without limitation to the aforesaid, the Operator reserves the right to alter proposed routes or cancel any departure in the interest of passenger safety and/or comfort;

(h) Vessel locations/ pick-up/ drop-off points are not guaranteed and may change at any time or at late notice;

(i) Intoxication issues will not be tolerated under any circumstances. The Operator of the Vessel and/or Experience Group may at their discretion prohibit intoxicated persons from boarding the Vessel, or may remove such persons once they are on board. Any charges or fees associated with removing intoxicated persons from the Vessel shall be at the cost of the relevant intoxicated person(s). The Operator and/or Experience Group may issue instruction that intoxicated persons are no longer to consume alcohol or be served alcohol;

(j) If any Customer and/or its Guests need to vacate or otherwise be taken off the Vessel for any reasons, including illness, then such Customer and/or Guests are liable to pay any charges or fees associated with removing the Customer and/or Guests from the Vessel;

(k) Subject to the dress code set out below, all Customers and Guests must appropriately for the weather. It is recommended that Customers and Guests bring their own sunscreen, hats, sunglasses, water, sea sickness tablets and any other requirements for the day. Experience Group and the Operator will not be responsible for any harm or Loss caused to Customers and Guests due to their failure to prepare for being on the Vessel;

(l) The following dress code applies to all Vessels:

(i) No tee shirts are permitted. All males must wear collared shirts;

(ii) No board shorts are permitted. Respectable shorts must be worn at all times;

(iii) No stilettos, high heeled shoes, sandal's or otherwise open-ended shoes are permitted. Customers and Guests must wear flat light-coloured soled shoes. Dark soled shoes are not permitted.

4.10 Experience Group, the Event Organiser, Suppliers and Operators retain the right to require any person to leave a Hospitality Area or Event if that person:

(a) Is in breach of clause 4.9 in relation to the Vessel;

(b) Engages in conduct which unreasonably interferes with other persons enjoyment;

(c) Interferes with either Experience Group, the Event Organiser or the Operators' ability to provide hospitality and/or conduct the Event; or

(d) Breaches any laws, by-laws, orders, rules, Venue Regulations or the Other Terms and Conditions.

4.11 If a person fails to leave a Hospitality Area after being requested to do so then that Customer's right to access the Hospitality Area shall be automatically revoked.

## 5.0 PAYMENT TERMS

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5.1 The Package Fee is exclusive of GST unless otherwise stated.

5.2 Experience Group reserves the right to alter the prices of Package(s) shown on the Website.

5.3 Unless otherwise specified by Experience Group, payment of the Package Fee and all other sums payable under these Terms and Conditions will be in New Zealand Dollars.

5.4 The Customer must pay the Package Fee as and when specified by Experience Group pursuant to the Booking Acknowledgment or as otherwise directed by Experience Group.

5.5 The Customer acknowledges that:

- (a) Not all payment cards will be accepted by Experience Group; and
- (b) Payments made by payment cards may be subject to a handling fee.

5.6 Without prejudice to any other rights under these Terms and Conditions, Experience Group shall be entitled in the case of overdue payments from the Customer to charge interest on such overdue payments at the rate of 12% per annum, from the due date until the date of payment.

5.7 Experience Group reserves the right to cancel a Booking should payment of any invoice rendered by Experience Group to the Customer in accordance with clause 2.2 not be received before the payment due date. If a Customer's Booking is cancelled in accordance with this clause then no part of the Package will be provided notwithstanding that any part of the relevant invoice or invoices may have been paid. In the event that the Customer has paid some but not all of the Experience Group invoices rendered in relation to a Package ordered by the Customer, then the amount paid will be forfeited by the Customer and Customer as a cancellation fee.

5.8 Experience Group reserves the right to pass on to the Customer any cost increases that are incurred in relation to the relevant Booking, by first providing the Customer notice of such increase. In the event that a cost increase is passed on to the Customer, and provided that the relevant GST invoice has yet to be issued to the Customer, the Customer will have the right to cancel its reservation by immediately providing Experience Group notice of the same.

## 6.0 CUSTOMER'S OBLIGATIONS

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6.1 In addition to the Customers other obligations set out in these Terms and Conditions, the Customer agrees to:

- (a) Pay all monies due and owing as specified by Experience Group in accordance with clause 5 of these Terms and Conditions;
- (b) Pay to Experience Group any costs or expenses incurred by Experience Group in recovering sums owed hereunder and any damages for non-performance of these Terms and Conditions including legal costs on a full indemnity basis;
- (c) Be responsible for the reasonable dress standard, good behaviour, and full compliance with all provisions under these Terms and Conditions;
- (d) Exercise host responsibility in respect of the amount of alcohol consumed, age of Guests and the dangers of drinking and driving;
- (e) Not use (or attempt to do so) the Package or Hospitality Area except as expressly permitted under these Terms and Conditions;
- (f) Not bring any food or alcoholic beverages to any Hospitality Area (unless expressly authorised by Experience Group) and further agree that alcoholic beverages may only be consumed as directed by Experience Group or the principals, officers or administration personnel of any Hospitality Area;
- (g) Comply with all smoking restrictions that are imposed in relation to each Hospitality Area;



- (h) Will immediately pay to Experience Group all Loss resulting from any Claim against Experience Group in making good any damage to the Hospitality Area caused by the Customer (including Guests);
- (i) Comply with the terms and conditions of the Event Organisers (if any), Suppliers and Operators and any instruction given by them;
- (j) Comply with all laws, rules and regulations and all local and statutory authorities;
- (k) Comply with all health and safety procedures and regulations specific to the Hospitality Areas.

## 7.0 NO SPONSORSHIP RIGHTS OR ASSOCIATION WITH THE EVENT

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7.1 The Customer (including Guests) expressly acknowledges and agrees that the purchase of any Package under these Terms and Conditions does not grant the Customer any marketing or promotional rights with respect to the Event.

7.2 The Customer (including Guests) must not, unless entitled to, use any trade mark, logo or intellectual property belonging or associated with the Event and / or hold itself out as a sponsor of, or otherwise associated itself or its name in any manner whatsoever with the Event.

7.3 The Customer (including Guests) has no right to promote itself, its trade or any other business in the Hospitality Area.

7.4 The Customer (including Guests) must not practice an form of ambush marketing or attempt to capitalise on the goodwill, reputation and popularity of the Event by creating an association between itself and the 36th America's Cup.

## 8.0 SUBSTITUTION OR AMENDMENT OF PACKAGE(S)

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8.1 Experience Group reserves the right to substitute or amend Package(s) (including without limitation any areas or services initially allocated to the Customer) if such amendment is required:

- (a) In order to comply with local applicable laws; or
- (b) Due to security constraints or other reasons in connection with staging the relevant Event; or
- (c) As a result of space re-allocation of a Hospitality Area for whatever reason; or
- (d) Due to the unavailability of any food or drink,

In which case, Experience Group shall use all reasonable efforts to provide the Customer with (in Experience Group's opinion) an equivalent package to the Package purchased by the relevant Customer.

## 9.0 POSTPONEMENT/CANCELLATION

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9.1 Without limiting Experience Group's right to claim payment hereunder for any loss or damage arising as a result of any cancellation hereof, if the Customer cancels part or all of a Package the Customer shall forfeit any and all monies that have been paid to Experience Group at the time of cancellation (as applicable). Notice of cancellation by the Customer shall not take effect until it is received in writing by Experience Group. If notice is not received on a Working Day, then the notice will only take effect on the next Working Day thereafter.



9.2 The postponement policy relating to Packages is set out at the Appendix of these Terms and Conditions (the "Postponement Policy"). The Customer (including its Guests) acknowledges and agrees that all Packages and the Accreditation relating to such Packages are expressly subject to the Postponement Policy and agrees to be bound by the same.

9.3 Experience Group may cancel all or part of a Package and refund any part of the Package Fee paid by the Customer (less any amount deductible by Experience Group in accordance with clause 9.7) in the event that:

- (a) The relevant Event is cancelled;
- (b) Experience Group is not able to provide the Customer with certain hospitality and/or travel services forming part of the Package(s); or
- (c) Without limitation to 12, there is a Force Majeure Event which requires cancellation of a Package (in whole or in part).

9.4 If the Customer is in the business of or holds itself out as acquiring goods/services from Experience Group for the purposes of a business, the Customer as a buyer acknowledges that it is not entitled to claim any of the remedies provided under the Consumer Guarantees Act 1993 from Experience Group and that the provisions of that Act do not apply to the Customer.

9.5 Packages / Accreditation will be void if on sold, traded, scalped or used as a competition prize or for promotional purposes without written authority from Experience Group.

9.6 Either party may cancel a Booking (and therefore Package) with immediate effect if:

- (a) A party is in material breach of any provision of these Terms and Conditions and that breach is unable to be remedied;
- (b) Where a material breach has occurred that is capable of remedy but is not remedied within 10 (10) days of notice; or
- (c) Any party becomes subject to insolvency or any official is appointed in respect of that party's assets.

9.7 In the event of any refund payable to a Customer pursuant to clause 9.3 and/or 9.6 (or otherwise), Experience Group may charge an administration fee which will be calculated at 20% of the relevant Booking amount. This fee will typically cover all additional time, expenses and costs incurred by Experience Group with regard to refunding a confirmed Booking / Package(s). Experience Group may deduct such administration fee from any refundable amount payable to a Customer, prior to making such refund to that Customer.

9.8 In the event that the America's Cup Match is declared a 'major event' pursuant to the Major Event Management Act 2007 (the "Act"), then these Terms and Conditions shall be read subject to the provisions of the Act.

## 10.0 INDEMNITY

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10.1 The Customer indemnifies Experience Group and its employees, directors and representatives (the "Indemnified Persons") and hold the Indemnified Persons harmless from and against all Claims brought or made by or against the Indemnified Persons, and from and against all Loss incurred, suffered or sustained by the Indemnified Persons resulting from:

- (a) A breach (or attempted breach) of these Terms and Conditions;
- (b) Any negligent act or omission by the Customer (including any Guest) under, or in connection with, these Terms and Conditions;

(c) Any exercise (or attempted exercise) by Experience Group of any of its rights against the Customer under, or in connection with, these Terms and Conditions.

## 11.0 LIABILITY

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11.1 To the fullest extent permitted by law:

(a) Neither Experience Group, nor its directors, employees or agents accept any liability in contract, tort or otherwise for any injury, damage, loss, delay, additional expense or inconvenience caused directly or indirectly by the acts, omissions, default, whether negligent or otherwise of Suppliers, Event Organiser and Operators;

(b) Other than already expressed in these Terms and Conditions, Experience Group excludes all warranties, terms, conditions or undertakings of any nature and in any form (whether express or implied, written, oral, statutory or otherwise) in relation to the Package(s);

(c) Experience Group will not be liable for: (i) any Loss, injury or damage to property or persons whatsoever including illness, death, injury suffered by the Customer (including Guests) or any third party arising from use by the Customer (including Guests) of the Package(s); or (ii) any special, indirect or consequential Loss of profit arising under or in connection with, these Terms and Conditions; and

(d) Experience Group's maximum liability to the Customer (including Guests) under, or in connection with, these Terms and Conditions shall be limited to the amount actually paid by the Customer to Experience Group for the Package(s).

## 12.0 FORCE MAJEURE

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12.1 Experience Group shall not be liable to the Customer (or its Guests) for its inability to perform any obligations under these Terms and Conditions caused by Force Majeure Event.

12.2 If a Force Majeure Event occurs, then Experience Group shall immediately notify the Customer and take all reasonable steps to reduce its effect (if any).

12.3 Experience Group is not liable for failure to deliver or provide any Package(s) or for any delay in delivery or in providing any such Package(s) where such failure or delay is caused by a Force Majeure Event.

## 13.0 GENERAL

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13.1 These Terms and Conditions shall be governed by and interpreted in accordance with the laws of New Zealand.

13.2 The Customer is responsible for ensuring it is familiar with the latest Terms and Conditions. These Terms and Conditions may be amended whether in whole or in part by Experience Group at any time. Any changes will be effective immediately upon posting a revised version of the Terms and Conditions on the Website. By continuing to use the Website and/or Package, the Customer agrees to be bound the Terms and Conditions as amended.

13.3 These Terms and Conditions may be amended whether in whole or in part by Experience Group at any time. Experience Group will notify its Customers (using the contact details provided) of any changes to these Terms and Conditions. Any variations will only apply to any Package purchased made after these Terms and Conditions have been updated.

13.4 These Terms and Conditions constitute the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties whether orally or in writing or otherwise.

13.5 If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal, if this is not possible, the clause (or where possible, the offending part) is to be severed from these Terms and Conditions without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

13.6 In the event that any Event is declared a 'major event' pursuant to the Major Event Management Act 2007 (or the equivalent of such in relation to where the Event is held) (the "Act"), then these Terms and Conditions shall be read subject to the provisions of the Act in relation to the relevant Event.

13.7 If the Customer is in the business of or holds itself out as acquiring goods/services from Experience Group for the purposes of a business, the Customer as a buyer acknowledges that it is not entitled to claim any of the remedies provided under the Consumer Guarantees Act 1993 from Experience Group and that the provisions of that Act do not apply to the Customer.

## **APPENDIX**

### **POSTPONEMENT POLICY**

"AC36 Rule" means any ruling or decision relating to a Race in accordance with the protocols, rules and any other governing document relating to the America's Cup Match;

"Day 1" means 6 March 2020, which is the scheduled race day for Races 1 and 2;

"Day 2" means 7 March 2020, which is the scheduled race day for Races 3 and 4;

"Day 3" means 10 March 2020, which is the scheduled race day for Races 5 and 6;

"Day 4" means 12 March 2020, which is the scheduled race day for Races 7 and 8;

"Race" means any race to be held in relation to the America's Cup Match;

"Postponement" means when a Race is postponed due to an AC36 Rule, Force Majeure Event or otherwise any other reason as determined by the organisers/promoters of the America's Cup Match and "Postponed" has a corresponding meaning;

All other capitalised words shall have the meaning given to them in the Experience Group Terms and Conditions

#### **Operative Part**

Each Customer (including its Guests) who have purchased Accreditation agree and acknowledge the following:

1. Each Race day is scheduled for two Races with the first to seven wins. Day 1, Day 2, Day 3 and Day 4 are the scheduled race days for Races 1 – 8 (as applicable).
2. Wind conditions have been set for each Race to go ahead between 6.5 to 23 knots.
3. Tuesday, 9 March 2020 may be used as a Race day if the Regatta Director so decides due to the America's Cup Match being behind schedule after Day 1 and Day 2 (6th and 7th March 2020).

4. Friday, 12 March 2020 (being Day 4) will not be used as a Race day if the Regatta Director considers racing is not required that day to meet the intended objective of the completing the America's Cup Match over the weekend of the 13th/14th March 2021. He may also elect to only conduct one Race that day.
5. In the event of a Postponement of a Race, then Customers who have purchased Accreditation for that Race day will have their accreditation allocated to the next available Race day.
6. If the America's Cup Match is not completed prior to 15th March 2021, the racing will continue every day until completion of the America's Cup Match.
7. Accreditation for any Race day will be deemed to be used by a Customer where that Customer has been alerted to board their Vessel to which the Accreditation relates (a "Deemed Use"). For the avoidance of doubt, a Deemed Use will occur regardless of whether the relevant Race(s) go ahead or not on that day. In the event of a Deemed Use, Customers on the relevant Vessel will receive their corporate hospitality which forms part of their Package, in accordance with schedule of the relevant Package. No refunds will be provided to Customers for any Accreditation to which a Deemed Use applies.
8. If a Race day is Postponed and the Customer's Accreditation is allocated to the next available Race day in accordance with this Postponement Policy, then Experience Group is not liable to any Customer and/or its Guests in the event that a Customer's Accreditation is allocated to a Race day that is inconvenient or not possible to be attended by the Customer and/or its Guests, for any reason. For the avoidance of doubt, no refunds will be provided to Customers and/or Guests in such circumstances.
9. If a Customer and/or its Guests are late to a location/pick-up point designated by Experience Group, which results in the Customer and/or its Guests missing Accreditation to their Vessel, then that Customer and/or its Guests shall not be entitled to any refund, including in situations where there is a Deemed Use.
10. Experience Group will use reasonable endeavours to communicate any Postponements and/or changed times for Races, however, Customers acknowledge that such notice could be delayed or late and Experience Group will have no liability to Customers and/or their Guests where such communication or notice is late or delayed.