

CONTRACT OF CARRIAGE OF PASSENGERS FOR VOYAGES TO OR FROM A PORT IN THE REPUBLIC OF SOUTH AFRICA

1. CONSTRUCTION AND DEFINITIONS

Words or phrases have been defined throughout these terms and conditions and have been underlined and made bold for your ease of reference. Any words or phrases contained herein shall bear similar meanings to those definitions contained in the Booking Terms and Conditions (“STCs”). Notwithstanding this, in these conditions and if applicable in this Contract of Carriage, the following words or phrases shall bear the following meanings ascribed to them –

“ADDITIONAL SERVICES” mean services other than the provision of the passage on board the cruise vessel, provided by third party Service Providers other than the Carrier or MSC, such as, but not limited to, air flights, transfers, hotel accommodation, road or rail shore transport, excursions ashore during the Cruise and all other services provided by third parties, whose own contractual terms and conditions shall, subject to clause 22 below, be binding on the Passenger and who act as independent contractors and for whose actions (including their negligence or that of their servants and agents) the Carrier and/or MSC have no responsibility or liability.

“CARRIER” means the Owner and/or Operators and/or Charterer whether Bare Boat/Demise Charter, Time Charterer, or Sub-Charterer of the vessel to the extent that each of them acts as Carrier or performing Carrier and includes MSC.

“CRUISE” and/or “TRAVEL ROUTE” means the intended course and route between two or more geographic points on land or at sea that the operator of any means of transportation or conveyance operated by the carrier or any sub-contracted or independent carrier takes or intends to take in transportation and providing the carriage in fulfilment of this or any other relevant contract of carriage or passage. The commencement of transportation on such travel or cruise route (as the case may be) shall for international travel be when the Passenger departs on an international journey, outside the borders of the Passenger's home country or country of domicile, commencing when they pass through passport control from their home country and ending when they pass back through passport control into their home country (including local connecting flights). Such commencement for domestic travel routes and Cruises shall be when the Passenger has boarded the Cruise Ship at the scheduled or substituted embarkation port, has cleared customs and immigration and has passed through the reception formalities to board the ship, notwithstanding when the vessel departs the berth and/or when ocean navigation from the port commences, if at all. The domestic Cruise and Travel route shall be deemed to have been completed when the Passenger disembarks at the final scheduled port of destination.

“DISABLED PERSON” or “PERSON WITH REDUCED MOBILITY” (also “PRM”) means any person whose mobility when using transport is reduced as a result of any physical disability (sensory or locomotive, permanent or temporary), intellectual or psychosocial disability or impairment, or any other cause of disability, as a result of age, and whose situation needs appropriate attention and accommodation/adaption to his particular needs for the service made available to all Passengers.

“LUGGAGE” means any baggage, packages, suitcases, trunks or other personal items belonging to or carried by any passenger, including cabin luggage, hand luggage and articles worn by or carried on the persons of the Passenger or deposited with the purser for safe custody.

The **“MASTER”** is the Captain or person in charge of the carrying Vessel at any given point and commanding of the Cruise Ship.

“MINOR” means any child under the age of 18.

“MSC” is MSC Crociere SA which is the party with whom the

Passenger has entered into the Passage Contract and this Contract of Carriage for the cruise and/or carriage on board the Vessel.

“ORGANISER” is the party with which the Passenger has entered into a contract for the Cruise and/or package as defined under the EU Council Directive 90/314/EEC of 13th June 1990 on Package Travel, Package Holidays and Package Tours, which includes the cruise onboard the Vessel or other equivalent.

“PASSAGE CONTRACT” means the contract which the Passenger has entered into with MSC, the terms of which are evidenced by the STCs together with the answers to the Frequently Asked Questions (“FAQ's”) (which in itself does not create obligations, duties or warranties on the part of MSC) and these terms and conditions of the Contract of Carriage, which together all form part of the Passage Contract.

“PASSENGER” is the person or persons named on the relevant Cruise Ticket including Minors, the purchaser of the Passage Contract and any travel agent or other person (including the Group Organiser) who has booked the Cruise and/or who is authorised to receive the Cruise Ticket and to contract on behalf of the Passenger. All references to the singular shall include the plural and any expression denoting one gender, shall include the other genders.

“SHORE EXCURSION” means any excursion offered for sale by the Carrier for which a separate charge is payable to either the Carrier or a Service Provider, although such charge may be included in the passage fare as part of a lump sum cruise package, whether booked prior to commencement of the cruise, or onboard the vessel. Where such shore excursion is provided by a third party Service Provider and notwithstanding that a charge may have been raised by MSC, the terms and conditions of such Service Provider (including any limitation of liability or waivers) shall apply and be binding on the Passenger.

“SOUTH AFRICAN CRUISE SEASON” means cruises advertised to be commenced and completed to or from ports in South Africa during the period between approximately October or November in any one calendar year and March or May in the following calendar year, although such periods or dates may be changed at MSC's sole discretion.

“TRIP” shall have the same meaning as **“CRUISE”** and as **“TRAVEL ROUTE”** and as **“VOYAGE”** and vice versa.

“VESSEL” means the Vessel named in the relevant Passage Contract or any substituted vessel owned or chartered or operated or controlled by the carrier.

2. AGREEMENT AND NON-TRANSFERABILITY

- 2.1 MSC as the named contractual carrier, agrees to transport the person named in the Cruise Ticket (**“the Passenger”**) on the specific voyage (**“the Voyage”**) on named or substitute vessels.
- 2.2 **The Passenger agrees to be bound by all the terms, conditions and limitations of this and the Passage Contract as well as all Rules made and applied on board the Vessel by the Master and/or the performing carrier (if applicable). The Booking Terms and Conditions have been incorporated herein by reference.**
- 2.3 In the event of conflict, these conditions and the STCs will take precedence.
- 2.4 These Conditions of Carriage cannot be amended without written and signed consent from the Carrier or its authorised representative. **MSC reserves the right to amend this Contract of Carriage without the written consent of the Passenger,**

if absolutely necessary.

2.5 The Passage Ticket (which incorporates these terms and conditions) issued by MSC is valid only for the Passenger or Passengers for whom it is issued, for the date and Vessel indicated therein, or any substitute vessel and is not transferable.

3. BOOKING CHANGES MADE BY MSC

3.1 The operation of the Cruise Ship is affected by factors beyond MSC's control, such as weather and sea conditions, mechanical problems, the duty to assist ships in distress, instructions of the Port authorities relating to departure and/or arrival and/or stoppages, and the availability of Port facilities. As a result, it may be necessary for MSC to change the date or time of the Passenger's Cruise for operational, commercial or safety reasons.

3.2 MSC will notify the Passenger (or if the Passenger has booked the Cruise Ticket through a Travel Agent or Group Organiser - that Travel Agent or Group Organiser) as soon as reasonably possible of any changes to the Passenger's Cruise booking.

3.3 If MSC makes a change to the Passenger's Cruise booking, the provisions of clauses 14, 15, 16 and 17 of the STCs and the further clauses referred to therein, shall apply and are fully incorporated herein.

4. CANCELLATIONS OF CRUISES BY MSC

4.1 MSC may cancel the Passenger's Cruise at any time by giving the Passenger written notice of cancellation.

4.2 If before or during a Cruise, MSC cancels the Passenger's Cruise for any reason, MSC may within its sole discretion:

4.2.1 refund the Passenger the amount of the Passenger's Cruise Fare in proportion to the part of the Cruise which has not been performed; or

4.2.2 transfer the Passenger to another Cruise of a similar, but not necessarily identical, class and type, sailing substantially the same route with substantially similar accommodation and facilities as on the Cruise for which the Passenger booked. Note that as a matter of company policy, passengers will not be transferred from a Cruise in one South African Cruise Season to a cruise in another South African Cruise Season, unless within MSC's sole discretion exceptional circumstances exist to justify such a transfer.

4.3 Subject to the provisions of clause 4.2.2, **MSC shall not be liable for any loss or damages which the Passenger may suffer if for any reasons beyond MSC's control, MSC is required to cancel the Passenger's Cruise.**

4.4 A change in the intended or advertised itinerary, destination port or area, rotation of ports or destinations or any shore excursion, shall not constitute a cancellation of your Cruise, nor shall an inability or failure of the vessel to sail from the port of embarkation or any intermediate port on or at the schedule time or date, or at all, constitute such a cancellation of your Cruise.

5. CHANGES IN THE CRUISE, TRAVEL ROUTE OR PORTS

5.1 The Cruise Ship is scheduled to travel the route ("**Travel Route**") and stop at the ports of call ("**Ports**") specified in the Cruise Booking which the Passenger has booked.

5.2 The Cruise and Travel Route shall be deemed to have commenced when the passenger has boarded the Cruise Ship at the scheduled or substituted embarkation port, has cleared customs and immigration and has passed through the reception formalities to board the ship, notwithstanding when ocean navigation from the port commences. The Cruise and Travel Route shall be deemed to have been completed when the passenger disembarks at the final port of destination.

5.3 In the case of a repositioning or other international non-coastal voyage or cruise, or in the event of a package or multi-modal inclusive travel booking, then the Cruise Travel Route shall be

deemed to have commenced when the passenger has cleared through passport control and entered the international departure area in the country of their domicile or the departure point for their pre-cruise travel arrangements if covered in their booking, for the commencement of international travel by air, train or other means of conveyance in a multi-modal package booking.

5.4 The operation of the Cruise Ship is affected by weather and sea conditions, mechanical problems, duty to assist ships in distress, instructions of the Port and other authorities relating to departure and/ or arrival and/or stoppages, the availability of Port facilities, and other factors which may be beyond MSC's control.

5.5 For these reasons, the date and/or time at which the Cruise Ship is scheduled to sail are approximate only and may be delayed and subject to change.

5.6 MSC does not guarantee that the Cruise Ship will be able to depart the port of embarkation on or at the scheduled date or time, or at all; and/or call or stop at the Ports at which it is scheduled to call or stop; and/or that the passenger will be able to go ashore on a planned shore excursion during the scheduled Travel Route; and/ or that the Cruise Ship will travel along the scheduled Travel Route. MSC may change the Travel Route and/or Ports at which the Cruise Ship calls or stops if the master of the Cruise Ship ("the Master") considers it necessary to do so for any of the reasons set out above.

5.7 If for any reason, the Cruise Ship is unable to sail the Travel Route, MSC may transfer the Passenger to another ship or to any other mode of transport bound for the original destination of the Cruise.

5.8 If the Port from which the passenger is scheduled to board the Cruise Ship is changed by MSC, MSC will at its cost arrange for the passenger to be transported to the Port at which they are required to board the Cruise Ship.

5.9 MSC shall not be liable for any loss or damages which the passenger may suffer if for any reasons beyond MSC's control:

5.9.1 The passenger has to board the Cruise Ship at a different Port;

5.9.2 the time or date on which the Cruise Ship is scheduled to leave a Port is delayed or if it is unable to depart a Port at all for reasons beyond its control and is obliged to remain moored alongside a berth or at anchor;

5.9.3 the Cruise Ship is unable to stop at a scheduled Port or anchor or stop to permit the passenger to go on a scheduled shore or other excursion, or once stopped at a Port, the passenger is unable to go ashore;

5.9.4 the Cruise Ship is substituted by another ship or mode of transport; and/or

5.9.5 the time or date, on which the Cruise Ship is scheduled to land at the final port of destination, is delayed.

6. VISAS AND TRAVEL DOCUMENTS

6.1 It is the Passengers responsibility to ensure that he or she has a valid and appropriate passport and if necessary, a valid and appropriate visa or permit and all other required entry documents (collectively "Travel Documents"), for all scheduled Ports at which the Cruise Ship is scheduled to stop for the duration of the Cruise.

6.2 MSC is not responsible for ensuring that the Passengers have the necessary and valid Travel Documents. It is the Passengers' responsibility to:

6.2.1 To check with the Department of Home Affairs for the most up to date information regarding the validity of their passport (including, the required number of blank pages) and the requirements for travel outside of Southern Africa (including, immunizations and inoculations), and to comply therewith;

6.2.2 To check the visa requirements with the consulate or embassy of each country the Cruise Ship is scheduled to stop, including stop overs and ports, and to comply

therewith.

6.3 Passengers must present the necessary Travel Documents for inspection as required on entering and exiting any Port.

6.4 MSC is not liable for any loss, damages, costs or expenses which the Passenger may suffer or incur due to incorrect or incomplete Travel Documents, or for any other reason, a Passenger is denied embarkation at any Port by the relevant authorities.

6.5 The Passenger shall be liable to MSC for any fines or penalties imposed on MSC by any authority at any Port if the Passenger does not present the necessary valid Travel Documents for inspection and/or if they have not complied with any other requirements for travel.

6.6 MSC may at any time request to inspect your Travel Documents.

7. OCCUPATION OF BERTHS AND CABINS

A Passenger shall not have the right to exclusive occupancy of a cabin with two (2) or more berths unless he/she/it has paid the Supplement applicable for exclusive occupation. The Carrier reserves the right to transfer the passenger from one cabin to another and may adjust the Cruise Fare accordingly. The Master or the Carrier may if it becomes advisable or necessary at any time, transfer a Passenger from one berth to another. Final Cabin numbers may be amended up until departure date. MSC will guarantee the same or a higher type of Cabin Category should it be necessary to move cabins.

8. BOARDING A CRUISE AND SECURITY

8.1 The Passenger must be present at the Port from which the Passenger's Cruise is scheduled to depart at least 3 (three) hours before the scheduled time of departure in order to complete any pre-boarding procedures and security inspections.

8.2 The Passenger may not, without MSC's prior written consent, take any articles on-board the Cruise which MSC reasonably believes could endanger the security of the Cruise Ship or its Passengers, including firearms, ammunition, explosives and/or flammable, toxic or dangerous substances. The Passenger may not take on board any beverages or foodstuffs. Any such items (including foodstuffs and beverages which the Passenger purchased at any Port at which the Cruise Ship stops) will be retained by MSC and returned to the Passenger at the end of the Cruise, unless any such foodstuffs/beverages are perishable, in which event it may be destroyed without compensation.

8.3 To ensure that the Passengers comply with these restrictions, before the Passenger boards the Cruise Ship, MSC reserves the right to search the Passenger and the Passenger's luggage.

8.4 MSC may at any time during a Cruise, search any cabin, berth or other part of the Cruise Ship for security reasons.

9. LUGGAGE ON BOARD A CRUISE

9.1 Each Passenger (adult & child) is permitted only 1 (one) bag as checked luggage on cruises of 4 (four) nights and less. 1 (One) Bag per person will be accepted free of Charge; any additional bags will be transported subject to space availability and at a cost of US\$ 25 (twenty five US dollars) per bag (converted into USD at the actual exchange rate), which will be added to the Passenger's onboard account.

9.2 On longer cruises, Passengers are encouraged to limit their checked luggage to 2 (two) bags per person. We recommend that guests take smaller bags so as not to clutter the cabin area where space is limited.

9.3 Carry-on Luggage: Passengers on cruises of 4 (four) nights and less are permitted 1 (one) small carry-on bag each. Carry-on luggage may not exceed 126cm in combined length; width and height, including any handles and wheels (Length of 56 cm, width of 45 cm, depth of 25 cm).

9.4 Guests are encouraged to limit their checked luggage to two suitcases and two pieces of hand luggage per person, during the positioning and re-positioning cruises, the above guidelines

represent the maximum limit allowed per person, provided that, in any case, the maximum amount of luggage in each cabin does not exceed 100 kg and/or 8 pieces among all passengers in the same cabin. Prams and wheelchairs are permitted, over and above the permitted baggage allowance set out in clauses 9.1, 9.2 and 9.3 above.

9.5 When storing luggage in the Passenger's cabin, the Passenger must ensure that all exits are kept free of any obstacles.

9.6 The Passenger's luggage must be securely and properly packed and distinctly labelled with the Passenger's name and contact details. MSC shall not be liable for any loss, damage or delay in the delivery of any of the Passenger's luggage, if it is not securely and properly packed, and labelled.

9.7 MSC is not liable for any loss of or damage to the Passenger's luggage or for the loss or damage of contents of the Passenger's luggage whilst on-board the Cruise or in the custody or under the control of any Port or any other third party Service Provider.

9.8 Unless instructed otherwise by the staff on-board a Cruise Ship ("Cruise Staff"), the Passenger must not at any time leave the his or her luggage unattended. If the Passenger does so, the Cruise Staff reserves the right to remove and/or destroy such luggage, if necessary.

9.9 Unless the Passenger's Cruise Schedule provides otherwise, the Passenger must collect his or her luggage at the end of the Passenger's Cruise. If the Passenger fails to do so, the Passenger's luggage will be stored by MSC at the Port at which the Passenger's Cruise ended for a maximum period of 30 (thirty) days, after which it will be disposed of. Any proceeds of the disposal of the Passenger's luggage will be kept by MSC as compensation for storage costs.

9.10 The Passenger shall not be liable to pay or receive any general average contribution in respect of baggage or personal effects or property.

9.11 The Carrier has a lien upon and the right to sell by auction or otherwise, without notice to the Passenger, any luggage or other property belonging to any Passenger in satisfaction of unpaid monies or of any other monies which may in any way have become due by the Passenger to the Carrier or to its servants, agents or representatives.

10. MINORS

10.1 A person under the age of 18 years ("Minor") may not board any Cruise Ship unless accompanied by an adult ("Responsible Adult"). The Responsible Adult shall be fully responsible for that Minor's conduct and behaviour.

10.2 Minors may not order or drink alcoholic beverages or participate in gambling activities on board a Cruise Ship. If the Cruise Ship is scheduled to stop at a Port located in the U.S.A (or any Port having similar laws), the same conditions will apply to any passengers under the age of 21.

10.3 At all times when on board a Cruise Ship, a Minor must be supervised by the Responsible Adult and may participate in on board activities provided that the Minor is accompanied by the Responsible Adult.

10.4 The Responsible Adult shall be liable to MSC for any loss or damage suffered by MSC, including damage to the Cruise Ship and/or damage to and/or loss of any furnishings, equipment and other property belonging to the Cruise Ship, which loss or damage is caused by the Minor who is under the care of the Responsible Adult.

11. ANIMALS

11.1 A Passenger may not bring any animals and/or pets on board any cruise vessel without the written consent of MSC given at the time of the Cruise Booking having been made. Any such animals or pets brought onboard by the Passenger will be taken into custody and arrangements will be made for the animal to be landed at the next Port of call at the Passenger's sole expense.

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11.2 Whilst the Carrier and/or its servants and/ or agents will take such care as is reasonable in all the circumstances in relation to the pet or animal, neither the Master or Carrier is liable to the Passenger in respect of any loss or injury to the pet or animal whilst in the Carrier's possession/custody.

11.3 The only exception to the above prohibition shall be with regard to recognised assistance dogs licensed to Passengers with disabilities or PRM providing MSC has given its separate consent in writing at the time the Cruise Booking was made and prior to the Cruise Ticket being purchased. The Passenger shall have full responsibility for such dogs. Recognised assistance dogs are subject to and must comply with national and, if applicable, EU Regulations regarding health, inoculations, training and travel.

11.4 It is the Passenger's responsibility to have all necessary papers in order and to check the position prior to the Cruise and be satisfied that the assistance dog can be carried to the Ports of disembarkation and that the dog is not prohibited from going ashore at the various intermediate Ports of call.

12. **MEDICAL DEVICES AND DISABILITIES**

12.1 MSC will not supply the Passenger with wheel chairs or other medical or mobility assistance devices (collectively "**Medical Devices**") on board any Cruise.

12.2 If a Passenger wishes to take any Medical Device on board a Cruise Ship or if the Passenger is mentally or physically disabled, or is a person with reduced mobility, the Passenger must have advised MSC of the Passenger's requirements not less than 30 (thirty) days prior to the scheduled date of embarkation, so that MSC can take steps to ensure that as far as is reasonably possible, the accommodation on the Cruise is suitable for the Passenger's needs.

12.3 If the Passenger needs to use a Medical Device on board a Cruise Ship, or the Passenger is mentally or physically disabled, or has reduced mobility, the Passenger may not board the Cruise Ship unless:

12.3.1 If so required by the Carrier, within the Carrier's sole discretion in assessing the needs and safety of the Passenger which may vary from Cruise itinerary to itinerary, the Passenger is accompanied by another person who will assist the Passenger throughout the Cruise; and

12.3.2 the Passenger has signed the written addendum- available from the MSC office where the Passenger's booking was made.

12.4 MSC may refuse to allow the Passenger to board a Cruise Ship if:

12.4.1 the Passenger has not given MSC sufficient notice of his or her requirements and has not signed the addendum before boarding the Cruise Ship;

12.4.2 in MSC's opinion and within its sole discretion or that of the Master, the Passenger is unfit for travelling on board the Cruise Ship for the duration of the Passenger's Cruise; or

12.4.3 in MSC's opinion and within its sole discretion or that of the Master, the Passenger's condition may endanger the Passenger or any other passengers if the Passenger boards the Cruise Ship. MSC may request a medical specialist's or practitioner's letter declaring that the Passenger is fit to travel before agreeing that the Passenger may embark the ship.

12.5 If the Passenger is mentally or physically disabled, has reduced mobility, or requires the use of a Medical Device, the Passenger may not be allowed to go ashore at certain of the Ports at which the Cruise Ship stops. A list of such Ports is available on request from MSC.

13. **MEDICAL ASSISTANCE AVAILABLE ON BOARD A CRUISE SHIP**

13.1 Limited medical services for minor medical conditions are available on board a Cruise Ship. The doctors on board the Cruise Ships, their nurses and assistants are independent contractors for whose actions or omissions MSC have no liability whatsoever, including for any negligence.

13.2 The Passenger acknowledges that the Cruise Ship is not equipped as a hospital and the medical personnel are not specialists. MSC and the medical personnel shall not be liable to the Passenger for any loss or damages which the Passenger may suffer because they are unable to treat the Passenger's medical condition. The Passenger is liable to pay for any medical services and medicines provided to the Passenger on board the Cruise Ship, at a Port or in any other place during the Cruise. It is the Passenger's responsibility to check with the Passenger's Medical Aid Scheme prior to departure whether they will reimburse the Passenger for any visits to the Doctor onboard realizing that the Doctor may not be a South African registered medical practitioner and therefore may not have a practice number, and that the Passenger will be within international waters at the time of visiting the Doctor onboard.

13.3 The medical facilities and standards vary at the Ports at which the Cruise Ship stops. MSC does not warrant the availability, suitability or standard of the medical facilities at any Port at which the Cruise Ship stops and is not responsible for the quality and/or standards of the medical facilities available at such Ports.

13.4 Where any mobility or any other Medical Device or equipment brought on board by a Passenger for their use, is lost or damaged by the fault or negligence of the Carrier then it is the Carrier's sole and exclusive decision as to whether to repair or replace such Devices or equipment. Unless the Carrier agrees otherwise and in writing,

13.5 Passengers are limited to bringing two (2) items of such mobility or Medical Devices or equipment on board per cabin, with a total value not exceeding ZAR30,000.

13.6 All such Devices or equipment must be capable of being carried safely and must be declared before the Cruise. The Carrier may decline to carry such Devices or equipment where it is not safe to do so or where it has not been notified in time to enable a risk assessment to be carried out.

14. **FITNESS TO TRAVEL**

14.1 The Passenger warrants that the Passenger is physically and mentally fit to travel on board the Cruise Ship for the duration of the Passenger's Cruise.

14.2 MSC may at any time require the Passenger to provide it with a doctor's certificate certifying that the Passenger is fit to travel on board the Cruise Ship.

14.3 The Passenger must make sure that the Passenger has received all necessary inoculations prior to the Cruise.

14.4 **Any Passenger who is pregnant shall be obliged to inform MSC on making the Cruise Booking** (or as soon as reasonably possible thereafter) and the Cruise Ship's Doctor on boarding the vessel. The Cruise Ship does not have on board facilities for childbirth.

14.5 If the Passenger will be up to 23 (twenty-three) weeks pregnant at the end of the Cruise, the Passenger will not be allowed on board the Cruise Ship. Failure to inform the Carrier and the Vessel's doctor of pregnancy will release the Carrier from any liability in respect of the pregnant Passenger.

14.6 If in MSC's opinion and within its sole discretion or that of the Master, the Passenger is for any reason unfit to travel on board the Cruise Ship for the duration of the Passenger's Cruise, likely to endanger the Passenger's safety or the safety of others on board the Cruise, or likely to be refused permission to land at any Port at which the Cruise is scheduled to stop, then MSC may:

14.6.1 refuse to allow the Passenger to board the Cruise Ship;

14.6.2 refuse to allow the Passenger to leave the Cruise Ship at any Port at which it stops; or

14.6.3 transfer the Passenger to different accommodation on the Cruise Ship.

14.7 The doctor on duty on board the Cruise Ship shall be allowed to administer first aid and any medicine or therapy or other medical treatment he considers necessary. If the Passenger refuses to cooperate with the doctor, MSC may require the Passenger to leave the Cruise Ship at the next Port at which the Cruise Ship stops.

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14.8 MSC will not be liable to the Passenger for any loss or damage which the Passenger may suffer as a result of not being fit to travel on board the Cruise Ship for the duration of the Passenger's Cruise, not being allowed by MSC to board the Cruise Ship because the Passenger is not fit to travel on board the Cruise Ship for the duration of the Passenger's Cruise, or being required to leave the Cruise Ship at a Port other than the Port at which the Cruise ends.

14.9 MSC recommends that the Passenger seek medical advice before booking any Cruise Tickets for children up to 12 (twelve) months of age.

15. **PURCHASING ALCOHOLIC BEVERAGES ON BOARD A CRUISE SHIP**

15.1 The Passenger may purchase alcoholic beverages on board the Cruise Ship at the fixed prices advertised on board for such sales, in such currency as may be designated. Subject to the liquor laws and regulations that may pertain whilst the vessel is within any Port or restricted area, it may not be possible for such beverages to be sold until the Vessel has cleared Customs, or such Port or restricted area.

15.2 MSC shall not sell any alcoholic beverage to a Minor during the Cruise. If the Cruise Ship stops at a Port located in the U.S.A (or another Port having similar laws), the same conditions will apply for any passengers under the age of 21 (twenty one) years.

15.3 MSC may refuse to serve the Passenger an alcoholic beverage if in MSC's opinion, the Passenger may be a danger and/or nuisance to himself/herself, and/or to other Passengers on the Cruise Ship and/or the Vessel.

15.4 Passengers are not permitted to bring onboard any alcoholic beverage for use or otherwise during the Voyage, whether for consumption in their own cabins or otherwise. The Carrier and/or its servants and/or agents may confiscate alcoholic beverages brought onboard by Passengers without compensation.

16. **SMOKING POLICY ON BOARD A CRUISE SHIP**

16.1 The Passenger may not smoke when entering or exiting the Cruise Ship, on any balconies or in any public or private areas other than the designated smoking areas located throughout the Cruise Ship.

16.2 Passengers are not permitted to smoke in the Passenger's cabin because of the risk of fire. Smoking on cabin balconies is also not allowed. Smoking will only be permitted in designated smoking areas.

16.3 Throwing cigarettes or cigarette butts over the side of the Cruise Ship is not allowed.

17. **GENERAL CONDUCT**

17.1 MSC may refuse to allow the Passenger to board the Cruise Ship if in MSC's opinion and within its sole discretion or that of the Master, the Passenger's conduct may endanger the Passenger's safety and security, or the safety and security of others on board the Cruise Ship or negatively affect their enjoyment of the Cruise.

17.2 When on board a Cruise Ship, for the sake of the Passenger's own safety and the safety of others, the Passenger must pay attention to and comply with all rules and regulations regarding the safety of the Cruise Ship and Passengers, the Port facilities and the requirements of any Port authorities. The Passenger must not behave in any way which may endanger the safety of the Cruise Ship and/or any Passengers on board the Cruise Ship and the Passenger must listen to and comply with all instructions given to the Passenger by the Cruise Staff.

17.3 If the Passenger causes any damage to the Cruise Ship and/or any damage to and/or loss of any furnishings, equipment and other property belonging to the Cruise Ship, the Passenger will be liable to reimburse MSC for such damage or loss.

18. **FORCE MAJEURE**

In addition to the provisions of relating to cancellation or postponement of the Voyage, the Carrier shall not be liable for any loss, injury, damage, or inability to perform any Voyage arising from any Force Majeure circumstances such as, but not limited to: war, terrorism (actual or threatened), piracy, collision, grounding, fire, typhoon or cyclonic weather, natural disasters, Tsunami, acts of God, labour strikes, port

closures, bankruptcy, failure of subcontractors to perform, or any other events beyond the Carrier's or MSC's actual personal control and/or any events which are unusual and/or unforeseeable.

19. **MSC'S LIABILITY WHERE THE ATHENS CONVENTION AND/OR EU REGULATION 392/2009 DO NOT APPLY**

19.1 Where in terms of the provisions of The International Convention relating to the Carriage of Passengers and their luggage by Sea, adopted in Athens on 13 December 1974 ("**the Athens Convention**"), and/ or in terms of the provisions of EU Regulation 392/2009, neither that Convention nor that Regulation for any reason apply to the carriage covered by this Contract of Carriage, then the following provisions as to liability shall apply in all respects, to the exclusion of any provisions of the Athens Convention and/or any of the Protocols thereto.

19.2 Subject to the other provisions of this clause, MSC is not liable for death, injury or illness caused by the acts and/or omissions of any Service Provider providing Additional Services which the Passenger has purchased through MSC, or otherwise.

19.3 Subject to clause 19.4, any liability which MSC may have to the Passenger or to his or her dependents and/or executors or assigns, for death or personal injury is limited to a maximum of R500 000.00 (Five Hundred Thousand Rand) in respect of each incident or event.

19.4 Subject to clause 19.3, MSC is only liable for the Passenger's death, injury or illness if caused by a negligent or intentional and unlawful act or omission of MSC or its employees and/or agents. If the Passenger has contributed to such death, injury or illness, MSC's liability shall be reduced accordingly, or if otherwise stipulated by law.

19.5 Liability of the Carrier for loss of or damage to Passenger's luggage or other property shall not exceed R10,000 (Ten Thousand Rand) per Passenger. It is agreed that such liability of the Carrier shall be subject to a deductible of R160.00 (One Hundred and Sixty Rand) per Passenger, such sum to be deducted from the loss or damage to luggage or other property.

19.6 It shall be presumed that the Carrier has delivered luggage to a Passenger unless written notice is given by the Passenger within the following periods: (i) in the case of apparent damage before or at the time of disembarkation or redelivery (ii) in the case of damage which is not apparent or loss of luggage within (15) fifteen days from the disembarkation or delivery or of the date that such delivery should have taken place.

19.7 Subject to the other provisions of this clause, MSC is not liable for any loss, injury, death, illness or damage which the Passenger may suffer as a consequence of:

19.7.1 the Passenger's own conduct or the conduct of other passengers on board the Cruise Ship;

19.7.2 the conduct of the Service Providers of the Additional Services which the Passenger have purchased through MSC; and/or

19.7.3 any unforeseeable and unavoidable event or "force majeure" which is beyond MSC's control, including but not limited to actual or threatened war; invasion, hostilities, civil war and acts of terrorism, natural disasters such as earthquakes, fires, hurricanes, floods and inclement weather; and any riot, civil commotion, disorder; labour dispute, strike or lock-out by persons other than the employees of MSC.

19.8 The Carrier shall not be liable for loss or damage to any valuables such as monies, negotiable securities, precious metal items, jewellery, art, cameras, computers, electronic equipment, mobile phones or any other valuables unless they are deposited with the Carrier for safe-keeping, and a higher limit is agreed expressly and in writing at the time of deposit, and an extra charge is paid by the Passenger for the declared value protection.

19.9 Any liability which MSC may have to the Passenger and which is not limited or excluded by the provisions of the above sub-clauses, is limited to twice the cost of the Cruise Fare which the Passenger has paid for the Cruise.

19.10 The Carrier and Passenger agree not to demand any security from the other in connection with a claim of any kind. The Passenger waives the right to arrest or attach the Cruise Ship or to arrest or attach any other asset owned, chartered or operated by the

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Carrier. If the Cruise Ship is arrested or attached, then the Ship and the Carrier shall have the right to any limitation and all defences available herein.

- 19.11 In addition to the restrictions and exemptions from the liability provided in these Conditions of Carriage, the Carrier shall have full benefit of any applicable laws providing for limitation and/or exonerations of liability (including without limitation, law and/or the laws of the Vessel's flag in respect of/or the global limitation on damages recoverable from the Carrier). Nothing in these Conditions of Carriage is intended to operate to limit or deprive the Carrier of any such statutory or otherwise limitation or exonerations of liability. The servant and/or agents of the Carrier shall have the full benefit of all such provisions relating to the limitation of liability.

20. MSC'S LIABILITY WHERE THE ATHENS CONVENTION AND/OR EU REGULATION 392/2009 DOES APPLY

20.1 Where in terms of the provisions of The International Convention relating to the Carriage of Passengers and their luggage by Sea, adopted in Athens on 13 December 1974 (the "Athens Convention"), that Convention and/or EU Regulation 392/2009 does apply to the carriage covered by this Contract of Carriage, then the following provisions as to liability shall apply. The International Convention relating to the Carriage of Passengers and their luggage by Sea, adopted in Athens on 13 December 1974 and (the "Athens Convention"), as subsequently amended in 1976 and as incorporated with effects from 1 January 2013 by EU Regulation 392/2009 Concerning the Rights of Passengers when travelling by sea in the event of Accidents (EU Regulation 392/2009), shall apply to international carriage by sea where the port of embarkation or disembarkation is in the EU or where the vessel has an EU flag or where the contract of carriage is made in the EU. The provisions of the Athens Convention and, where applicable, EU Regulation 392/2009 are hereby expressly incorporated into these Conditions of Carriage. Copies of the Athens Convention and EU Regulation 392/2009 are available on request and can be downloaded from the Internet at www.imo.org. The Carrier shall be entitled to the benefit of all the limitations, rights and immunities provided by the Athens Convention and, where applicable, EU Regulation 392/2009 including the full deductible under Article 8(4) of the Athens Convention. The liability of the Carrier for death, personal injury or illness to the Passenger shall not exceed 46,666 Special Drawing Rights ("SDR") as provided and defined in the Athens Convention or, where applicable, the maximum sum of 400,000 SDR (Four Hundred Thousand SDR) pursuant to EU Regulation 392/2009 and, where there is liability for war and terrorism, 250,000 SDR (Two Hundred and Fifty Thousand SDR). Liability of the Carrier for loss of or damage to Passenger's luggage or other property shall not exceed 833 SDR (Eight Hundred and Thirty Three Thousand SDR) per Passenger under the Athens Convention or 2,250 SDR where EU Regulation 392/2009 applies. It is agreed that such liability of the Carrier shall be subject to a deductible of 13 SDR per Passenger, such sum to be deducted from the loss or damage to luggage or other property. The Passenger understands that the conversion rate of SDR's fluctuates daily and may be obtained from a bank or Internet. The value of an SDR can be calculated by visiting http://coinmill.com/SDR_calculator.html. If any provision of these Conditions of Carriage is rendered null and void by the Athens Convention or EU Regulation 392/2009, such invalidity shall be limited to the particular clause and not to the Conditions of Carriage.

20.2 The Carrier's liability in relation to death and/or personal injury is limited and shall in no circumstances whatsoever exceed the limits of liability set out under the Athens Convention or, where applicable, EU Regulation 392/2009.

20.3 The Carrier will only be liable in relation to death and/or personal injury and/or loss of or damage to luggage in the event that the Carrier and/or its servants or agents are guilty of "fault or neglect", as required by Article 3 of the Athens Convention, or where there is liability for a shipping incident, where EU Regulation 392/2009 applies. The limits of liability under the terms of the Athens Convention shall be applicable to the Carrier's servants and/or agents and/or Independent Contractors in accordance with Article 11 of the Athens Convention. Any damages payable by the Carrier shall be reduced in proportion to any contributory negligence by the Passenger as provided in Article 6 of the Athens Convention.

20.4 It is presumed under the Athens Convention and where applicable EU Regulation 392/2009 that the Carrier has delivered luggage to

a Passenger unless written notice is given by the Passenger within the following periods:

- (i) in the case of apparent damage before or at the time of disembarkation or redelivery;
- (ii) in the case of damage which is not apparent or loss of luggage within fifteen (15) days from the disembarkation or delivery or of the date that such delivery should have taken place.

20.5 If the carriage provided hereunder is not "international carriage" as defined in Article 2 of the Athens Convention or the Vessel is being used as a floating hotel and or non-international carriage by sea, the remaining provisions of the Athens Convention shall apply to this contract and be deemed to be incorporated herein mutatis mutandis.

20.6 The Carrier shall not be liable for loss or damage to any valuables such as monies, negotiable securities, precious metal items, jewellery, art, cameras, computers, electronic equipment, or any other valuables unless they are deposited with the Carrier for safe-keeping, and a higher limit is agreed expressly and in writing at the time of deposit, and an extra charge is paid by the Passenger for declared value protection. Use of the ship's safe is not a deposit with the ship. Where there is liability for loss of or damage to valuables deposited with the ship then such liability is limited to 1,200 SDR (One Thousand Two Hundred SDR) under the Athens Convention or 3,375 SDR (Three Thousand Three Hundred and Seventy Five SDR) where EU Regulation 392/2009 applies. (ii) The Carrier and Passenger agree not to demand any security from the other in connection with a claim of any kind. The Passenger waives the right to arrest the Cruise Ship or to attach any other asset owned, chartered or operated by the Carrier. If the Cruise Ship is arrested or attached, then the ship and the Carrier shall have the right to any limitation and all defences available herein.

20.7 In addition to the restrictions and exemptions from the liability provided in the Conditions of Carriage, the Carrier shall have full benefit of any applicable laws providing for limitation and/or exonerations of liability (including without limitation, law and/or the laws of the Vessel's flag in respect of/or the global limitation on damages recoverable from the Carrier). Nothing in these Conditions of Carriage is intended to operate to limit or deprive the Carrier of any such statutory or otherwise limitation or exonerations of liability. The servant and/or agents of the Carrier shall have the full benefit of all such provisions relating to the limitation of liability.

20.8 Without prejudice to the provisions of 20.1 to 20.7 above, if any claim is brought against the Carrier in any jurisdiction where the applicable exemptions and limitations incorporated in these Conditions of Carriage are held to be legally unenforceable then the Carrier shall not be liable for death, injury, illness, damage, delay or other loss or detriment to any person or property arising out of any cause of whatsoever nature which has not been shown to have been caused by the Carrier's own negligence or fault.

21. EMOTIONAL/DISTRESS

21.1 **No compensation is payable by the Carrier to any Passenger for any emotional stress, mental anguish and/or psychological injury of any kind save where legally recoverable against the Carrier, as a result of any injury caused by an accident due to the fault or neglect of the Carrier.** Under no circumstances shall the Carrier be liable for consequential damages.

21.2 No compensation whatsoever shall be payable for any disappointment or frustration experienced by a Passenger or a Passenger's frustrated anticipation of a Cruise, excursion or a Port of call, otherwise advertised, which does not occur or at which the vessel does not call, for any reason whatsoever and howsoever arising.

22. SHORE EXCURSIONS AND SUBCONTRACTORS

22.1 All excursions are provided by third party Service Providers who act as independent contractors and for whose actions or omissions MSC shall not be liable and whose own terms and conditions apply to any activity or service provided by them including all waivers, limitations of liability and/or transfer of risk.

22.2 Should the terms and conditions referred to in clause 22.1 above, be held not to be applicable for any reason, then these Terms

and Conditions of Carriage, including any limitation of liability, are applicable to the excursions purchased, whether in the form of a ticket coupon or voucher, whether prior to embarkation or from the Carrier after embarkation.

22.3 Nevertheless, the Passenger's attention is drawn to the fact that excursions that entail disembarkation ashore using Zodiac or any similar craft, can be hazardous and Passengers should carefully consider their own age and any physical limitations before electing to participate in such an excursion which, subject to the applicable terms and conditions, will in any event, be at their own risk.

22.4 Whenever any such service is provided by such third party independent contractors, or where any agent undertakes activities or services on behalf of MSC, such contractor or agent shall in addition to their own terms and conditions if any, have the benefit of these conditions of carriage including all exclusions and limitations of liability.

23. COMPLAINTS

If the Passenger has a complaint relating to a Cruise, which could not be resolved during the course of the Passenger's travel, the **Passenger must report the complaint to MSC, in writing, within 14 (fourteen) days after the date on which the Passenger's Cruise ends in for MSC to appropriately address the Passenger's concerns.**

24. CLAIMS AND NOTICE

24.1 The Carrier shall not be held liable whatsoever in respect of any claim arising from an accident/incident which was not reported by the Passenger to the Master whilst onboard the Vessel.

24.2 Notices of claim for death, illness, or personal injury, shall be given in writing with full particulars, to the Carrier and the Cruise Ship within six (6) months (185 days) after the date such death, injury, or illness occurring. Such notice shall be sent by registered mail to: CLAIMS DEPARTMENT, MSC Cruises, P.O. Box 786331, Sandton, 2146.

24.3 If no such notice is given and/or received at the aforesaid address within that period, such claim shall be unenforceable.

24.4 Notices of Claim for loss or damage to luggage or other property shall be given to the Carrier in writing before or at the time of disembarkation, or if not apparent, within fifteen (15) days from the date of disembarkation. Notice shall be sent by registered mail to the address in Clause 24.2 above.

24.5 If and where applicable, complaints under EU Reg. 1177/2010 concerning accessibility, cancellation or delays must be made to the Carrier within two (2) months from the date the service was performed. The Carrier shall respond within 1 (one) month to advise whether the complaint is substantiated, has been rejected or is still being considered. A final reply shall be provided within two (2) months. The Passenger shall provide such further information as may be required by the Carrier to deal with the Complaint. If the Passenger is not satisfied with the response then it may complain to the relevant enforcement body in the country of embarkation.

25. TIME LIMITS FOR FILING SUIT

25.1 All claims against the Carrier or the Cruise Ship for death, illness, or personal injury to a Passenger or for loss or damage to luggage or other property shall be time barred as follows:

(a) Where the **Athens Convention is applicable**, claims shall be **time barred after two (2) years from the date of disembarkation** as provided by Article 16 of the Athens Convention and/or where applicable EU Regulation 392/2009.

(b) All other actions, including any claim based on an alleged delict/ tort or breach of contract, against the Carrier and/or the Vessel, shall be contractually time barred after six (6) months (185 days), from the Passenger's disembarkation, subject to all applicable laws.

26. CHOICE OF LAW

These Conditions of Carriage shall be governed by the law of the Republic of South Africa, unless a competent court seized of a dispute arising out of such conditions holds that it is more appropriate that the law of the country where the dispute is being adjudicated, or where the Contract of Carriage was concluded, be applied, in which case that law shall govern these Conditions of Carriage.

27. JURISDICTION

Any claim against the Carrier or the Vessel arising out of this Contract of Carriage shall be brought before the Courts of Naples, Italy. Any claim by the Carrier against the Passenger may, within the discretion of the Carrier, be brought before a competent court in the jurisdiction where the Contract was concluded or where the Passenger is domiciled.