

## **ECOVENTURA, S.A. TRANSPORTATION AGREEMENT & WAIVER OF CLAIMS,**

### **ASSUMPTION OF RISK & RELEASE OF LIABILITY AGREEMENT ("AGREEMENT")**

In consideration of permitting me to be a Passenger, guest, boater, hiker, tourist, swimmer, snorkeler, scuba diver, visitor and/or to participate in the Activities (as defined below), as conducted by ECOVENTURA, S.A., SITUR, S.A., PANAKRUZ, S.A., TURISMO AMONRA, S.A., and/or SITUR, INC., d/b/a GALAPAGOS NETWORK (collectively, the "Company") and/or their principals, directors, officers, employers, agents, affiliates, subsidiaries, parents, representatives, attorneys, their facilities and/or the ORIGIN, THEORY and the EVOLVE (collectively, the "Vessels"), for myself, my personal representatives, heirs, administrators, executors, successors, assigns and next of kin (collectively the "Passenger"), I agree to the following:

#### **I. OBLIGATIONS & REPRESENTATIONS OF THE COMPANY**

##### **1. COMPANY'S LIMITATIONS ON PROVISION OF TRANSPORTATION**

- a. A fully paid ticket guarantees the transportation of the named Passenger and his/her baggage (except as may be restricted hereunder) on the Company's cruise aboard the ORIGIN, THEORY and the EVOLVE in the Galapagos Islands, in accordance with the Company's Schedules and Itineraries.
- b. Payment must be received in full for the Passenger to have boarding privileges.
- c. Prepaid tickets shall be deemed fully earned when paid and shall not be subject to any refunds or credit, except in compliance with the Company's Cancellations Policy.
- d. The ticket is deemed personal and valid only for the use of the named Passenger and for the cruise, and date indicated; the ticket is not transferable or assignable, unless a change has been authorized by the Company, in writing, prior to departure.
- e. Passengers may be assigned by the Company to any one of the identical luxury expedition yachts in the fleet and it is up to the discretion of the Company to assign passengers.
- f. Upon check-in, each Passenger is required to present a form of identification, acceptable to the Company, and the Passenger's prepaid ticket.
- g. Children under 18 years of age must be under the supervision of a person over 21, or have the written permission of their parent or legal guardian who agrees to assume full responsibility for the minor. Children under 12 years of age must remain in the same cabin with a person over the age of 18.
- h. All Passengers will be required to sign the Agreement prior to boarding a Company Vessel.
- i. Passengers are subject to pay any and all increases in airfares, governmental taxes, fuel surcharges and fees of the Galapagos National Park Service.
- k. All purchases made on board a Vessel are charged to the Passenger, to be settled at the end of the cruise.

##### **2. CANCELLATIONS/LATE ARRIVALS**

- a. The Company recommends that Passengers arrive to Ecuador two nights prior to the cruise to allow for potential delays and/or travel problems and requires that Passengers must check in with the Company at the airport, at least two hours prior to flight departure.
- b. Once the cruise has started, because scheduled itineraries prevent the Vessels from returning to pick up any late Passengers, the Company shall deem forfeit the cruise of any Passengers who fail to connect with their flights to the Galapagos Islands unless advised otherwise.
- c. Passengers who forfeited their cruise, under Para. I (2) (b), above, may, subject to space limitations, later join up with their Vessel, at the Passenger's sole expense.
- d. The Company recommends that a Passenger purchase, at the Passenger's sole expense, travel and /or trip cancellation insurance.

e. Once a cruise has started, a Passenger who requests to disembark, for any reason whatsoever, may do so only at their sole risk and expense, at the next point of departure, but shall not be entitled to any refund or credit from the Company.

### **3 ITINERARY, SCHEDULE & VESSEL CHANGES**

a. The Company reserves the right, at its sole and absolute discretion, without any liability or damages of any kind, to deviate from the Vessel's advertised schedule or Itinerary without prior notice and for any reason whatsoever without limitation for weather, health and safety, changes to National Park policies, mechanical problems or issues, for refueling, provisions or supplies. The Company does not assume any responsibility or liability for any losses, damages or inconvenience incurred by the Passenger as a result of any of the foregoing.

b. The Company agrees to provide a Passenger on an 8 day/ 7 night cruise with 12 visitor sites.

Additional visitor's sites including the first and last day of the cruise are totally dependent upon airline flight and petroleum fueling schedules. The Company does not guarantee visits to any visitor's sites on the first and/or last days of the cruise, (logistical or transportation days) and, therefore, no refunds, discounts, rebates or credits will be made to Passengers if no visits are provided for such days.

c. The Company may, if certain situations arise that, in its sole and absolute discretion, make it necessary to cancel, change, advance, substitute or postpone any scheduled departure, airport, port of entry, itinerary or islands, visitor sites, vessels or modes of transportation including, without limitation, weather, health and safety, business or charters, late cancellations, low occupancy, mechanical problems, maintenance issues, provisions or supplies, refueling or requirements of governmental authorities.

d. In the event of any departure cancellation and/or interruption or postponement of any cruise due to reasons including, *force majeure*, Acts of God, war, civil disturbances, terrorist acts, insurgent acts, extremist acts, government interference, labor disputes and strikes, and when no substitute Vessel can be arranged for, the Company will issue a credit for the unused portion of the cruise to be utilized by the Passenger on a future cruise departure, subject to availability.

e. The Vessel may be called upon to assist other Vessels, to tow or be towed and in any and all such situations of deviation for the purposes of saving life or property; the Company may do so without any liability whatsoever to the Passengers.

g. The Company reserves the right, in its sole and absolute discretion, to change Vessels for another Company Vessel (or a similar category Vessel), for reasons including *force majeure*, mechanical problems, charter or low occupancy. No refunds or other consideration, financial or otherwise, will be given to Passengers who accept and use their ticket for any changed Vessel. The Company will refund solely the amount of the cruise ticket to any Passenger who does not accept a changed Vessel; in such instances, the Company shall not be liable for any costs, penalties or damages related to or involving change of, or non-refundable, airline tickets.

### **4 DAMAGE TO, LOSS OR THEFT OF, PERSONAL ITEMS AND EFFECTS**

a. The Company is not responsible or liable for any damage, loss or theft of any of a Passenger's personal articles, effects, items or objects including, but not limited to, binoculars, cameras, clothing, computers, equipment, film, gear, items, jewelry or money (collectively "Personal Property"), during the entire cruise and land tours.

b. During the entire cruise and land tours, the Company is not responsible for any damage, loss or theft of any of Personal Property from any baggage not having locks.

c. During the cruise and land tours, in cases of damage to, or loss of, any locked baggage, due to the Company's negligence, liability is limited to \$100.00 (U.S.), per Passenger.

**5 BAGGAGE**

- a. Each Passenger is permitted to check one piece of baggage (with a maximum weight of 20 kilos/44 lbs.) and one small carry-on bag for the flight to the Galapagos Islands.
- b. Any excess baggage will be subject to the applicable tariff(s) authorized by the Board of Civil Aviation of Ecuador (DAC), to be solely paid by the Passenger.
- c. The Company assumes no liability for any damage, loss or theft of any baggage (or carry-on bags or items) while same are in, or under the care, custody, control or possession of any airline(s); compensation, if any, will be governed by the DAC.

**6 AIRLINE RESPONSIBILITY**

- a. The Company acts only as an agent of the airline(s) and neither assumes, nor accepts any liability or responsibility for any events or acts including, but not limited to, cancellations, damages, delays, failures, interruptions, irregularities, negligence, default, neglect, omissions or commissions, over-booking or re-routing, in connection with any services provided by the airline(s), for any reason or cause whatsoever.
- b. Any and all terms and conditions of the Passenger's transport, as well as the liabilities and obligations of the airline(s), and the Passenger's rights against the airline(s), are set forth in the Passenger's airline ticket and any applicable laws, rules and/or regulations.
- c. Passenger is liable for any claimed damages not covered by the airline(s).

**7. GROUND SERVICES**

- a. The Company shall not be liable for any acts, errors, omissions, commissions, negligence or default of any ground or travel services by, in or through any private vehicles, taxis, vans, buses, trains, tours, guides or lodgings.
- b. Said lack of company liability, in subsection a, above, covers accidents, illnesses, injuries, deaths and personal property damage.

**8. MEDICAL PROBLEMS, EMERGENCIES AND SERVICES**

- a. The Company shall not be liable for health issues, including allergic reactions, arising from or related to the intake of food or beverages, unless the such issues are attributable by direct causation to the Company's gross negligence. Passengers acknowledge and accept that the risk of foodborne or waterborne illness can arise even in the presence of reasonable preventive measures, especially in remote environments such as the Galapagos Islands.
- b. The Company may, in its sole and absolute discretion, refuse to board any Passenger who will be thirty (30) or more weeks pregnant at the time of the cruise. Passengers who are 30 or more weeks pregnant must notify the Company in advance and will be required to sign an additional waiver.
- c. For medical emergencies, the Company will transport the Passenger to a medical clinic in the Galapagos Islands or arrange for the next available flight to Ecuador at the Passenger's expense.
- d. In the event that a Passenger needing medical attention is, for any reason, unable to request assistance, the Company is authorized to designate a physician or medical professional, if available, to administer attention, and Passenger consents to same.

**9. SAFETY RULES AND REGULATIONS**

- a. A Captain of any Vessel, or an authorized Company agent or representative, in his (her) sole and absolute discretion, may refuse or limit service to, or suspend or cancel a Passenger's cruise, in the event that the Passenger has failed, or refuses to, obey any safety rules or regulations set by the Galapagos National Park or ecological requirements as required by the Company's certifications, either aboard the Vessel or on land, or refuses to submit to a reasonable search of person or property, has been notoriously disrespectful and poorly behaved, mentally unstable, under the influence of any drugs or excessive alcohol, suffering from a contagious disease, or whose presence is deemed detrimental to health, comfort, well-being or safety.

- b. Any such Passenger may be compelled to disembark, at the next point of departure, in which case the Passenger shall not be entitled to any refund whatsoever.
- c. The Company will report any illicit drug use to the appropriate authorities. There is a zero illicit drug tolerance by the Company.
- d. The Company may require further medical documents, information and/or consents and may decline to allow a Passenger to engage in the Activities in the absence of same.
- e. In the event a Passenger is deemed physically unable to participate safely in land disembarkations by the Captain, the Passenger shall not be entitled to any refund for any visit in which they do not participate.

## **II. ACKNOWLEDGMENTS, REPRESENTATIONS, WAIVER AND RELEASE BY PASSENGER**

Passenger hereby understands, acknowledges, represents, waives, releases and/or agrees:

1. Being a Passenger on a Vessel and/or engaging in among other things touring, swimming, snorkeling, skin diving, solo diving and/or scuba diving, boating, water sports and/or land tours (the "Activities"), is potentially hazardous and dangerous and involves the risk of property damage, serious bodily injury and/or death.
2. The Activities are physically strenuous and I will be exerting myself. Even if I follow all appropriate and safe practices, there is still a risk of injuries or death. On both water trips and land tour(s), I know I will be at remote locations and there may be little or no immediate medical care.
3. Any and all such injuries received may be compounded or worsened by negligent rescue operations of the Company, or others, and this Agreement extends to all such acts and is intended to be as broad and inclusive as permitted by the laws of Ecuador. I voluntarily accept all additional risks, and I agree to pay all expenses related to evacuation and medical treatment, should same be deemed necessary, and should same be available.
4. I am of legal age and am competent to sign this Agreement. For all children traveling under the age of 18, the parent or guardian accompanying minor children will accept this Agreement on their behalf. For parents or legal guardians accompanying minor children under the age of seven, a signature on a hold harmless waiver will be required.
5. If I obtain any equipment as is from the Company, I accept the equipment as is. I understand the Company accepts no responsibility for any defect in any equipment, does not warrant that it is suitable for any particular purpose and that the use of such equipment is entirely at my own risk. I agree to return any equipment in good and working order, and pay the Company for any loss or breakage.
6. I am not relying upon any oral or written representations or statements made by the Company, or others, except as what is set forth in this Agreement.
7. I am physically and mentally fit and I am not under the influence of any drug, alcohol, or medications that are contraindicated of engaging in the Activities.
8. I agree to obey all safety rules and regulations and ecological requirements explained or described by the Company, the Captain, the Guides, or the Galapagos National Park Service. In the interest of safety, health and security, I consent to a reasonable search of my person or property, and to the removal or destruction of any property which, in the Captain's, Guide's or Park Service's view, may impair safety, health or security of the crew, other Passengers or wildlife.
9. **WAIVER AND RELEASE:** I freely and voluntarily, forever, release, discharge, waive and relinquish, in favor of the Company, any and all claims, demands or causes of action, whether matured or unmatured, foreseen or unforeseen, contingent or non-contingent, liquidated or unliquidated, arising from, or in connection with, any of the Activities including, without limitation, those for or relating to accident, personal injury, illness, theft, property damage and/or wrongful death, wherever and however such personal injuries, damages or death may occur and for whatever period of time the Activities may continue.
10. **ASSUMPTION OF RISK:** I assume, without any limitation, full responsibility for all risks of bodily injury, conditions, ailments, sickness, heart attack, panic attack, hyperventilation, allergic reaction, land, water, Vessel or vehicular accident, walking or hiking falls or accidents, trail, lava or rock accidents, animal attacks or bites, animal, plant or chemical envenomization, bodily injury, wrongful death or Property damage, now and forever, arising out of, or related to, or as a result of my participation in the Activities, weather and climactic conditions, Act of God,

War, active insurgents, acts of extremists, governmental interference or Terrorism, whether foreseen or unforeseen.

### **III. MISCELLANEOUS PROVISIONS**

1. No one may damage, disturb, collect or remove any Visitor's sites, wildlife, bird, marine creatures, coral and/or items from shipwrecks, from their present environment or habitat. Offenders bear full responsibility and liability for any violations of these provisions.
2. If any provision of this Agreement is found to be unenforceable or invalid, that provision is deemed to be severed and the balance of this Agreement remains in full force and effect.
3. This Agreement shall be construed and governed under the laws of Ecuador.
4. a. Any and all Passenger claims against the Company must be presented, in writing, to the Company within six (6) months from the date of accident, event or occurrence.
  - b. If any lawsuits or legal proceedings are filed against the Company, any such lawsuits or proceedings shall be adjudicated only in the courts or tribunals of Ecuador, to the exclusion of any other courts or tribunals.
  - c. Any such lawsuits or legal proceedings filed more than one (1) year after the date of accident, event or occurrence shall be absolutely time-barred.
  - d. Any dismissals or Judgments in favor of the Company shall entitle the Company to recover reasonable attorneys' fees, costs and disbursements.
5. Facsimile signatures shall suffice as originals.