



## Guidance Note 10

# Requirements for ATOL Reporting Accountants

1. Introduction	Page 2
2. The ATOL Scheme	Page 3
3. The Licensing Process and Responsibilities of the ATOL Holder	Page 10
4. The Role and Responsibilities of the ATOL Reporting Accountant	Page 15

Additional information included as an Annex or referred to on the CAA website.

Annex 1	Definitions	Page 26
Annex 2	The Small Business ATOL Scheme (SBA)	Page 30
Annex 3	Guidance on whether transactions for passengers & revenue are “licensable”	Page 31
Annex 4	CAA Standard ARA-ATOL Terms of Engagement	Page 35
Annex 5	Capping formula of ATOL Reporting Accountant’s liability	Page 43
Annex 6	Extract from the CAA ATOL Regulations 2012 on Flight-Plus	Page 45
Annex 7	Agreed Work Procedures – Passengers and Financial Information	Page 48
Annex 8	Specific Factual Confirmations	Page 50
Annex 9	Ring Fencing & Structural Confirmations	Page 55
Annex 9A	Additional Work Procedures	Page 59
Annex 10	Professional Accountancy Body Technical Guidance link	Page 60
Annex 11	Transitional arrangements	Page 61
Annex 12	Contact details and Other References	Page 62

## Guidance Note 10

### 1. Introduction

- 1.1. This Guidance Note contains advice for ATOL Reporting Accountants acting for ATOL holders and applicants. It provides a brief overview of the ATOL system, the licensing process and a description of the framework within which ATOL Reporting Accountants provide confirmations to the CAA.

#### ***Effective date***

- 1.2. This Guidance Note will apply to all 'ATOL Reporting' from 1 April 2016 and therefore incorporating the September 2016 renewal. Transitional arrangements are included in Annex 11 of this Guidance Note.

#### ***Terminology***

- 1.3. The following key terms are used throughout this Guidance Note. A full list of definitions is included in Annex 1 of this Guidance Note.
- 'Annual Accountants' Report (AAR)' means the return, submitted to the CAA as part of the ATOL renewal process that contains the reports of the ATOL Reporting Accountant.
  - 'ATOL Reports' means the APC returns, AAR, Airline Ticket Agent report, factual confirmations and ring-fencing report.
  - 'AST' means ATOL Standard Terms in the 'Official Record Series 3 (ORS3)'
  - 'ATOL' means 'Air Travel Organiser's Licence' granted by the CAA.
  - 'ATOL holder' means a person who holds an Air Travel Organiser's Licence granted by the CAA under the ATOL Regulations 2012 and includes those that hold an SBA, a Trade ATOL and a Franchise Member ATOL.
  - 'ATOL limit' means the maximum annual licensable revenue in the Public sales category authorised under the ATOL.
  - ATOL bond means a bond provided to the Air Travel Trust (ATT) as a condition of that ATOL.
  - 'ATOL Reporting Accountant (ARA)' means a firm or individual who is designated under the ATOL Reporting Accountants' Scheme (ARA Scheme) and who is engaged by the ATOL holder to report on information provided by the ATOL holder to the CAA.
  - 'customer deposits' means monies received by the ATOL holder as payment or part payment, for flight accommodation, a package or a Flight-Plus arrangement, in advance of the date of departure.
  - 'Licence Limit' means the amount of the Public revenue Licence Limit and/or licensable passenger numbers authorised by CAA under the ATOL.
  - 'Licensable Transaction' means an offer made by a consumer (or their agent) to purchase flight accommodation for one or more persons on a flight which is

accepted by (i) an air travel organiser; or (ii) where an ATOL is held by an Accredited body, a member of that Accredited Body, and constitutes an activity in respect of which that air travel organiser or Accredited Body is required to hold an ATOL (AST/ORS3).

- 'Licensable Revenue' means revenue generated from a licensable transaction.
- 'SBA' means a Small Business ATOL.

## 2. The ATOL Scheme

### *ATOL Scheme overview*

- 2.1. The ATOL Scheme is a statutory system covering most travel providers who sell air travel. Its purpose is to protect the public from losing money or being stranded abroad because the travel provider that they have booked to travel with fails.
- 2.2. Details of the licensing process and responsibilities of the ATOL holder are included in section 3 of this guidance.
- 2.3. The Consumers and Markets Group (CMG) of the Civil Aviation Authority (CAA) carries out the function of granting, renewing and the administration of ATOL licences. This involves fitness, competence and financial assessments as well as ongoing monitoring of ATOL holders.
- 2.4. If an ATOL holder fails, claims for refunds or repatriation costs of its customers are met by the ATT. The ATT is funded by the ATOL Protection Contributions (APC) payable by ATOL holders for each passenger booked under a licensable transaction. . Some ATOL holders may also be required to provide security which maybe in the form of an ATOL bond. The ATOL bond would be used first before the ATT to meet customer claims.
- 2.5. ATOL licences are valid for a period of no more than one year, to either 31 March or 30 September (generally determined by an ATOL holder's financial year end). The CAA places a licence limit on each ATOL in terms of licensable passenger numbers and licensable revenue, on a departure date basis and by category of business.
- 2.6. ATOL holders are required to report periodically to the CAA on data relevant to the ATOL licence. The frequency of reporting is dependent on the ATOL holder's Public revenue Licence Limit and the CAA's assessment of the likelihood and impact of failure. The level of business being undertaken has an impact on the number of passengers disrupted by a failure and the cost to the ATT of protecting, repatriating and refunding those passengers.

### *Licensing criteria*

- 2.7. In determining whether an application for an ATOL licence is granted or refused the licensing criteria must be complied with. Details of the criteria for an ATOL application can be found in ATOL Policy and Regulations 2014/01 (Criteria for an application for and grant of, or a variation to, an ATOL: fitness, competence and Accountable Person). Details of the ATOL regulations can be found in the Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012 and the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007).The ATOL Regulations 2012 specify that the CAA

must refuse to grant an ATOL if the CAA is not satisfied that the applicant is a fit person to make available flight accommodation. The CAA may refuse to grant an ATOL, or a variation to an ATOL if the CAA is not satisfied-

- that the applicant is competent to make available flight accommodation;
- that the resources of the applicant and the financial arrangements made by the applicant are adequate for discharging the actual and potential obligations in respect of activities in which the applicant is engaged (if any) and in which the applicant may be expected to engage if granted the ATOL;
- that it has appointed a person acceptable to the CAA as its accountable person; and
- that the applicable ATOL Protection Contributions are paid as and when they fall due.

### ***Fitness and competence of ATOL licence holder***

2.8. In determining whether an applicant or ATOL holder is fit and competent, the CAA must have regard to

- the past activities generally of the applicant or ATOL holder and the applicant's or ATOL holder's employees, which includes directors; and
- where the applicant or ATOL holder is a body corporate, the past activities generally, its shareholders and any persons appearing to the CAA to control that body.

### ***ATOL SBA Scheme***

2.9. The SBA Scheme will only be available to businesses that hold no more than 500 forward bookings in a year and have licensable revenue less than, or equal to, £1 million. There are separate rules for businesses applying under the SBA scheme as a new applicant, and these are detailed in Annex 2 of this Guidance Note.

### ***ATOL Protection Contribution***

2.10. The APC is payable by an ATOL holder for each passenger booked in each month, quarter or year, depending on the licence limit and type of ATOL licence. The 'Payment Period' for an ATOL holder depends on the type and licence limit and will be either monthly or quarterly in accordance with ATT Regulation 6. The APC must be paid within six weeks of the end of the each Payment Period for ATOL holders other than SBAs.

2.11. For SBAs the 'Payment Period' for an ATOL holder will be annually in accordance with CAA (ATOL) Regulation 72(g). The APC must be paid within 42 days beginning with the date of commencement of SBA renewal.

2.12. Information on the ATOL Payment Contribution (APC) is set out in the ATOL Standard Terms section of the Official Record Series 3 – Air Travel Organisers' Licensing, which can be found using the following link: [Official Record Series 3](#)

2.13. Details of the Air Travel Trust and the APC can be found using the following link: [The Air Travel Trust](#)

**What is licensable business?**

- 2.14. ATOL holders often undertake a range of activities, and ATOL Reporting Accountants need to understand clearly the difference between licensable business, which is covered by the ATOL and non-licensable activity such as airline ticket agent revenue. The ATOL Reporting Accountant also needs to recognise and understand the following different categories of licensable business.

Public Sales – Flight-Only	Sale of flight accommodation only.
Public Sales – flight inclusive package	Sale of a holiday package that includes flight accommodation.
Public Sales – Flight-Plus	Flight accommodation sold with living accommodation and/or car hire, (and other elements that form a significant part of the holiday) which is requested on either the same day, day before or day after the flight accommodation.  Further detail on Flight-Plus can be found in Civil Aviation (ATOL) Regulations 2012 Annex 6 of this Guidance Note
ATOL to ATOL	Sale of a flight (whether as flight only or as part of a package) to another ATOL holder for resale under the buying ATOL holder's ATOL licence.

- 2.15. ATOL holders report to the CAA on passenger numbers and revenue under Public Sales on a booking date basis and departure date basis. Depending on their ATOL type and ATOL licence size they will report monthly or quarterly to the CAA. This data is used to calculate the APC payments due and will also form the basis of part of the Accountants Annual Report (AAR). Revenue is considered to have been earned when the service is delivered on the date of departure and this basis is the CAAs preferred method of revenue recognition and reporting. The report number required for passengers numbers and revenue reporting is 3030 Part 1.
- 2.16. Further guidance on the categories of licensable revenue and how it is recognised is included in Annex 3 of this Guidance Note. Details of reporting requirements including the role and responsibility of the ATOL Reporting Accountants are included in section 4 of this Guidance Note.

**Sales made as Airline Ticket Agent**

- 2.17. Some travel providers also sell flight accommodation as agents of the aircraft operator. An Airline Ticket Agent is exempt from the requirement to hold an ATOL and as such these sales fall outside the scope of and are not protected by the ATOL scheme. However, where an ATOL holder is appointed to act as agent by an aircraft operator, the value of such sales is reported separately to the CAA and forms part of the turnover reconciliation in the AAR, together with a list of the airlines on whose behalf they are permitted to sell confirmed tickets. Where such sales are not covered by an airline ticket agent agreement, they should be included in licensable business and reported under public licensable revenue. Further information on sales made as an agent is included in the definitions in Annex 1 of this Guidance Note. The report number required for Airline Ticket Agent revenue is 3039.

### ***Different types of ATOL***

- 2.18. Each ATOL has conditions attached to it. There are two types of ATOL licences but there are different methods available to obtain an ATOL or make licensable sales through an Accredited Body:

<b>Type of ATOL</b>	<b>Methods of application to do licensable business</b>
Standard	CAA – apply direct to the CAA for an ATOL.
SBA	Franchise/Third Party arrangements – the applicant can apply for their own ATOL through a franchise arrangement.
	Accredited Bodies – the accredited body holds the ATOL and members would be able to do licensable business through that ATOL.

### ***Third party arrangements***

- 2.19. Travel organisers also provide ATOL protected products either under a franchise arrangement or as a member of an ‘Accredited Body’.
- 2.20. The Franchisee enters into agreement with the ATT and, as part of this agreement, the CAA may grant an ATOL to a franchise member on the basis of its franchise membership. Bonds would not generally be required from a Franchise Member ATOL holder as the Franchisee provides guarantees to the ATT to cover losses in the event of an insolvency. Each franchise member has its own ATOL and reports to the CAA individually under the terms of that ATOL as well as to the franchisee. The Franchisee reports separately to the CAA.
- 2.21. Accredited bodies are ATOL holders who allow other firms to trade under the terms of their ATOL and each has its own conditions of membership. Firms apply directly to the Accredited Body to become a member and will report to the Accredited Body rather than the CAA. The Accredited Body reports to the CAA regarding licensable business carried out by members under its ATOL. The Accredited Body is responsible for losses arising from the collapse of an Accredited Body member.
- 2.22. Each Accredited Body is required to hold an Accredited Body accreditation in addition to an ATOL. The Accredited Body loses its accreditation if the Accredited Body ceases to hold an ATOL or its ATOL is suspended. To obtain an ATOL the criteria includes financial, fitness and competence and to obtain an accreditation to be an Accredited Body the criteria includes financial, systems, structure, governance controls and trust arrangement.
- 2.23. For Accredited Bodies, the Public revenue Licence Limit relates to the total licensable business of all of its members. All Accredited Body members are expected to utilise the on-line reservation systems of the Accredited Body to which they are a member. The arrangement for an Accredited Body and its members is similar to how a Tour Operator and an agent would operate with the tour operator and Accredited Body accepting liability for the licensable sales of the agents or members respectively. A system check forms part of the audit by the CAA prior to an Accreditation being given. The membership agreement between an Accredited Body and its members also includes the term that the member is not permitted to sell licensable business outside

of this agreement. The full Schedule of Accredited Body Standard Terms under ATOL Regulation 48 can be found in the Official Record Series 3, Air Travel Organisers' Licensing.

### **ATOL renewal/variation/new applicants**

- 2.24. In addition to the passenger and revenue data in the APC return all ATOL holders will need to provide financial information as part of an application to renew or vary. This applies to all ATOL holders including sole traders and partnerships.
- 2.25. In addition, ATOL holders that are sole traders or partnerships will need to provide a statement of personal assets and liabilities. This information is not required to be reported in the AAR and an ARA is not required to report on this statement.
- 2.26. New ATOL licence applicants will also need to provide the same financial information

### **Financial Information**

- 2.27. An ATOL holder is required to provide some financial data from their profit and loss and balance sheet statements (or other equivalent financial statements) to the CAA. The ATOL holder will need to enter this data into Part 2 of the Annual Accountants Report (AAR) for the ARA to report on. The data must be entered in the relevant box applicable to the format they use for reporting in their financial statements, i.e. either UKGAAP (FRS102, FRS105) or IFRS, FRS101. The ATOL Reporting Accountant will be required to provide a factual findings report on the financial data contained within the AAR agreeing it to the financial statements (or other equivalent financial statements) of the ATOL holder. The ATOL Reporting Accountant is not required to report on more detailed information than which is included in the financial statements.
- 2.28. The CAA performs a more in-depth analysis of the larger ATOL holders, ATOL holders with licensable revenue in the region of £20m and above may not be required to complete part 2 of the AAR. However, they will be required to provide other financial information as requested by the CAA. ATOL holders will be informed by the CAA of any additional requirements applicable and whether part 2 of the AAR needs to be completed. Unless otherwise confirmed by the CAA all ATOL holders will need to complete part 2 of the AAR.
- 2.29. The following table shows the requirement for reported balances from the profit and loss and balance sheet (or other equivalent financial statements) for Standard ATOL holders (including sole traders and partnerships that hold a standard ATOL).

<b>All Standard ATOL holders will need to provide the following financial data in the applicable reporting format in the AAR.</b>	
UKGAAP, FRS102, FRS105	IFRS, FRS101
Revenue	Revenue
Profit /(loss) from operations after tax	Profit /(loss) from operations after tax
Tax	Tax
Interest	Interest
Depreciation	Depreciation
Amortisation	Amortisation
n/a	Impairment of assets
Total assets	Total assets
Current assets	Current assets
Prepayments and accrued income	Prepayments and accrued income

Cash at bank and in hand	Cash and cash equivalents
n/a	Restricted cash
n/a	Non-current assets
Creditors: amounts falling due within one year	Current Liabilities
Creditors: amounts falling due after more than one year.	Non-current liabilities
Accruals and deferred income	Accruals and deferred income
Total liabilities	Total liabilities

2.30. The following table shows the reduced requirement for reported balances from the profit and loss and balance sheet (or equivalent financial statements) for Small Business ATOLs (SBA) (including sole traders and partnerships that hold an SBA).

<b>All Small Business ATOL holders (SBA) will need to provide the following financial data in the AAR.</b>
Net profit/(loss)
Total assets
Current assets
Cash
Current liabilities
Total liabilities

2.31. If a Standard ATOL holder or an SBA has restated their financial statements for the prior year then they will also be required to provide the same financial data points for the restated prior year.

2.32. The ATOL holder also needs to provide additional financial information to the CAA but which does not need to be agreed by the ATOL Reporting Accountant in the AAR. The CAA needs to understand an ATOL holder's revenue for licensing purposes and therefore needs to review an ATOL holder's revenue recognition policy, the revenue in the financial statements compared to the ATOL application form (current and projected) and whether there is any deferred income in the balance sheet. The ATOL holder needs to answer the following questions about their financial information, which will be included in the AAR:

- What is your revenue recognition policy with regard to licensable business?
- Is the licensable revenue shown on a gross or net basis?
- Is there any ATOL licensable revenue within deferred income?
- Provide a reconciliation between the turnover/revenue in the financial statements and the ATOL licensable revenue on a departure date basis;
- What is the projected revenue (from the ATOL application form)?
- What is the total revenue for the prior financial year?
- What is the value of the loans in the balance sheet subordinated to the CAA?
- Where is the liability shown, i.e. short or long term liabilities?



- Is the ATOL Reporting Accountant a registered auditor?
  - Have the financial Statements been audited?
  - Has the opinion of the financial statements been modified?
- 2.33. For sole traders and partnerships their personal assets and liabilities will also be assessed based on a statement from the ATOL holder at the same date as their financial statements. This statement will not form part of the AAR but may be signed by an accountant.
- For the future automated ATOL IT system the ATOL holder will be required to provide two financial figures representing the total personal assets and the total personal liabilities from the personal assets and liabilities statement(s) and will be responsible for declaring their authenticity. They will also be required to upload a full copy of the statement (s).
- 2.34. For an SBA the CAA financial assessment is based on meeting a financial test. The test will be conducted on financial information contained in the AAR, testing the liquidity and profitability of the ATOL holder. The test will produce a result that provides the CAA with an indication of whether it can be satisfied with the resources and financial arrangements of the ATOL holder. Where the ATOL holder does not meet the test and the CAA cannot be satisfied, an improvement may be required in the form of a cash injection.
- 2.35. For a Standard ATOL with an ATOL Limit below £20m the financial assessment is based on determining the financial resilience of the ATOL holder and the level of risk posed to consumers. The assessment will use a series of ratios to test, amongst others, financial stability, liquidity, cash flow and profitability. At the discretion of the CAA, where an ATOL holder has an ATOL limit less than £20m the assessment and information requirements may be similar to that carried out for ATOL holders with an ATOL limit equal to, or in excess of £20m.
- 2.36. For a Standard ATOL with an ATOL Limit equal to, or in excess of £20m, the CAA undertakes a more in-depth analysis of an ATOL holder, which may vary from ATOL holder to ATOL holder. The analysis will include finances, business model, operations, strategy, corporate governance, and group structure where applicable, and ongoing monitoring will typically be on a monthly or quarterly basis. The CAA also undertakes frequent benchmarking reviews to compare ATOL holders against other ATOL holders in the same market segment and across the industry as a whole.
- 2.37. Further information about the financial assessment (ATOL Policy and Regulations 16/01): Criteria for an application for and grant of, or a variation to, an ATOL: financial) can be found using the following link: [CAA-CPGATOL Policy and Regulations Financial Criteria](#)

### ***Application to groups***

- 2.38. Where members of a group carry out licensable business, a separate ATOL is required for each individual entity carrying out such business. However, the assessment of financial resilience, performed as part of the application for or renewal of an ATOL, is usually carried out on a group basis taking into account the financial position of the group as a whole. In some cases, where the group as a whole does not meet the CAA's criteria, an ATOL holder may be considered on a stand-alone basis, independently of its group. In such cases, the CAA requires that no financial

guarantees are given in favour of other group companies and that any intra-group trading is conducted on commercial terms with balances settled monthly. The ATOL Reporting Accountant is required to make a factual confirmation that these conditions have been met. This is referred to as a 'Ring fence confirmation' and is explained further in Section 4.56 of this Guidance Note.

### ***Revenue recognition***

2.39. The CAA understands that there are a number of ways of recognising revenue; however the CAA's preferred practice is to recognise revenue on a departure date basis. Where revenue is recognised other than on a departure date basis, for instance at a booking date, the ATOL holder is required to demonstrate that it is entitled to recognise the revenue in accordance with the recognised accounting framework in accordance with which the financial statements have been prepared. In the instances where the CAA disagrees with the ATOL holder's accounting treatment, the CAA may take this into consideration when assessing the finances of the ATOL holder. The AAR requests information on the revenue recognition policy of an ATOL holder, whether the revenue is on a gross or net basis and also a reconciliation between revenue included in the financial statements and the licensable revenue included in the AAR. With reference to revenue recognition the AAR also requests information on:

- Deferred income (with relevance to customer deposits held and reported)

## **3. The Licensing Process and Responsibilities of the ATOL Holder**

### ***Applications***

3.1. Prior to granting a first time ATOL, the CAA conducts an assessment of the applicant's finances, business model, corporate governance and group structure. The applicant's adherence to the CAA's 'financial test' is also a key factor in the decision to grant an ATOL. The depth of analysis is determined by the size of the ATOL being applied for, the CAA's assessment of the risk of failure, the potential impact of such a failure and consequential detriment to the consumer. Each case is considered on an individual basis and on a risk based approach.

3.2. On application, the CAA requires certain information which may include, but is not limited to, the following:

- Most recent financial statements (for Standard ATOLs with limits above £5m these must be audited)
- Accounts compilation report unless audited financial statements are produced, or as requested by CAA
- Business plan including financial projections
- Forward booking data (not applicable to new applicants)
- Cash held in relation to forward bookings
- Product and distribution information
- Analysis of customer base and supplier contracts
- Control and risk management systems
- Copies of any financing agreements

- Agency agreements
- 3.3. Full details of the application criteria, ongoing monitoring arrangements and the ratios used in the CAA's 'financial test' are included in the ATOL Policy and Regulations which can be found using the following link: [ATOL application criteria](#). The financial test was announced by the CAA in March 2016 and effective from 1 June 2016.

### **Renewals**

- 3.4. Every ATOL is renewable annually on either 31 March or 30 September. ATOL holders are sent invitations to renew 4 months in advance of the renewal deadline. All ATOL renewals are subject to:
- the provision of the renewal application pack and fees
  - submission of the 'Annual Accountants' Report', duly completed by the 'Accountable Person' and the 'ATOL Reporting Accountant'
  - provision of the latest financial statements containing an audit report or accounts compilation report as per the terms of the ATOL
  - satisfying any other specific requirements stipulated by the CAA
- 3.5. For holders of a standard ATOL with licensable revenue >£5m, the CAA requires a copy of the latest signed audited financial statements which have been prepared for the members as a body pursuant to the requirements of the Companies Act 2006.
- 3.6. For holders of a standard ATOL with licensable revenue <£5m, and those operating as sole proprietors or partnerships, the CAA accepts financial statements that include an accounts compilation report, unless otherwise stated and audited accounts are requested by the CAA.
- 3.7. For ATOLs with large licence limits and in some other cases, the CAA may request additional financial information including, but not limited to, budgets and projections, management accounts, and details about available financial facilities.

### **Accountable Person**

- 3.8. ATOL holders are required to appoint an 'Accountable Person' from within the organisation to be responsible for all matters relating to the ATOL. This includes ensuring that the terms of the ATOL are complied with throughout the period and the completion of returns and any other declarations made to the CAA on behalf of the ATOL holder.
- 3.9. The CAA must be satisfied with the person appointed as an ATOL holder's Accountable Person at all times to grant or continue to grant an ATOL. The ATOL Regulations 2012 require that the Accountable Person is normally a/the director of the company, the sole trader or a partner in a partnership.

### **ATOL Holder Reporting**

- 3.10. All ATOL holders (specifically the accountable person) are required to report to the CAA as a condition of their ATOL licence and then the ATOL Reporting Accountant will review and report on this information as part of the ATOL renewal process. More

information on the ATOL Reporting Accountants' reporting requirement can be found in section 4.33. The three main ATOL reporting categories are:

<p>Licensable revenue &gt;£5m</p> <p>(or revenue approaching £5m at the discretion of the CAA)</p>	<p>Standard ATOL - Requires monthly reporting of licensable passengers booked and departed during the previous month to the CAA.</p> <p>The gross invoice value of the passengers booked and departed during the previous month.</p> <p>Licensable passengers booked for future travel.</p> <p>Audited financial statements are required as part of the application/renewal process.</p> <p>Please refer to AST 3.8 and AST 3.9.</p>
<p>Licensable revenue &lt;£5m</p>	<p>Standard ATOL - Requires quarterly reporting licensable passengers booked and passengers departed during the previous quarter to the CAA.</p> <p>The gross invoice value of the passenger booked and departed during the previous month</p> <p>Financial statements are required but these may not need to be audited.</p> <p>Please refer to AST 3.10 and AST 3.11.</p>
<p>500 licensable passengers and licensable revenue &lt;£1m</p>	<p>Small Business ATOL (SBA) - Requires annual reporting of licensable passengers booked and departed during the ATOL licence period reporting to the CAA.</p> <p>Financial statements are required but these may not need to be audited.</p> <p>Please refer to AST 3.5 and AST 3.6.</p>

### ***ATOL Holder reporting throughout the year***

3.11. ATOL holders will report to the CAA periodically throughout the ATOL licence period so compliance with ATOL licence requirements can be monitored and risks of overtrading or failure can be identified on a timely basis. The frequency and nature of reporting depends on the type of ATOL and licence limits. The table below summarises the minimum reporting requirements that apply to the different ATOL licence types. The CAA may require additional reporting in some cases.

Size and Type of ATOL licence	Reporting period	Report due date	Passengers booked		Total forward bookings		Passengers departed	
			Pax	Rev	Pax	Rev	Pax	Rev
Standard ATOL ≥£5m ATOL revenue †	Monthly	14 days from month end	√	√	√	√	√	√
Standard ATOL ≤£5m ATOL revenue ‡	Quarterly	14 days from quarter end	√	√	√	√	√	√
SBA <500 pax ≤£1m ATOL revenue	Annual	14 days from ATOL licence period end	√	√			√	√
ATOL to ATOL sales	Quarterly	14 days from quarter end					√	
Franchise member ATOL holder ≥£5m ATOL authorised limit of revenue	Monthly	14 days from month end	√	√			√	√
Franchise member ATOL holder <£5m ATOL revenue authorisation	Do not report direct to CAA*	n/a						

† Standard ATOLs in this category are also required to submit management accounts and other information as required by the CAA under the terms of their ATOL

‡ Standard ATOLs in this category are only required to report forward bookings in total each quarter. This includes ATOLs obtained through ABTA which are Standard ATOL Licences.

\* Franchise member ATOL holder <£5m ATOL revenue report to their Franchisee who in turn report to the CAA. This includes Accredited Body members. No AAR is required.

### ***ATOL Type or ATOL holder Financial Year End Change***

3.12. The ATOL renewal cycle depends on the financial year end of the ATOL holder:

1 June to 30 November FYE = March ATOL renewal cycle

1 December to 31 May FYE = September ATOL renewal cycle

The 2 tables below show which ATOL renewal an ATOL holder will fall into depending on its financial year end and therefore which ATOL licence quarters will need to be reported at the renewal.

ATOL holder Financial Year End	ATOL Renewal	Reporting ATOL Licence QTRS
December January February	September	March June September December
March April May		June September December March
June July August	March	September December March June
September October November		December March June September

<b>Financial Year End</b>	<b>December January February</b>	<b>March April May</b>	<b>June July August</b>	<b>September October November</b>
<b>ATOL Renewal</b>	<b>September</b>	<b>September</b>	<b>March</b>	<b>March</b>
Qtrs reported	4 qtrs 31-Mar	4 qtrs 30-Jun	4 qtrs 30-Sep	4 qtrs 31-Dec
	30-Jun	30-Sept	31-Dec	31-Mar
	30-Sep	31-Dec	31-Mar	30-Jun
	31-Dec	31-Mar	30-Jun	30-Sep

3.13. The ATOL holder may change their financial year end which may move them into a different renewal cycle. It may also result in the requirement for reporting additional quarters by the ATOL holder during the transition period before commencing the ongoing reporting quarters. The table below provides a few examples of how a change to the FYE may require additional quarterly reporting during the transition:

ATOL holder FYE Change	June to September FYE			May to September FYE			June to December FYE		
ATOL Re- newal	March	March		September	March		March	September	
	Reporting required			Reporting required			Reporting required		
	Old	Transition	New	Old	Transition	New	Old	Transition	New
Qtrs	4 qtrs	5 qtrs	4 qtrs	4 qtrs	6 qtrs	4 qtrs	4 qtrs	6 qtrs	4 qtrs
	30-Sep	30-Sep X1		30-Jun	30-Jun X1		30-Sep	30-Sep X1	
	31-Dec	31-Dec	31- Dec	30-Sep	30-Sep X1		31-Dec	31-Dec X1	
	31-Mar	31-Mar	31-Mar	31-Dec	31-Dec	31-Dec	31-Mar	31-Mar	31-Mar
	30-Jun	30-Jun	30-Jun	30-Mar	30-Mar	30-Mar	30-Jun	30-Jun	30-Jun
		30-Sep X2	30-Sep		30-Jun X2	30-Jun		30-Sep X2	30-Sep
					30-Sep X2	30-Sep		31-Dec X2	31-Dec

3.14. If an ATOL holder requests to change their ATOL type this may result in the requirement for additional reporting quarters.

### ***ATOL Certificate***

3.15. When an ATOL holder sells flight accommodation (either on its own or as a component of a package or Flight-Plus) they are required to issue an ATOL Certificate to the consumer. The full requirements relating to the issue of ATOL Certificates are included in the Civil Aviation (ATOL) Regulations 2012.

### ***ATOL IT system***

3.16. The information that the ATOL holder is responsible for entering on to the new ATOL licensing system as part of their application will prompt the ATOL Reporting Accountant to review and perform their duty as an ATOL Reporting Accountant. The ATOL holder will only be able to use an accountant designated under the ARA scheme to review and report on the ATOL holders licensing information.

## **4. The Role and Responsibilities of the ATOL Reporting Accountant**

4.1. It is important that the CAA is satisfied that an ATOL holder is trading within the limits of its ATOL licence and in line with information provided to the CAA. This is essential in determining whether to award an ATOL to a travel provider and the terms and conditions that will be attached to it. These key licensing decisions can have a direct impact on the cost to the ATT in the event of failure.

- 4.2. Whilst the ATOL Standard Terms for ATOL licences give the CAA right of access to an ATOL holder's business systems and to other relevant information requested, the CAA requires an ATOL holder to provide independent assurances from an ATOL Reporting Accountant on the information submitted by an ATOL holder in its reports to the CAA. The specific reports to be provided by the ATOL Reporting Accountant are outlined below in Section 4.31 of this Guidance Note.

### ***The ATOL Reporting Accountants' Scheme***

- 4.3. Sole practitioners and firms of accountants that wish to act as an ATOL Reporting Accountant for an ATOL holder must first obtain approval from their professional accountancy body. This approval requirement applies irrespective of whether the firm or individual is a Registered Auditor.
- 4.4. The ATOL Reporting Accountants' scheme has been introduced to provide a designated status for ATOL Reporting Accountants to assist in ensuring the quality and reliability of information reported by ATOL holders to the CAA; mitigating the risk that ATOL licences could be issued on the basis of incorrect information potentially exposing consumers to an unacceptable risk or detriment and also to help ensure that correct amounts of APC are paid. It aims to ensure that all ATOL Reporting Accountants under the ARA scheme have sufficient knowledge and experience to perform the work and to provide training and support to accountants wishing to undertake this work. They will also be subject to monitoring, inspection (including site visits) or review processes specified by their professional accountancy body.
- 4.5. Under the ARA scheme the CAA can approve a professional accountancy body who, in turn, can register and designate its individual members to be ATOL Reporting Accountants. The professional accountancy bodies will designate their members once they have the required level of knowledge and experience and who are considered competent to carry out the work of an ATOL Reporting Accountant. Only a designated ATOL Reporting Accountant will be able to sign ATOL reports. In a firm only an individual will be able to sign off the AAR, although they would sign for and on behalf of the firm.
- 4.6. The new arrangements for the ARA scheme will build upon existing continuing professional development (CPD) requirements which each professional accountancy body has in place and will ensure a consistent standard and full knowledge of ATOL work.
- 4.7. The CAA will provide an ATOL training module for accountants which provides background information of ATOL. Delivery of other training on ATOL work for accountants and the assessment of competence in doing ATOL work is the responsibility of the professional accountancy bodies. However the CAA will work closely with professional accountancy bodies to ensure that the quality of ATOL Reporting is being met by accountants. The CAA has set the overall standard and it is up to professional accountancy bodies to determine which of their members meet this standard and, hence, should be designated as qualified to perform this work.
- 4.8. Under the ARA Scheme the monitoring will be undertaken by the applicable professional accountancy body. An accountancy firm must appoint a contact who will provide the professional body with an annual declaration that individual(s) designated as ARAs are complying with their responsibilities under the scheme. In addition, the professional body may also require an annual return to provide regular and up-to-date



information on the firm/individual accountant and its clients so that it can perform a risk assessment of each and determine if more intensive supervision is needed.

4.9. Under the ARA Scheme the following two paragraphs and bullet points form key components of ARA Scheme which are obligations for firms and the designated ATOL Reporting Accountant. An accountancy firm should take responsibility for firm wide elements including:

- policies and procedures;
- work programmes;
- internal compliance reviews;
- firm wide training; and
- fit and proper declarations.

4.10. The individual designated ATOL Reporting Accountant will sign off ATOL reports and give an annual declaration to the professional accountancy body as required. The individual ATOL Reporting Accountant or accountancy firm will follow their professional accountancy body's regulations and bye-laws and therefore must:

- at all times comply with the registration rules of the professional accountancy body;
- deal with the professional accountancy body in an open and cooperative manner;
- supply the professional accountancy body with information as required;
- inform the professional accountancy body of any substantial changes to the firm and its operations;
- pay any of the fees required by the professional accountancy body;
- respond to enquiries by the professional accountancy body; and
- subject itself to any monitoring inspection or review process specified by the professional accountancy body.

4.11. The CAA has the authority to provide feedback to the relevant professional body on 'ATOL Reporting' work submitted by an ARA.

### ***Professional Accountancy Body***

4.12. Only the members and affiliated members of an approved professional accountancy body will be allowed to act as an ATOL Reporting Accountant from 1 April 2016. The ARA Scheme was launched in November 2015 and the following Professional Accountancy Bodies are approved by a signed agreement with the CAA:

4.12.1. Association of Chartered Certified Accountants (ACCA)

4.12.2. Association of Accounting Technicians (AAT)

4.12.3. Institute of Chartered Accountants in England and Wales (ICAEW)

4.12.4. Institute of Chartered Accountants in Scotland (ICAS)

4.12.5. Institute of Financial Accountants

4.13. Additional professional accountancy bodies may apply under the ARA Scheme and the CAA will review the list of professional accountancy bodies that are approved to regulate ATOL Reporting Accountants. Therefore the list of approved accountancy bodies may change from time to time. The CAA will communicate this to ATOL holders

when such changes are made and the updated list will be published on the CAA website.

- 4.14. Each professional accountancy body will need to maintain a full and current list of members and affiliated members who from 1 April 2016 will have completed the required training and are considered competent to be a designated ARA.
- 4.15. Monitoring by the professional accountancy bodies will be as agreed with the CAA with ATOL Reporting Accountants expected to join, leave or be excluded due to individual circumstances. Please refer to your professional accountancy body for further details on the monitoring process.

### ***Registration for the ATOL Reporting Accountants' Scheme***

- 4.16. An accountant will need to register with one of the approved professional accountancy bodies to be designated for ATOL work and from 1 April 2016 the CAA will only accept reports from designated ATOL Reporting Accountants.
- 4.17. During the initial phase of the changes the CAA will operate on the basis that it accepts that some accountants may have begun some of the work prior to being designated as an ATOL Reporting Accountant. Where it can be demonstrated that the work by the accountant began before 1 April 2016 the CAA will accept this provided that the AAR is signed by an ARA.

### ***Training and resources***

- 4.18. The CAA has provided an online training module providing ATOL Reporting Accountants with background on ATOL. All accountants will be required to complete this training as part of their initial designation and the results of this training will be provided to the relevant professional accountancy body.
- 4.19. The CAA expects to develop a second module to the ATOL online training with information on completing ATOL Reports and including examples, case studies of incorrect ATOL reporting and information on ATOL failures (including ATOL reporting). When this module is delivered all designated accountants and new ARA registrants will need to do this training. The CAA will send out an email notification using the email address list of those that have already taken the first module. New ARAs will be also send their email addresses to the CAA email inbox [CAA.ARAScheme@caa.co.uk](mailto:CAA.ARAScheme@caa.co.uk) to receive notifications.
- 4.20. There is a CAA dedicated webpage for ATOL Reporting Accountants that will be periodically updated on ATOL information, feature news, alerts, documents on revisions to guidance, or for subsequent changes to standards or regulations and will include links to documents such as:
- Guidance Note 10
  - 'ATOL Reporting' forms
  - Training material
- 4.21. The dedicated webpage can be accessed at: [ATOL Reporting Accountants Webpage](#) and the CAA will alert designated ARAs by email to changes.

- 4.22. The CAA is developing an online self-service facility accessible by the ATOL holder and the ARA through a portal. The portal will be a secure facility for which the ATOL Reporting Accountant would need to set up their profile once using a password protected login. Included in the profile will be the requirement to include their regulatory professional accountancy body including their professional accountancy body registration number.
- 4.23. Until the self-service system is fully operational the CAA will operate an online PDF form arrangement.. The ATOL holder will complete the PDF form online and forward to their ATOL Reporting Accountant for review who completes their relevant sections and submits the form online to the CAA.

### ***Independence***

- 4.24. The ATOL Reporting Accountant must be independent from the ATOL holder. Any potential threats to independence must be eliminated or reduced to an acceptable level. If any threats have been identified the responsibility to implement sufficient and appropriate safeguards are the responsibility of the ATOL Reporting Accountant.
- 4.25. When evaluating threats to independence the ATOL Reporting Accountant must look at threats created by interests and relationships between the ATOL Reporting Accountant and the ATOL holder.
- 4.26. Professional accountancy bodies are required to comply with the principles of the International Ethics Standards Board for Accountants (IESBA) Code of Ethics for Professional Accountants, the essence of which will be contained in their respective codes. In the first instance ATOL Reporting Accountants should refer to their professional body's rulebook and secondly to the IESBA Handbook of the Code of Ethics for Professional Accountants. This ethical guidance will refer to independence.
- 4.27. By completing and signing the AAR ATOL Reporting Accountants are confirming that they have complied with the independence requirements of their professional accountancy body's rulebook and, hence the principles of the IESBA Code of Ethics for Professional Accountants.

### ***CAA Standard ARA-ATOL Terms of Engagement***

- 4.28. The CAA relies on the reports of ATOL Reporting Accountants for the reasons outlined above and it therefore expects those providing them to acknowledge a duty of care to the CAA and the Air Travel Trust (ATT). In order to provide a standard framework the CAA has developed the CAA Standard ARA-ATOL Terms of Engagement for ATOL Reporting Accountants to undertake this work for ATOL holders in a way that is satisfactory to the CAA and the ATT. These are set out in Annex 4 of this Guidance Note and included in the individual guidance issued by the individual professional accountancy bodies. These CAA Standard ARA-ATOL Terms of Engagement require the accountant to acknowledge the existence of a Duty of Care to the CAA and the ATT.
- 4.29. An engagement by an ATOL Reporting Accountant to prepare ATOL reports must contain all the terms mandated in the CAA Standard ARA-ATOL Terms of Engagement (Annex 4). The CAA acknowledges that supplementary terms may be agreed between the Accountants and the ATOL holder but the CAA will not be party to those terms unless expressly agreed by the CAA. No terms negotiated between the ATOL holder and the ATOL holder's accountant may contradict or purport to contradict the CAA's mandated terms. Should they do so then the accountants' reports will not be

acceptable to the CAA. In effect this will be a failure by the ATOL holder to comply with the terms of its ATOL, and ultimately can lead to licensing action being taken against the ATOL holder.

### ***Liability Cap***

- 4.30. The CAA also accepts however that the liability of accountants for any breach of that Duty of Care will not be unlimited. The CAA has agreed that the liability of the ATOL Reporting Accountant can be capped in accordance with the CAA Standard ARA-ATOL Terms of Engagement set out in Annex 4 of this Guidance Note. The CAA's capping formula is set out in Annex 5 of this Guidance Note.
- 4.31. The level of cap will generally be calculated based on 15% of the Public revenue Licence Limit permitted under the ATOL, or the value of actual ATOL bond, whichever is the greater. The liability capping scale is set out (and summarised in the table) in Annex 5 of this Guidance Note.
- 4.32. The ATOL Reporting Accountant is required to have professional indemnity insurance (PII) cover in excess of the liability cap calculated by reference to the ATOL holder's licensable revenue limit or bond as explained above. The Reporting Accountant is required to have this in place prior to reporting on an ATOL holder.
- By completing and signing the AAR the ATOL Reporting Accountant is confirming that their PII cover extends at least to the value of the liability cap with reference to each individual ATOL holder reported on.

### ***Reports by the ATOL Reporting Accountant***

- 4.33. The ATOL standards ([Official Record Series 3](#)) require Accountants to report under the standard terms AST3.7, AST3.12, AST3.14 and AST3.16. The ATOL Reporting Accountant makes reports to the CAA in the following four document types:
- The Annual Accountants' Report (AAR) – see paragraphs 4.39 to 4.45
  - Airline ticket agent report – see paragraphs 4.46 to 4.49
  - A separate letter of general factual confirmations – see paragraph 4.55
  - A separate letter containing confirmation of any ring fencing arrangements where applicable – see paragraphs 4.56 to 4.59
- 4.34. For commercial reasons it is likely that, in most cases, the ATOL Reporting Accountant will also be engaged to prepare, or where appropriate, audit the statutory (or other) financial statements of the ATOL holder. Sole traders and Partnerships will be required to produce financial statements and may be required to produce a statement of personal assets and liabilities
- 4.35. Within the AAR the ATOL holder will be asked whether their ATOL Reporting Accountant was appointed as the registered auditor, whether the financial statements were audited and whether the audit opinion was modified, i.e. has the auditor included an unqualified opinion or is there an exception or adverse opinion? The ATOL Reporting Accountant will be asked to confirm these questions.
- 4.36. The AAR and the Airline Ticket Agent Report by ATOL Reporting Accountants need to be submitted to the CAA within six months of the financial year end or by the ATOL

renewal date, whichever is the earlier, so the reports can be considered as part of the ATOL renewal process. The general factual confirmations and the ring-fencing confirmations are required as instructed by the CAA depending on an individual ATOL holder's circumstances.

### ***The Annual Accountants' Report (AAR)***

- 4.39. As previously mentioned the ATOL holder is required to report their passenger numbers and passenger revenue data to the CAA as well as their financial information and this data will populate the AAR. This pulls together and confirms the information reported on periodically throughout the ATOL licence period (where applicable) plus some additional declarations made by the Accountable Person. The AAR contains the information on which the ATOL Reporting Accountant reports and fields in which the ATOL Reporting Accountant completes their report.
- 4.40. The AAR includes a report of whether the licensable revenue reported by sub category and by calendar quarter has been 'fairly presented in accordance with CAA Regulations and guidance'.
- 4.41. The AAR also contains factual confirmations based on agreed upon procedures on the following information:
- Passenger numbers by booking date and departure date have been agreed to the ATOL holder's booking system
  - Profit and loss and balance sheet information extracted from the financial statements has been agreed to the financial statements.
- 4.42. Once the relevant sections in the form have been reviewed by the ATOL Reporting Accountant there will be a number of options to complete the report, which are tick boxes as follows:
- without exception and submit the form online directly to the CAA for review. The ATOL Reporting Accountant is able to either print and retain a hard copy or save the copy sent to the CAA online for their records..
  - with exception, the exceptions having been provided in the form, and then submit the form online directly to the CAA. The ATOL Reporting Accountant is able to either print and retain a hard copy or save the copy sent to the CAA online for their records.
  - If the ATOL Reporting Accountant is not satisfied with the data on the form he would need to revert back to the ATOL holder without completing.
- 4.43. Instead of printing and signing, the AAR form includes a tick box for the ATOL Reporting Accountant to confirm his/her details before sending to the CAA online.
- 4.44. The following table shows the online form numbers for the annual accountants reports (AAR). These have been merged from a number of previous reports and are applicable for Standard and SBA ATOLs.

<u>AAR reference numbers</u>	<u>Airline Ticket Agent Report</u>
-Passenger revenue and passengers numbers for bookings and departures -Information from Financial Statements	Reporting the airlines on whose behalf sales of confirmed tickets to consumers were permitted.
Form 3030 – Part 1 & 2	Form 3039

4.45. As above the AAR is in two sections, part one being for the information that the ATOL holder currently provides through their APC returns, passenger numbers and revenue, bookings and departures and part two is the new requirement for financial information.

<b>Annual Accountants Report (AAR)</b>		<b>Type of report from the ATOL Reporting Accountant (ARA)</b>
<b>Part 1 – the ATOL holder provides the information in this column</b>		
1	Licensable Gross Revenue <ul style="list-style-type: none"> <li>• Booking date basis</li> <li>• Departure date basis</li> </ul>	The ARA provides an opinion on the licensable gross revenue on a departure date basis only.
2	Licensable Passenger Number <ul style="list-style-type: none"> <li>• Booking date basis</li> <li>• Departure date basis</li> </ul>	The ARA agrees the numbers to ATOL holder systems
<b>Part 2 – The ATOL holder provides the information in this column</b>		
1	Revenue & Revenue Recognition <ul style="list-style-type: none"> <li>- Policy on revenue recognition (customer departure or booking date basis)</li> <li>- Gross or net basis?</li> <li>- Which GAAP?</li> <li>- Deferred income/(customer deposits)?</li> </ul>	The ARA does not report on this information provided by the ATOL holder
2	Turnover/revenue reconciliation  Current Financial Year Total Projected Revenue, as given in the ATOL application form Total revenue for the prior financial year	
3	Loans subordinated to the CAA? Amount? Shown in short or long term liabilities?	
4	SBA financial information from the financial statements of the ATOL holder	
5	Profit and loss & Balance Sheet information - UK	
		The ARA agrees the financial

	GAAP, FRS102, FRS105 format	information to the financial statements.
6	Profit and loss & Balance Sheet information – IFRS/FRS101	
7	Was the accountant appointed as Registered Auditor of the ATOL holder?  Were the financial statements audited?  Was the audit opinion modified?	In reporting the ARA is confirming that ATOL holder's answers to these 3 questions are correct.

### ***Independence & Professional Indemnity Insurance***

4.46. Declaration of Independence of ATOL holder – by reporting to the CAA the ARA is confirming that they have complied with the independence requirements of their professional accountancy body's rulebook and hence, the principles of the IESBA Code of Ethics for Professional Accountant.

4.47. Professional Indemnity Insurance equal to liability Cap - by reporting to the CAA the ARA is confirming that their PII cover extends at least to the value of the liability cap with reference to the ATOL holder reported on.

- ***Airline Ticket Agent Report***

4.48. Under the ATOL Regulations 2012 an Airline Ticket Agent is exempt from the need to hold an ATOL, provided that the sales are transacted correctly. Therefore the CAA needs to be satisfied that the reported revenue of tickets sold on an Airline Ticket Agent basis, are actually sold on this basis. An Airline Ticket Agent report is required to confirm that revenue is being transacted correctly and where this is not the case, the agent is required to include these sales within its public licensable revenue, and this may result in an SBA requiring a full ATOL.

4.49. Where a ticket is issued for an airline the ATOL holder must have a written agency agreement in the form set out by the CAA or be an exempt member of IATA and therefore authorised by the relevant airline to make flight accommodation to a consumer, subject to a confirmed ticket being issued to the consumer and the statement that the flight is sold as Agent of the Airline(s) named on the ticket and is not protected under the ATOL.

4.50. An airline ticket agent must, immediately on receipt of any payment for the flight accommodation supply a confirmed ticket to a person who is present or in the case of a person who is not present by email or other equivalent electronic means or by post.

4.51. See also annex 3 of this Guidance Note which provides details of what sales should or should not be included as licensable;

### ***Anti-Money laundering***

4.52. The CAA would expect ATOL Reporting Accountants to be aware of their Anti-Money laundering reporting obligations. If during the course of preparing the AAR the ATOL

Reporting Accountant discovers evidence of fraud, theft of money or any activity that falls within the definitions of the Proceeds of Crime Act 2002, the CAA would expect the ATOL Reporting Accountant to follow their Anti-Money laundering procedures.

### ***Compliance and whistleblowing***

- 4.53. Where ATOL holders do not comply with ATOL regulations the risk of consumer detriment is higher and there is also the risk of a financial cost to the ATT.
- 4.54. The CAA is a “prescribed person” under the Public Interest Disclosure Act 1998 for the purpose of receiving “protected disclosures” (whistleblowing) from the civil aviation industry. As such, the CAA is directly responsible for investigating any information of this nature that is received. A “worker” (which definition includes employees, independent contractors, agency workers and trainees) may make a complaint to the Employment Tribunal if he or she suffers a detriment as a result of making a “protected disclosure”. An employee will be regarded as having been unfairly dismissed if the reason or principal reason for their dismissal is the making of a protected disclosure.
- 4.55. The CAA does not expect the ATOL Reporting Accountant to go looking for non-compliance subject matters but if during the course of his/her engagement, the ATOL Reporting Accountant becomes aware of breaches of the ATOL regulations by the ATOL holder then he/she should report them directly to the CAA, using either the web link below where there is a report form available, phone the CAA Whistleblowing Focal Point on 01293573190 or email: [atolenforcement@caa.co.uk](mailto:atolenforcement@caa.co.uk)
- 4.56. Further details on whistleblowing can be found on the CAA website using the following link: [www.caa.co.uk/whistleblowing](http://www.caa.co.uk/whistleblowing)

### ***Specific factual confirmations***

- 4.57. The CAA bases its view of an ATOL holder’s and applicant’s finances on its financial statements (which the CAA acknowledges have, for a company, been prepared for its members as a body pursuant to the requirements of the Companies Act) and the information reported in the AAR. However, in some cases, the CAA may also ask ATOL Reporting Accountants to report on specific matters directly to the CAA. For example, if the CAA requires new finance to be injected into an ATOL holder, in order to grant or renew an ATOL, it will ask the ATOL Reporting Accountant to provide a factual confirmation that funds have been received by the ATOL holder. It may be unable to grant or renew an ATOL licence without such confirmations. See annex 8 of this guidance note for further guidance and agreed work procedures.

### ***Ring fence confirmations***

- 4.58. When looking at the financial position of an ATOL holder or applicant, which is part of a group, the CAA will normally make its assessment on the financial position of the group as a whole. In some cases, the financial position of the group is unable to meet the CAA’s criteria and the CAA is asked to consider an ATOL holder on a stand-alone basis. In order to do this the CAA needs to consider if an ATOL holder is operating independently of its group. See annex 9 of this guidance note for further guidance and agreed work procedures.
- 4.59. In such cases, the CAA requests undertakings from the ATOL holder which are supported by factual confirmations by the ATOL Reporting Accountant. The CAA will require:



- an undertaking from the directors regarding the ring fenced arrangements (this will be required each year and must be confirmed by the ARA that the terms of the undertaking provided by the directors were adhered to during the previous financial year)
- to review arrangements entered into by the ring fenced entity particularly when the potential of an ATOL holder failure is high (the arrangements are checked to confirm that the ring fenced entity controls its own cash, is not restricted when trying to raise additional cash and that its assets cannot be accessed by companies outside of itself)
- to review any arrangements that provide additional financial support to the ATOL holder, the ring fenced entity or the group (this is to protect the autonomy of the ring fenced entity)
- confirmation that the ring fenced entity is structurally separate and is able to operate in the event of failure of companies outside the ring fence

4.60. Further guidance and definitions of the terms used is provided in the ATOL Policy and Regulations paper on Groups and Related Parties, which can be located on the ATOL website using the following link: <http://publicapps.caa.co.uk/docs/33/CPG%203.pdf> or using the link in Annex 12 of this Guidance Note.

## Annex 1

### Definitions

Unless otherwise indicated, the terms in this Guidance Note have the same meaning as those terms in:

- a) the ATOL Regulations 2012 (as defined below);
- b) the ATT Regulations (as defined below);
- c) the ATT Deed (as defined below);
- d) the ATOL holder's ATOL licence document; and
- e) ATOL Standard Terms of an Air Travel Organisers' Licence.

The terms specific to this Guidance Note are set out below:

**'accountant'** means (in the case of ATOL holders that require an audit of their annual accounts for CAA purposes<sup>1</sup>) the auditor that has issued an audit report on the ATOL holder's statutory accounts, unless otherwise agreed by the CAA or (in all other cases) an ATOL Reporting Accountant engaged by the ATOL holder to report on information provided by the ATOL holder to the CAA;

**'Accountable Person'** means the person from within the ATOL holder organisation responsible for ensuring that the ATOL holder complies with the terms and conditions of the ATOL. The ATOL Policy and Regulations 2014/01 require that the Accountable Person is either a director of the company, the sole trader or a partner in a partnership;

**'Accredited Body'** means an ATOL holder accredited by the CAA as an Accredited Body under ATOL Regulation 33 of the ATOL Regulations 2012;

**'Accredited Body member'** means a member who operates under the umbrella of an ATOL holder, who holds an accredited body accreditation, without the need for their own ATOL. Where a member of an accredited body makes available flight accommodation, the accredited body is liable to the consumer to the same extent as if it were the member;

**'Airline Ticket Agent'** means a person appointed by an aircraft operator as its agent to make available flight accommodation on a flight operated by that aircraft operator. An airline ticket agent must, immediately on receipt of any payment for the flight accommodation supply a confirmed ticket to a person who is present or in the case of a person who is not present by email or other equivalent electronic means or by post. Under the ATOL Regulations 2012 an Airline Ticket Agent is exempt from the need to hold an ATOL. This includes any person who makes available flight accommodation to a consumer where that person is authorised by the relevant airline to do so in accordance with IATA rules and subject to a confirmed ticket being issued to the consumer and the statement that the flight is sold as Agent of the Airline(s) named on the ticket and is not protected under the ATOL. Annex 3 of this Guidance Note provides details of what sales should or should not be included as licensable;

**'Annual Accountants' Report (AAR)'** means the APC returns, AAR, Airline Ticket Agent report, factual confirmations and ring-fencing report;

**'APC'** means ATOL Protection Contribution;

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<sup>1</sup>This is in reference to CAA's requirement for audited accounts as part of the ATOL application process or where required.

**‘Approved professional accountancy body’** means a professional accountancy body approved by the CAA under the ATOL Reporting Accountants’ Scheme and who are able to designate ‘suitably qualified accountants’ under this scheme;

**‘AST’** means ATOL Standard Terms in the ‘Official Record Series 3 (ORS3);

**‘ATOL’** means Air Travel Organiser’s Licence granted by the CAA;

**‘ATOL Certificate’** means a document which complies with any requirement as to the form and content of an ATOL certificate which have been published by the CAA under ATOL Regulation 19;

**‘ATOL holder’** means a person who holds an Air Travel Organiser’s Licence granted by the CAA under the ATOL Regulations 2012 and includes those that hold an SBA, a Trade ATOL, and a Franchise Member ATOL;

**‘ATOL holder failure’** means failure of an ATOL holder occurs where the CAA holds an opinion that an ATOL holder or a person who held an ATOL within the previous 6 months has gone into insolvency; cannot or will not be able to meet its obligations to its customers; or will fail to meet its obligations to its consumers; and the CAA publishes a notice of failure of that ATOL holder in the CAA’s Register of Failed ATOL holders [available on the ATOL website];

**‘ATOL bond’** means a bond provided to the ATT Trustees as a condition of that ATOL.

**‘ATOL limit’** means the maximum annual licensable revenue in the Public sales category authorised under ATOL;

**‘ATOL Regulations 2012’** means the Civil Aviation (Air Travel Organisers’ Licensing) Regulations 2012;

**‘ATOL to ATOL Sale’** means making available flight accommodation to another ATOL holder other than in circumstances where the other ATOL holder is the ATOL holder’s agent. Licensable transactions constituting seats sold to another ATOL holder (whether as a Flight-Only sale or as part of a package) for resale under the buying ATOL holder’s ATOL licence;

**‘ATOL Reporting Accountant (ARA)’** means a firm or individual who is a ‘suitably qualified accountant’ designated by its professional body under the ATOL Reporting Accountants’ Scheme (ARA Scheme) and who is engaged by the ATOL holder to report on information provided by the ATOL holder to the CAA. In a firm only an individual will be able to sign the AAR, although they would sign for and on behalf of the firm.

**‘ATT’** means Air Travel Trust;

**‘ATT Regulations’** means the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007 (as amended);

**‘confirmed ticket’** means a document or information which gives to every person specified in the document or information access to the flight specified in the document or information without the need for any further payment but otherwise subject to its terms and conditions;

**‘consumer’** means a person who either makes use of flight accommodation for travel in person or who, without accepting any payment, provides it to another person who uses that flight accommodation for travel in person;

**‘customer deposits’** means monies received by the ATOL holder as payment or part payment, for flight accommodation, a package or a Flight-Plus arrangement, in advance of the date of departure;

**‘departed passenger’** means passengers that have actually departed on the first leg of their Flight-Only, flight inclusive package or Flight-Plus, or in the case of ATOL to ATOL sales, seats sold to the buying ATOL holder, on flights that have departed;

'departure date basis' means the basis for revenue recognition which is the preferred method of CAA for Public licensable revenue;

'approved **accountancy body**' a professional accountancy body approved under the ATOL Reporting Accountants' Scheme who can designate their members to perform 'ATOL Reporting';

'**fails, failure failed**' has the meaning, in respect of an ATOL holder prescribed in ATOL regulation 23;

'**flight accommodation**' means accommodation for the carriage of a person on a flight by an aircraft (whether or not registered in the UK) in any part of the world;

'**Flight-Only provider**' means a person who as a principal or agent makes available flight accommodation only;

'**Flight-Plus arranger**' means a person (other than the operator of the relevant aircraft) who as principal or agent, makes available flight accommodation in response to a request to book which has been made directly to them by a consumer, as a component of Flight-Plus, under ATOL Regulation 25 of the ATOL Regulations 2012. Part 3 of the ATOL Regulations 2012 is the regulations for Flight-Plus and is written in full in Annex 3;

'**Flight-Plus**' means flight accommodation plus living accommodation or self drive car hire outside of the U.K, under ATOL Regulation 24 of the ATOL Regulations 2012;

'**Franchisee**' means the holder of a Franchise that operates under the ATOL Scheme, in agreement with Air Travel Trust;

'**Franchise Member ATOL holder**' means the holder of an ATOL who is a member of a body that has entered into a Franchise Agreement with the Air Travel Trust;

'**gross invoice value**' means monies received or expected to be received from a consumer before the first leg of their trip is due to commence;

'**group**' means a parent company and its subsidiaries (as defined in Companies Act 2006 – Section 1159) or where the CAA's financial assessment covers more than one ATOL holder (Please note in the specific circumstances of calculating accountants' liability caps (see Annex 2 of this Guidance Note));

'**IATA**' means International Air Transport Association;

'**key Components**' means the key components of the ATOL Reporting Accountants' Scheme and which are included in the agreement between the approved professional accountancy bodies and the CAA;

'**Licence Limit**' means the amount of the Public revenue Licence Limit and/or licensable passenger numbers authorised by the CAA under the ATOL;

'**Licensable revenue**' means 'revenue' arising from 'Licensable transactions';

'**Licensable transaction**' means an offer made by a customer (or their agent) to purchase flight accommodation for one or more persons on a flight which is accepted by (i) an air travel organiser; or (ii) where an ATOL is held by an Accredited Body, a member of that Accredited Body, and constitutes an activity in respect of which that air travel organiser or Accredited Body is required to hold an ATOL;

'**package**' means the pre-arranged combination of at least two of the following components when sold or offered for sale at an inclusive price and when the service covers a period of more than twenty-four hours or includes overnight accommodation:

- a) transport;
- b) accommodation;

- c) other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package; and:
- i) the submission of separate accounts for different components shall not cause the arrangements to be other than a package;
  - ii) the fact that a combination is arranged at the request of the consumer and in accordance with his specific instructions (whether modified or not) shall not of itself cause it to be treated as other than pre-arranged.

[This definition of a "package" is in identical terms to that contained in regulation 2 of the Package Travel, Package Holidays and Package Tours Regulations 1992 (Regulation 2(1)).]

**'passenger'** means any person due to travel under the terms of a licensable transaction, excluding a child below the age of two on the date of return back to the UK who is not allocated a separate seat before boarding the aircraft;

**'payment period'** means a period of a quarter or (as the case may be) of 1 calendar month determined by the CAA to be applicable to a class of ATOL holder, or to a particular ATOL holder, in accordance with Regulation 6 and published in Section 2 of the CAA's Official Record Series 3;

**'Public'** means the Public category and its' sub categories of Flight-Only, flight inclusive packages or Flight-Plus on an ATOL licence which covers Licensable transactions constituting sales to consumers;

**'related party'** means a person who has links with the ATOL holder through common shareholders, directors, partners or where there are significant levels of trading or financial links. "Related to the ATOL holder" shall be interpreted accordingly;

**'revenue'** means gross invoice value unless specified otherwise;

**'reporting period'** means a period of a quarter or (as the case may be) of a calendar month or annual determined by the CAA to be applicable to a class of ATOL holder, or to a particular ATOL holder;

**'Small Business ATOL holder' ('SBA')** means a person who holds a Small Business ATOL, as defined in the ATT Regulations 2007 (as amended);

**'Standard ATOL holder'** means any ATOL holder who is not an SBA holder;

**'Third party'** means arrangements for an ATOL licence with third parties, which covers the ABTA-ATOL Joint Administration Scheme, the Accredited Body arrangements and either the franchise  $\leq 1,000$  passengers or  $>1,000$  passenger, which constitute sales to consumers;

**'Trade licence'** means an ATOL licence that only allows sales to other ATOL holders and not to consumers and therefore only has the ATOL to ATOL category;

## Annex 2

### The Small Business ATOL Scheme (SBA)

The SBA scheme has been around for a number of years and it has been revised to reflect the other changes and the new financial assessment.

As with other ATOL licence holders all will now be required to pass the new financial assessment that will include existing and new applicants. In addition to the financial assessment new applicants will be required to meet certain requirements for paid up share capital and bonding levels.

	Financial assessment	Paid up share capital	Bonding	Licence limits (eligibility criteria)
Current SBAs	Financial ratios test	No minimum set	No change to existing levels (subject to existing policy)	<500 passengers and <£1 million licensable revenue
New applicant SBAs	Financial ratios test	£30,000	Higher of: £50,000 or 15% Year 1 £40,000 or 12.5% Year 2 £30,000 or 10% Year 3 £20,000 or 7.5% Year 4	<500 passengers and <£1 million licensable revenue
Standard ATOLs	Financial ratios test	£30,000	For new applicants Higher of: £50,000 or 15% Year 1 £40,000 or 12.5% Year 2 £30,000 or 10% Year 3 £20,000 or 7.5% Year 4	<£20 million licensable revenue

From 1 June 2016, businesses will only be able to apply for or renew an SBA if they take no more than 500 bookings in a year and have licensable revenue less than, or equal to, £1 million.

The new financial test affecting SBAs and the new ratios affecting other ATOL holders are as announced in March 2016 and effective from 1 June 2016. All existing SBAs will need to satisfy the solvency test when they next renew their ATOL licence after this date, and thereafter.

From 1 June 2016 firms which will no longer be eligible for a SBA because of the level of licensable revenue they conduct will be required to have £30,000 paid up share capital.

## Annex 3

### Guidance on whether transactions for Passengers & Revenue are “Licensable”.

In broad terms, an ATOL is required when a travel provider sells Flight-Only, flight inclusive packages or Flight-Plus as a principal. Under the ATOL Regulations 2012, ATOL protection has been extended to include Flight-Plus, the elements of which can be transacted by an ATOL holder as either principal or as agent. See also section below ‘Which sales should not be counted as licensable’.

An ATOL is not required for sales made as an agent for other ATOL holders, providing that these sales are documented correctly and not sold as Flight-Plus. When payment is made for such agent bookings the consumer must immediately receive an ATOL Certificate (and for a package a Confirmation document within 3 days of payment). In addition an ATOL is not required for a Flight-Only booking where the travel provider is an airline ticket agent and a confirmed ticket is issued as soon as that agent accepts payment or where the ticket is sold on a credit basis.

Guidance on what constitutes a package sale was issued by BERR in January 2008 and is available using the following link. [BERR - What is a package? A guidance note for travel organisers](#) (The government department BERR has now been superseded into BIS).

Sales of flight inclusive packages and Flights-Only, or Flight-Plus for which a confirmed ticket is not issued immediately at the time of payment, have to be sold under an ATOL licence and must be covered by ATOL holder’s Reports.

The definition of ‘licensable transaction’ means an offer made by a customer (or their agent) to purchase flight accommodation for one or more persons on a flight which is accepted by an air travel organiser and constitutes an activity in respect of which the air travel organiser is required to hold an ATOL, i.e. Flight-Only, flight inclusive packages or Flight-Plus.

#### ATOL Certificate

ATOL Certificates came into effect from 1 October 2012. An ATOL certificate should always state whether the sale is a Flight-Only, flight inclusive package or a Flight-Plus arrangement, which services have been paid for, whether in full or part, which are ATOL protected and which ATOL holder’s ATOL is protecting those services. The form and content of an ATOL certificate are described in ATOL Regulation 19. ATOL certificate examples can be found in the back of the CAA Official Record Series 3 using the following link:

[http://publicapps.caa.co.uk/docs/33/ORS3\\_1Oct%202015\\_complete\\_p.pdf](http://publicapps.caa.co.uk/docs/33/ORS3_1Oct%202015_complete_p.pdf)

#### Accredited Bodies

The arrangement for an Accredited Body and its members is similar to how a Tour Operator and an agent would operate with the tour operator and Accredited Body accepting liability for the licensable sales of the agents or members respectively. An Accredited Body’s Public Licensable sales will include all member Licensable sales. All Accredited Body members are expected to utilise the central on-line reservation systems of the Accredited Body to which they are a member. The membership agreement between an Accredited Body and its’ members also includes the term that the member is not permitted to sell outside of this agreement. The full Schedule of Accredited Body Standard Terms under ATOL Regulation 48 can be found in the Official Record Series 3, Air Travel Organisers’ Licensing.

#### Which passengers should be counted as licensable?

Licensable business is divided into two categories. These are:

- **Public - (sub categories – Flight-Only, flight inclusive packages or Flight-Plus) sold to consumers**

This covers packages and Flight-Plus based on either scheduled or charter flights, and Flight-Only sales for which a confirmed ticket is not issued immediately;

Flight-Plus is a flight sold with accommodation and/or car hire. However, other elements sold with the Flight-Plus that form a significant part of the holiday must also be included in the arrangement. 'Significant other' is contained in the European Package Travel Directive<sup>2</sup> (PTD), Article 2, 'other tourist services not ancillary to transport or accommodation and accounting for a significant proportion of the package'. Please refer to question 8 of the BIS PTR Q&A Guidance for Organisers and Retailers using the following link: <https://www.gov.uk/government/publications/the-package-travel-regulations-question-and-answer-guidance-for-organisers-and-retailers>

'Other tourist services' generally form a significant proportion of the package if their presence or absence determined its nature and therefore influenced its purchase. To be significant its presence would have to be an influencing factor in the reason for the (holiday) package. The flight and accommodation and/or car hire must be requested on the same day, the previous day or the next day, but it does not matter which the customer requests first.

The Regulations relating to Flight-Plus are included in Annex 6 of this Guidance Note.

- **ATOL to ATOL – sales to other ATOL holders for resale under the buying ATOL holder's ATOL**

The buying ATOL holder usually sells on to the consumer. The business covered is normally air seats but occasionally flight inclusive packages may also be sold in this way. The selling ATOL holder must check that the buyer holds an ATOL and that the buyer's Licence Limit is sufficient to sell to passengers the seats it is buying. The Confirmation Invoice issued by the seller must make clear that the sale is ATOL to ATOL and that the seat will be sold to the public under the buyer's ATOL. For reporting purposes CAA is only concerned with the ATOL to ATOL sales to unrelated ATOL holders [referred to as "external" seat sales] and not ATOL to ATOL sales to other ATOL holders in the same Group [referred to as "internal" seat sales].

### **What should be included in licensable revenue?**

"Licensable revenue" is the income that arises from the licensable passengers described above and is only reported on for the Public sales category, including sub categories. It is the gross invoice value arising from the passengers in the relevant period - that is, the total sum they paid or are due to pay for their flights or holidays. It will therefore include the selling price of the flight or flights provided, plus any of the following that form part of the same combination:

- the selling price of any items that constitute part of the same package holiday - hotel accommodation and meals, self-catering apartment or car hire;
- ancillary items like excursions or cruises, ski or sports tuition, entrance fees or hire of specialist equipment, provided that these are included in the same sale as the flight or holiday, as opposed to purchased later;
- any taxes, duties or surcharges added on to the basic price quoted;
- agent's commission - even though this will usually have been deducted from the cash amount transmitted by the agent to the ATOL holder; and
- insurance, where this is sold by the ATOL holder rather than by an agent.

### **When are passengers and revenue counted?**

A relevant 'booking' means a booking made by a consumer to purchase flight accommodation for one or more persons on a flight; and which is accepted by an ATOL holder and constitutes an

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<sup>2</sup> The Package Travel Directive (PTD) came into effect in 1990 and was introduced into UK law through the Package Travel Regulations (PTR) in 1992.



activity in respect of which that ATOL holder is required to hold an ATOL licence. For the purpose of the bookings reports [monthly, quarterly or annual] revenue and passengers are taken as occurring when the ATOL holder contracts with the customer (with or without part or full payment) for a licensable booking under their own ATOL.

For the purpose of the departed passengers report, revenue is taken as occurring when the passenger departs on the first leg of their Flight-Only, flight inclusive package or Flight-Plus. If a passenger has his outbound flight during one quarter, then the price he pays counts as revenue for that quarter, even though he may have paid in the previous quarter or his return journey may be in the next.

### **Which sales should not be counted as licensable?**

- any sales that do not include air travel;
- flight only sales transacted on an 'airline ticket agent' basis, where the ATOL holder has written agreement with the aircraft operator which allows the ATOL holder to issue a confirmed ticket. The ATOL holder must issue the confirmed ticket immediately in exchange for payment, [in broad terms to qualify as a confirmed ticket it would mean that the airline would carry regardless of having received payment.] For sales on this basis the ticket issuer must declare that they have advised the consumer that there is no ATOL protection. The ATOL holder cannot act on the basis of 'airline ticket agent' where the flight is a component of a package or Flight-Plus;
- Flight only or Flight-Plus sales to corporate clients (customers) are exempt from the need to hold an Air Travel Organiser's Licence.. The exemption does not apply where the corporate client will make the flight available to another person and will accept payment in relation to it. The exemption applies to sales to entities incorporated by statute and also a range of government and quasi-governmental bodies. Please refer to the CAA Official Record Series 3 for a full list of bodies exempted. The exemption does not apply if the corporate customer is an ATOL holder or where the sale is a package.
- Flight only sales where the customer only pays after the flight(s) have been completed. Such arrangements can occur for some 'business house sales' which are on credit terms.
- "retail" sales, where the ATOL holder sells another ATOL holder's product as an agent for the other ATOL holder, usually for a commission. The ATOL holder should have a written agency agreement with the other ATOL holder. These retail sales would be in respect of Flight-Only or flight inclusive packages. An ATOL holder who acts as another's agent must provide an ATOL Certificate to the customer at the time of payment. The ATOL holder would either produce the ATOL Certificate on behalf of the other ATOL holder or the other ATOL holder would produce the ATOL Certificate and make this available to the ATOL holder to pass onto the customer.

If you have any doubt about whether or not your client has properly reported and categorised his licensable or non-licensable business, please contact the CAA for advice. We shall try to help, and our aim is to get the returns right rather than to penalise your client for errors.

### **Agent for an ATOL holder**

Acting as agent for an ATOL holder means a person, subject to conditions, who acts as agent on behalf and with the authority of a disclosed identified principal who is an ATOL holder. Further details can be found in the CAA (ATOL) Regulations 2012 (Part 2 s12).

[http://www.legislation.gov.uk/ukxi/2012/1017/pdfs/ukxi\\_20121017\\_en.pdf](http://www.legislation.gov.uk/ukxi/2012/1017/pdfs/ukxi_20121017_en.pdf)

### **Airline Ticket Agent**

Acting as an airline ticket agent means a person, subject to conditions, appointed by an aircraft operator as its agent to make available flight accommodation on a flight operated by that aircraft operator. The agent must have either, a written agency agreement with the airline, which must

include that the airline will honour the ticket even if it has not been paid for; or issue tickets under its own IATA agreement. The agent must not buy tickets from another travel business which is not an airline and they must sell to the consumer only.

Further details can be found in the CAA (ATOL) Regulations 2012 (Part 2 s13). An extract from the ATOL regulations is provided below:

**ATOL Regulations: Acting as an airline ticket agent**

- Reg. s 13(1) – “Airline ticket agent” means , subject to paragraph (2) to (5), a person appointed by an aircraft operator as its agent to make available flight accommodation on a flight operated by that aircraft operator.
- Reg. s 13(2) - An airline ticket agent must not make available flight accommodation except to a person who the airline ticket agent has reasonable grounds for believing is the consumer of that flight accommodation.
- Reg. s 13(3) – An airline ticket agent must act in accordance with a written agency agreement under which the airline ticket agent is entitled to supply a confirmed ticket as required by paragraph (4).
- Reg. s 13(4) – An airline ticket agent must, immediately upon receipt of any payment for the flight accommodation supply a confirmed ticket by the specified method.
- Reg. s 13(5) - When supplying a confirmed ticket as required by paragraph (4), the airline ticket agent must at the same time and by the same method, notify the person to whom the ticket is supplied that they are an airline ticket agent for that aircraft operator.

## Annex 4

### CAA Standard ARA-ATOL Terms of Engagement <sup>3</sup> (Version dated March 2016)

The following are the CAA pre-agreed terms of engagement of ATOL Reporting Accountants by ATOL holders to prepare reports required by the CAA in connection with the ATOL holder's obligations under the Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012 and the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007 (as amended).

These terms must be included, unamended, with the wider terms of engagement between the ATOL holder and the ATOL Reporting Accountant. However, none of the wider terms may contradict or purport to contradict these terms and the ATOL holder and the ATOL Reporting Accountant agree that any that purport to do so will be void.

A contract between an ATOL holder, its ATOL Reporting Accountants, the CAA on its own behalf and as agent for the Trustees of the Air Travel Trust on these terms is formed when the air travel ATOL holder and the ATOL Reporting Accountant sign and submit to the CAA a Report as set out in Clause 3 herein.

In these terms of engagement:

“CAA” refers to the Civil Aviation Authority;

“Accountable Person” refers to the ATOL holder's director with authority to ensure the ATOL holder complies with the terms and conditions of its ATOL acceptable to the CAA (pursuant to ATOL Regulation 32);

“ARA” refers to ATOL Reporting Accountant;

“ATT” refers to the Air Travel Trust;

“the ATOL holder” refers to the air travel organiser that is required to submit a Report to the CAA;

“the Accountants” refers to the ATOL holder's ATOL Reporting Accountant as defined in the ATOL Standard Term 3, published in the CAA's Official Record Series 3, pursuant to ATOL Regulation 40(1);

“Guidance Note 10” refers to the publication by the CAA of the Requirements for ATOL Reporting Accountants dated March 2016 in Official Record Series 3.

#### 1 Introduction

The ATOL holder is required to submit to the CAA Reports as set out in Clause 3 below that are signed by their Accountants to provide independent assurance or factual confirmations on the information provided. These CAA Standard ARA-ATOL Terms of Engagement set out the basis on which the Accountants will sign the Report.

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<sup>3</sup>These CAA Standard ARA-ATOL Terms of engagement do not cover any reports requested by CAA in connection with lapsed licences and the release of bonds, sub-ordinated loans, guarantees and redemption of preference shares.

## 2 The ATOL Holder's Responsibilities

- 2.1 The ATOL holder is responsible for producing the information set out in the Reports, maintaining proper records complying with the terms of the CAA's ATOL Standard Terms and providing relevant financial information to the CAA on a monthly, quarterly and annual basis in accordance with the requirements of the ATOL Standard Terms. The ATOL holder is responsible for ensuring that the non-financial records are reconcilable to the financial records.
- 2.2 The ATOL holder's Accountable Person will ensure that all records, correspondence, information and explanations that the Accountants consider necessary to enable the Accountants to perform the Accountants' work are made available to the Accountants.
- 2.3 The ATOL holder, the CAA and the ATT accept that the ability of the Accountants to perform their work effectively depends upon the ATOL holder providing full and free access to the financial and other records and the ATOL holder shall procure that any such records held by a third party are made available to the Accountants.
- 2.4 The Accountants accept that, whether or not the ATOL holder meets its obligations, the Accountants remain under an obligation to the CAA and the ATT to perform their work with reasonable care. The failure by the ATOL holder to meet its obligations may cause the Accountants to qualify their report or be unable to provide a report.

## 3 Scope of the Accountants' Work

- 3.1 The ATOL holder will provide the Accountants with such information, explanations and documentation that the Accountants consider necessary to carry out their responsibilities. The Accountants will seek written representations from management in relation to matters for which independent corroboration is not available. The Accountants will also seek confirmation that any significant matters of which the Accountants should be aware have been brought to the Accountants' attention.
- 3.2 The Accountants will perform the following work in relation to the Reports required by the CAA<sup>4</sup>:
- 3.2.1 Annual Accountants' Report (Part 1): Licensable Revenue on a departure date basis: The Accountants will perform such procedures as are necessary, for forming an opinion as to whether the Licensable Revenue, on both an annual and 4 calendar quarters basis disclosed in section 1 of Part 1 of the Annual Accountants' Report has been fairly presented in accordance with CAA Regulations and Guidance and subject to any adverse findings will produce a report in the form as detailed in Guidance Note 10
- 3.2.2 Annual Accountants' Report (Part 1): Licensable passenger numbers on a booking date and departure date basis: The Accountants will perform the work procedures set out in Annex 7 of Guidance Note 10 on both an annual and 4 calendar quarters basis and subject to any adverse findings will produce a report in the form as detailed in Guidance Note 10.

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<sup>4</sup>The following reports will be required for each category of ATOL holder and Accountants should amend the terms of reference for each engagement accordingly:

- a) Standard ATOL holders - 3.2.1 to 3.2.4 above;
- b) SBAs – 3.2.1 to 3.2.4 above;
- c) Trade licences – 3.2.2 but departure date basis only and 3.2.3 above;
- d) Franchise Member ATOL holders ≥ £5m ATOL revenue – 3.2.1 to 3.2.3 above;
- e) Franchise Member ATOL holders < £5m ATOL revenue – no reporting required;
- f) Other Reports outlined under 3.2.5 and 3.2.6 will only be requested in specific circumstances.

- 3.2.3 Annual Accountants' Report (Part 2): Extraction of information from the ATOL holder's Financial Statements: The Accountants will perform the work procedures set out in the Annex 7 of Guidance Note and subject to any adverse findings will produce a report as detailed in Guidance Note 10.
- 3.2.4 Airline Ticket Agent Report: The Accountants will perform the work procedures set out in Annex 7 of Guidance Note 10 and subject to any adverse findings will produce a report as detailed in Guidance Note 10.
- 3.2.5 Factual Confirmations Report: The Accountants will perform the work procedures set out in Annex 8 of Guidance Note 10 on request by the CAA to the ATOL holder for an accountants' confirmation report and subject to any adverse findings will produce a Factual Confirmations report in the form set out in Annex 8 of Guidance Note 10;
- 3.2.6 Ring Fencing Report: The Accountants will perform the work procedures set out in Annex 9 of Guidance Note 10 on request by the CAA to the ATOL holder for an accountants' ring fencing report and subject to any adverse findings will produce a Ring Fencing report in the form set out in Annex 9 of Guidance Note 10.
- 3.2.7 The Accountants will not subject the information provided by the ATOL holder to checking or verification except to the extent expressly stated. While the Accountants will perform their work with reasonable skill and care and will report any misstatements, frauds or errors that are revealed by enquiries within the scope of the engagement, the Accountants' work should not be relied upon to disclose all misstatements, fraud or errors that might exist.

#### **4 Form of the Accountants' Reports**

- 4.1 The Accountants' Reports are prepared on the following bases:
- 4.1.1 The Accountants' Reports are prepared solely for the confidential use of the ATOL holder and the CAA and solely for the purpose of submission to the CAA in connection with the CAA's requirements in connection with the ATOL holder's Air Travel Organiser's Licence. They may not be relied upon by the ATOL holder or the CAA for any other purpose except as provided in 4.1.2 below;
- 4.1.2 The CAA may disclose the Reports to the ATT in connection with any actual or potential liability to the ATT that may arise out of the business conducted by the ATOL holder, and the ATT will be entitled to rely on them subject to the terms of this agreement. The ATT may share the Accountants' Reports and/or the information contained in the Accountants' Reports with;
- the ATT's insurers in connection with making an insurance claim, where required by the ATT obligations under its contract of insurance; and
  - the ATT's own statutory auditors and legal advisors;
- and the Accountants do not object to such disclosure provided that the ATT's insurers and the ATT's own statutory auditors and legal advisors agree for the benefit of the Accountants (and the CAA produces evidence of such agreement if and when requested by the Accountants) that:
- a) the Reports prepared by the Accountants are designed to meet the agreed requirements of the CAA, the ATT and the ATOL holder only;
  - b) the Reports are not to be regarded as suitable to be used or relied on by any party wishing to acquire any rights against the Accountants other than the CAA, the ATT and the ATOL holder in accordance with this agreement;

- c) the Accountants do not assume any responsibility in respect of their work performed for the CAA, the ATT and the ATOL holder or the Reports, or any judgments, conclusions, opinions, or findings that the Accountants may have formed or made, to any party except the CAA, the ATT and the ATOL holder in accordance with this agreement;
  - d) to the fullest extent permitted by law the Accountants accept no liability in respect of any such matters to any party except the CAA, the ATT and the ATOL holder in accordance with this agreement;
  - e) should any party except the CAA, the ATT or the ATOL holder choose to rely on the work performed by the Accountants or the Reports, that party will do so at its own risk; and that
  - f) the Reports are to remain confidential in the hands of the ATT's insurers and the ATT's own statutory auditors and legal advisors.
- 4.1.3 Neither the ATOL holder, the CAA nor the ATT may rely on any oral or draft reports the Accountants provide. The Accountants accept responsibility to the ATOL holder, the CAA and the ATT for the Accountants' final signed reports only;
- 4.1.4 Except as provided for in clause 4.1.2 above and clause 4.1.5 below, the Accountants' Reports must not be recited or referred to in whole or in part in any other document (including, without limitation, any publication issued by the CAA);
- 4.1.5 Subject to clause 4.1.2 above and except to the extent required by court order, law or regulation or to assist in the resolution of any court proceedings, the Accountants' Reports must not be made available, copied or recited to any other person (including, without limitation, any person who may use or refer to any of the CAA's publications);
- 4.1.6 The Accountants, their partners and staff neither owe nor accept any duty to any person other than the ATOL holder, the CAA or the ATT in accordance with this agreement (including, without limitation, any person who may use or refer to any of the CAA's Publications) and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by their reliance on representations in the Accountants' Reports.

## 5. Rights and duties of the Accountants

- 5.1.1. An ATOL holder recognises that, if during the course of preparing an Accountants' report the Accountants become aware of breaches of the ATOL Regulations by the ATOL holder, the Accountants are required to report them directly to the Civil Aviation Authority, in accordance with the terms of their designation as an ARA and as set out in more detail in Guidance Note 10.
- 5.1.2. The Accountants may make that report without prior reference to the ATOL holder.
- 5.1.3. To the extent necessary to enable the Accountants to comply with this requirement, the ATOL holder waives the right of confidentiality. This waiver extends to any report made, document produced or information disclosed to the Civil Aviation Authority in good faith pursuant to these instructions, even though it may subsequently transpire that the Accountants were mistaken in their belief that there was cause for concern.

## 6. Liability Provisions

- 6.1. The Accountants will perform the engagement with reasonable skill and care and acknowledge that they will be liable to the ATOL holder, the CAA and the ATT for losses, damages, costs or expenses ("losses") caused by their breach of contract, negligence,

or dishonesty or fraud or other deliberate breach of duty, subject to the following provisions:

- 6.1.1 The Accountants will not be so liable if such losses are due to the provision of false, misleading or incomplete information or documentation or due to the acts or omissions of any person other than the Accountants, except where, on the basis of the enquiries normally undertaken by Accountants within the scope set out in these CAA Standard ARA-ATOL Terms of Engagement, it would have been reasonable for the Accountants to discover such defects;
- 6.1.2 The Accountants accept liability without limit for the consequences of their own fraud and for any other liability which it is not permitted by law to limit or exclude;
- 6.1.3 Subject to the previous clause (6.1.2), the total aggregate liability of the Accountants whether in contract, tort (including negligence) or otherwise, to the CAA, the ATT and the ATOL holder, for any losses suffered by the CAA, the ATT, or the ATOL holder arising from or in connection with the work which is the subject of these terms (including any addition or variation to the work), shall not exceed an amount to be agreed between the parties by separate written agreement or, in the absence of such agreement, calculated in accordance with the CAA's capping formula published in Guidance Note 10 ("the Liability Cap");<sup>5</sup>

In accepting an Accountants report prepared under an engagement in these terms the CAA and the ATT and the ATOL holder agree that the Liability Cap will be shared between them and that their respective claims against the Accountant shall be dealt with in accordance with the following priority. In the event of successful claims against the Accountants by more than one of the CAA, the ATT and the ATOL holder, the CAA and the ATT shall be entitled to recover their loss in priority to the ATOL holder subject always to the maximum Liability Cap. The Accountants shall notify the CAA if a claim is commenced by the ATOL holder against the Accountants but the Accountants are not party to the separately agreed priority set out in the preceding sentence. Nothing in this clause will affect the validity or operation of clause 6.1.5 below;

- 6.1.4 The Accountants' liability arising after the application of the other provisions of this clause 6 (above and below) shall in aggregate be limited to that proportion of the total losses, after taking into account contributory negligence (if any), which is just and equitable having regard to the extent of the responsibility of the Accountants for the losses, and the extent of responsibility of any other person ("Other Person");

In order to calculate the proportionate share of the Accountants' liability, no account shall be taken of any matter affecting the possibility of recovering compensation from any Other Person, including the Other Person having ceased to exist, having ceased to be liable, having an agreed limit on its liability or for other reasons being unable to pay, and full account shall be taken of the Other Person's responsibility even if that Other Person is not a party or witness to any relevant proceedings;

- 6.1.5 The allocation of the Liability Cap between the CAA, the ATT and the ATOL holder shall be entirely a matter for the CAA, the ATT and the ATOL holder, who will be under no obligation to inform the Accountant of it. If (for whatever reason) no such allocation is agreed, none of the CAA, the ATT and the ATOL holder will dispute the validity,

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<sup>5</sup>The Guidance Note 10, issued March 2016, is available on the CAA's website:

<http://www.caa.co.uk/ATOL-protection/Trade/Licensing-forms-and-bonds/Licensing-forms-and-bonds/>

Individual firms of accountants need to consider whether or not to accept the CAA's offered capping formula or negotiate a liability cap with the CAA by separate agreement. Such consideration will take into account, inter alia, whether the limitation is appropriate to the scope of the engagement, the fees generated, their assessment of risks in undertaking the work and their internal risk management policies. Where firms consider that they are unable to accept the formula, they may wish to negotiate their own individual capping arrangements with the CAA.

enforceability or operation of the Liability Cap on the grounds that no such allocation is agreed.

- 6.2 This clause 6.2 shall not apply to any claim that might be brought against the Accountants separately by the ATOL holder. The CAA and the ATT agree that neither the CAA nor the ATT will bring any legal proceedings against the Accountants arising out of or in connection with this agreement or the services to be provided thereunder unless the ATT has suffered a loss as a result of the Accountants' breach of contract or their negligence arising from the provision of the services and: (i) a failure of the ATOL holder has occurred<sup>6</sup>; (ii) the loss to the Air Travel Trust (ATT) exceeds 15% of the ATOL holder's Public revenue Licence Limit, or the total of the actual bond (if a bond was provided by the ATOL holder as a specific condition of its ATOL), whichever is the greater; and (iii) the CAA and/or the ATT have taken reasonable steps<sup>7</sup> to recover the loss from the ATOL holder or any guarantees provided to the CAA or the ATT by the principals of the ATOL holder or any other appropriate third parties. In the event that such conditions are satisfied, the CAA and the ATT further agree that the Accountants' liability shall, subject always to the Liability Cap referred to in clause 6.1.3 above, be limited to that proportion of the ATT loss that is in excess of 15% of the ATOL holder's Public revenue Licence Limit or actual bond (if a bond was provided by the ATOL holder as a specific condition of its ATOL), whichever is the greater. Please see footnotes 5 and 6 below for definitions in respect of failure of the ATOL holder and reasonable steps. In the event that conditions (i) and (iii) are satisfied but condition (ii) is not, such that the loss to the ATT does not exceed the 15% threshold stated in (ii) and there is no bond, the Accountants' liability to the ATT and/or to the CAA shall be limited (on the basis stated above) to £250,000.
- 6.3 The ATOL holder, the CAA and the ATT agree that they will not bring any claims or proceedings against any individual partners, members, directors or employees of the Accountants. This clause is intended to benefit such partners, members, directors and employees who may enforce this clause pursuant to the Contracts (Rights of Third Parties) Act 1999 (the "Act"). Notwithstanding any benefits or rights conferred by this agreement on any third party by virtue of the Act, the parties to this agreement may agree to vary or rescind this agreement without any third party's consent. Other than as expressly provided in these terms, the Act is excluded.
- 6.4 Any claims, whether in contract, negligence or otherwise, must be formally commenced within two years after the party bringing the claim becomes aware (or ought reasonably to have become aware) of the facts which give rise to the action and in any event no later than four years after any alleged breach of contract, negligence or other cause of action. This expressly overrides any statutory provision which would otherwise apply. In the event that the CAA and/or the ATT delay commencing a claim against the Accountants in order to comply with their obligations under clause 6.2 to take reasonable steps to recover loss from the ATOL holder and any guarantors, time will be deemed to have stopped running for the purposes of this clause 6.4 for the period that the CAA and/or the ATT are taking such reasonable steps.
- 6.5 The services provided by the Accountants under this agreement are separate from and unrelated to the Accountants' audit work on the Financial Statements of the ATOL holder for the purposes of the Companies Act 2006 as appropriate (the "statutory audit work").

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<sup>6</sup>A failure of the ATOL holder will occur if an authorised signatory of the CAA has signed a Notice of ATOL holder failure in respect of that ATOL holder and has placed a copy of that Notice on the CAA's Register of Failed ATOL holders.

<sup>7</sup>Reasonable steps are either: the institution of legal proceedings where it is consistent with the ATT fiduciary duties and/or the CAA function and duties; or formal claim in any insolvency.



The Accountants' obligations under this agreement are entirely separate from the statutory audit work for the ATOL holder. Nothing in this agreement should be taken to and shall not add to or vary or extend in any way or on any basis any duty of care the Accountants may have in their capacity as auditor of the ATOL holder's Financial Statements, nor to create any obligations or liabilities on the Accountants regarding the Accountants' statutory audit which would not otherwise exist.

## **7 Fees**

The Accountants' fees, together with VAT and out of pocket expenses, will be agreed with and billed to the ATOL holder, who will be responsible for the payment of such fees. Neither the CAA nor the ATT is liable to pay the Accountants' fees.

## **8 Quality of Service**

The Accountants will investigate all complaints. The CAA, the ATT and the ATOL holder have the right to take any complaint up with the relevant Professional Accountancy Body under which Accountants are designated as an ATOL Reporting Accountant.

## **9 Providing Services to Other Parties**

The Accountants will not be prevented or restricted by virtue of the Accountants' relationship with the ATOL holder, the CAA and the ATT, including anything in these CAA Standard ARA-ATOL Terms of Engagement, from providing services to other clients. The Accountants' standard internal procedures are designed to ensure that confidential information communicated to the Accountants during the course of an assignment will be maintained confidentially.

## **10 Applicable Law and Jurisdiction**

10.1 This agreement shall be governed by, and interpreted and construed in accordance with English law.

10.2 The ATOL holder, the CAA, the ATT and the Accountants irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaims) which may arise in connection with the validity, effect, interpretation or performance of, or the legal relationship established by this agreement or otherwise arising in connection with this agreement.

## **11 Alteration to Terms**

Without prejudice to the ATOL holder's and the Accountants ability to agree additional terms that do not contradict or purport to contradict these CAA Standard ARA-ATOL Terms of Engagement no amendments and variations to these CAA Standard ARA-ATOL Terms of Engagement are permitted or binding unless agreed in writing and signed by the duly authorised representatives of the parties and the CAA. These terms supersede any previous agreements and representations between the parties in respect of the scope of the Accountants' work and the Accountants' Reports or the obligations of any of the parties relating thereto (whether oral or written) and, together with the matters included in the letter confirming the CAA Standard ARA-ATOL Terms of Engagement, represent the entire understanding between the parties. The CAA acknowledges that supplementary terms may be agreed between the Accountants and the ATOL holder but the CAA will not be party to those terms unless expressly agreed by the CAA. No terms negotiated between the ATOL holder and the ATOL holder's accountant may contradict or purport to contradict the CAA's mandated terms. Should they do so then the accountants' reports will not be acceptable to the CAA. In effect this will be a failure by

the ATOL holder to comply with the terms of its ATOL, and ultimately can lead to licensing action being taken against the ATOL holder.

## **12 Termination**

- 12.1 This agreement may be terminated by a party at any time by giving not less than 30 days' notice to each of the other parties.
- 12.2 This agreement may be terminated by a party by notice with immediate effect if another party is unable to pay its debts or has a receiver, administrator, administrative receiver or liquidator (or in each case, the equivalent in another jurisdiction) appointed or calls a meeting of its creditors or ceases for any reason to carry on business or if in the reasonable opinion of the party wishing to terminate any of these events appear likely.
- 12.3 Notices must be in writing and delivered by hand or sent by registered post, in each case to the registered office of each party to this agreement, save that a notice will be validly delivered to the ATT if it is sent to the CAA. Any notice sent by post will be deemed to have been delivered 3 business days after sending.

# Annex 5

## Capping Formula of ATOL Reporting Accountants' Liability

1 The total aggregate liability of the Accountants whether in contract, tort (including negligence) or otherwise, to the CAA, the ATT and an ATOL holder, arising from or in connection with the work which is the subject of these terms (including any addition or variation to the work), shall not exceed an amount as determined by the following formula (“the Liability Cap”).

2 The Liability Cap calculation method is set out below:

The level of Liability Cap that will apply is dependent on the size of a particular ATOL holder’s licensable revenue. For standard ATOLs the Liability Cap will be calculated based on 15% of the Public revenue Licence Limit of the particular ATOL holder or the actual bond provided by the ATOL holder, whichever is the greater, and applied to the bands in the table below at 2.1. The relevant Public revenue Licence Limit will be the Public revenue Licence Limit for the ATOL licence period in which the last financial year or period being reported on ends. The relevant bond will be the bond in place in the ATOL licence period in which the last financial year or period being reported on ends. If that ATOL licence is granted for a period of less than four calendar quarters, the calculation will be based on that Licence Limit, plus additional consecutive quarters taken from the most recent ATOL application form. Therefore there must be four quarters of licensable revenue when the 15% is applied.

There are some standard ATOLs that have both the Public and the ATOL to ATOL category. The ATOL to ATOL category on the ATOL licence specifies seat numbers only and no revenue figure, and therefore the Liability Cap for work performed in respect of ATOL holders will be calculated based solely on the relevant Public revenue Licence Limit or actual bond as set out in the clause above.

SBA Licences only have a Licence Limit for passenger numbers up to 500 and have a licensable revenue limit of £1m. The Liability Cap for work performed in respect of either of these ATOL holders will be £250,000.

The Franchise member ATOL holder ATOL licences with a Licence Limit of £5m or more for Public revenue. The Liability Cap for these ATOL licences will be calculated based on 15% of the Public revenue and the table set out in paragraph 2.1 below should be read accordingly to calculate the Liability Cap.

Trade licences only have the ATOL to ATOL category on the ATOL licence which specifies seat numbers only and no revenue figure. Therefore the Liability Cap for work performed in respect of these ATOL holders will be £250,000.

2.1 The table below summaries the Limit of Accountants' Liability.

The Liability Cap for work performed in respect of SBA licences and Trade licences will be £250,000 in each case.

<p>Box (a) – For Standard ATOL licences, and Franchise member ATOL holder’ licences ≥ £5m, where 15% of the ATOL holder’s Public Revenue Licence Limit (as defined above) or the actual bond, whichever is the greater is:</p>	<p>Limit of Accountants’ Liability</p>
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≤ £0.25 million	£0.25m
> £0.25m but ≤ £0.5 million	£0.5m
> £0.5m but ≤ £5 million	100% of the amount calculated in box (a)
> £5m but ≤ £15 million	£5m plus 50% of the amount calculated in box (a) that is over and above £5m, up to a limit of £10m.
> £15m but ≤ £100 million	£10m
> £100m but ≤ £200 million	£20m
More than £200 million	£20m – However the CAA retains the right to individual negotiations for a higher liability cap for ATOL holders in this bracket.

## 2.2 De minimis

Where the following conditions are satisfied:

- a) a failure of the ATOL holder has occurred;
- b) there is no bond;
- c) the CAA and/or the ATT have taken reasonable steps to recover the loss from the ATOL holder or any guarantees provided to the CAA or the ATT by the principals of the ATOL holder or any other appropriate third party;
- d) the loss to the ATT does not exceed 15% of the ATOL holder's Public revenue Licence Limit;

the Accountants' liability to the ATT and/or to the CAA shall be limited (on the basis stated above) to £250,000.

## 2.3 The Liability Cap in the Case of Groups

Where an accountant is engaged to report on one or more ATOL holders within a group, the aggregate Public Revenue Licence Limit (as set out in paragraph 2 above of this Guidance Note), for all ATOL holders on which it reports shall be used as the basis for which the liability cap is calculated.

## **Annex 6 – Flight-Plus Regulations**

[Extract from ‘The Civil Aviation Authority (Air Travel Organisers’ Licensing) Regulations 2012’]

### **PART 3**

#### **REGULATION OF FLIGHT-PLUS**

##### **Definition of a Flight-Plus**

**24.**—(1) Subject to paragraphs (3), (4) and (5), a Flight-Plus exists when paragraphs (a) to (d) are satisfied—

(a) flight accommodation is made available which includes as a minimum—

(i) a flight out of the United Kingdom; or

(ii) a flight into the United Kingdom where the consumer has commenced the journey in the United Kingdom and departed the United Kingdom using another means of transport; and

(b) living accommodation outside the United Kingdom or self-drive car hire outside the United Kingdom or both is requested to be booked and is supplied by any person under or in connection with the contract for such flight accommodation; and

(c) such living accommodation or self-drive car hire is requested to be booked by or on behalf of the consumer on the same day as the consumer requests to book the flight accommodation, the previous day or the next day;

(d) the arrangement covers a period of more than twenty-four hours or includes overnight living accommodation.

(2) Where a Flight-Plus exists, any other tourist services will be included in the Flight-Plus if such services—

(a) are not ancillary to flight accommodation or living accommodation;

(b) account for a significant proportion of the Flight-Plus;

(c) were supplied under or in connection with the contract for the flight accommodation; and

(d) were requested to be booked by or on behalf of the consumer on the same day as the consumer requested to book the flight accommodation, the previous day or the next day.

(3) A package is not a Flight-Plus except—

(a) where a package does not include flight accommodation, flight accommodation (as described in paragraph (1)(a)) is requested to be booked by or on behalf of the consumer on the same day as the consumer requests to book the package, the previous day or the next day; or

(b) where a package does include flight accommodation, living accommodation or self-drive car hire outside the United Kingdom is requested to be booked by or on behalf of the consumer on the same day as the consumer requests to book the package, the previous day or the next day.

(4) A flight which begins and ends in the United Kingdom does not form part of a Flight-Plus.

(5) A Flight-Plus will cease to exist if—

(a) the consumer withdraws from the contract for any component of the Flight-Plus; and

(b) as a consequence of that withdrawal, the requirements in paragraph (1) are no longer satisfied.

##### **Definition of Flight-Plus arranger**

**25.** A Flight-Plus arranger means a person (other than the operator of the relevant aircraft) who— (a) as a principal or an agent, makes available flight accommodation in response to a request to book which has been made directly to them by a consumer; and

(b) has taken or takes any step which is intended to include, facilitate or enable, or has the effect of including, facilitating or enabling the inclusion of, that flight accommodation as a component of a Flight-Plus.

##### **Obligations of a Flight-Plus arranger to provide alternative flight accommodation, living accommodation and self-drive car hire prior to departure**

**26.**—(1) It is a term of any ATOL that—

(a) subject to regulation 30, where before the intended departure, the Flight-Plus arranger

becomes aware that flight accommodation, living accommodation, self-drive car hire or any combination of these forming part of a Flight-Plus will not be provided, the Flight-Plus arranger must make suitable alternative arrangements, at no extra cost to the consumer, for alternative flight accommodation, living accommodation, or self-drive car hire, as appropriate; and

(b) if it is impossible to make alternative arrangements as described in sub-paragraph (a) or the arrangements offered are not accepted by the consumer for good reasons, the Flight-Plus arranger must refund to the consumer the amount paid by the consumer, on their own behalf or on another consumer's behalf, for all of the flight accommodation, living accommodation, self-drive car hire and other tourist services forming part of the Flight-Plus.

(2) For the purposes of this Part, flight accommodation which forms part of a Flight-Plus will not be provided if either no flight accommodation is provided or if, having regard to the dates, times and points of departure and return, the alternative flight accommodation offered under paragraph (1) or regulation 27 varies significantly from that contracted for.

### **Obligations of a Flight-Plus arranger to provide alternative flight accommodation, living accommodation and self-drive car hire after departure**

**27.** It is a term of any ATOL that—

(a) subject to regulation 30, where after departure, the Flight-Plus arranger becomes aware that flight accommodation which forms part of a Flight-Plus will not be provided, the Flight-Plus arranger must provide the consumer, at no extra cost, with suitable alternative transport back to the place of departure, or to another return-point to which the consumer has agreed;

(b) where after departure, the Flight-Plus arranger becomes aware that living accommodation or car hire which forms part of a Flight-Plus will not be provided, the Flight-Plus arranger must provide the consumer, at no extra cost, with suitable alternative living accommodation or self-drive car hire, as appropriate; and

(c) if it is impossible to make arrangements in accordance with paragraph (a) or (b) or the arrangements offered are not accepted by the consumer for good reasons, the Flight-Plus arranger must refund to the consumer the amount paid by the consumer, on their own behalf or on another consumer's behalf, for all of the unused flight accommodation, living accommodation, self-drive car hire and other tourist services forming part of the Flight-Plus.

### **Extent of compensation to be provided for flight accommodation, living accommodation and self-drive car hire**

**28.** It is a term of any ATOL that—

(a) subject to regulation 30, where suitable alternative flight accommodation, living accommodation or self-drive car hire is provided under regulation 26 or 27, the Flight-Plus arranger must, where appropriate, compensate the consumer for the difference between the flight accommodation, living accommodation and self-drive car hire offered as part of the Flight-Plus and the flight accommodation, living accommodation and self-drive car hire supplied; and

(b) the compensation to be provided must include any incidental expenses reasonably incurred by the consumer including but not limited to additional living accommodation expenses.

### **Obligations of a Flight-Plus arranger to provide a refund for tourist services other than flight accommodation, living accommodation and self-drive car hire**

**29.** It is a term of any ATOL that, subject to regulation 30, in the case of the non-provision of any tourist service forming part of a Flight-Plus other than flight accommodation, living accommodation or self-drive car hire, the Flight-Plus arranger is liable to refund to the consumer the amount paid by the consumer, on their own behalf or on another consumer's behalf, for that tourist service.

### **Limitation of obligations of Flight-Plus arranger**

**30.** A Flight-Plus arranger is not liable to the consumer under regulations 26 to 29 for the provision of flight accommodation, living accommodation or self-drive car hire forming part of a Flight-Plus or to provide a refund in relation to any other tourist service forming part of a Flight-Plus except where the reason for the non-availability of the flight accommodation, living accommodation or self-drive car hire or the non-provision of the other tourist service forming part of the Flight-Plus is—

- (a) the insolvency of any person concerned with its provision; or
- (b) the failure of the ATOL holder who made available the flight accommodation.

## **Annex 7- Agreed Work Procedures – Passengers and Financial Information**

### **(b) Public licensable passenger numbers on a booking date and departure date basis**

1. Read *CAA Guidance Note 10* (dated March 2016) for ATOL Reporting Accountants and issued by the CAA.
2. Obtain a copy of the ATOL Licence and any variation(s) filed during the year.
3. Enquire as to the basis and methodology used by the management of the ATOL holder to compile its quarterly passenger returns to the CAA and the controls it has in place to monitor and ensure accuracy and completeness of the data.
4. Obtain from the reservation system of the ATOL holder a report that provides the number of passengers booked for the period under review. (It is recommended that you request the ATOL holder to print the reports at the end of each reporting quarter, as depending on the nature of the ATOL holder's reservation system, it may not be possible to reproduce the reports retrospectively.) Agree the passenger numbers shown on the report obtained from the reservation system to the CAA return on passenger numbers.
4. Review the reconciliation of this report to the equivalent passenger levy return and subsequent payment to the CAA of the passenger APC.
5. From the reservation system of the ATOL holder obtain a report that provides the number of public licensable passenger numbers on a departure date basis for the period under review. Agree the passenger numbers shown on that report from the reservation system to the CAA return on passenger numbers.

### **(c) Extraction of information from the Financial Statements**

1. Obtain from the ATOL holder the Financial Statements for the relevant period to which the Annual Accountants' Report applies.
2. Agree the data entry fields included in the relevant section of Part 2 of the Annual Accountants' Report to the line entries in the ATOL holders' Financial Statements [the relevant section will depend on whether the client is a Standard ATOL holder (and which GAAP has been applied) or SBA]
3. Enquire whether the prior year financial information in the Financial Statements has been restated and where it has been, agree the data entry fields included in the relevant section of Part 2 of the Annual Accountants' Report to the line entries in the Financial Statements.
4. If the relevant data entry fields cannot be agreed back directly to the line entries in the Financial Statements, ATOL Reporting Accountants include as exceptions in the report.
5. Enquire whether the Financial Statements have been audited and agree this to the ATOL



holder's confirmation in section 7.2.2 of Part 2 of the AAR.

6. Where the ATOL Reporting Accountant was the statutory auditor of the Financial Statements, agree that the ATOL holder has ticked 'yes' in the confirmation in section 7.2.1 of Part 2 of the AAR. Where the ATOL holder was not the statutory auditor of the Financial Statements, agree that the ATOL holder has ticked 'no' in the confirmation in section 7.2.1 of Part 2 of the AAR.
7. Review the audit opinion in the auditors' report attached to the Financial Statements. Where the audit opinion is modified, agree this to the ATOL holder's confirmation in section 7.2.3 of Part 2 of the AAR.

#### **(d) Airline Ticket Agent**

1. For a sample of bookings, check the reservation or ticketing system to establish whether the ticket is recorded as having been issued to the customer either promptly at the point when the payment is made or by the end of the following working day where the booking is made remotely (where the customer is not present). The size of the sample will be determined by the ATOL Reporting Accountants' assessment of controls over the recording of the issue date of the ticket.
2. For the sample selected above, confirm that there is a written airline ticket agency agreement in place with the airline, which includes the fact that the airline will honour the ticket even if it has not been paid for and/or that there is a valid IATA accreditation in place by checking that they have been issued with an IATA number.

## Annex 8 – Specific Factual Confirmations & Agreed Work Procedures

The following is a full list of potential confirmations that may be requested by the CAA. Accordingly the CAA agreed work procedures listed should be undertaken only in respect of the particular confirmations requested. In each case, in order to support their procedures, ATOL Reporting Accountants should obtain a direct confirmation from the directions of the ATOL holder regarding the requested matter in the form set out in the pro format report at the end of this Annex.

### 1. Subordinated Loans

- 1.1. ARA written report on the ATOL holder's confirmation that since [Date] £[X] of new cash has been injected into [ATOL holder] in the form of a subordinated loan, and the subordinated loans within the company now total £[Y]. This should include confirmation that the cash injection has actually been received into the ATOL holder's bank account and that the ATOL holder has completed the CAA subordinated loan documentation. In addition the ATOL holder will need to make the appropriate disclosure in the statutory accounts in accordance with generally accepted accounting principles.

Confirmation of new subordinated loans

- 1.1.1. Obtain a copy of the subordinated loan agreement.
- 1.1.2. Agree the receipt of cash is in the name of the party/parties identified in the loan agreement.
- 1.1.3. Agree the receipt of cash to the bank statement of an account in the name of the ATOL holder.

Confirmation of total subordinated loans at the balance sheet date

- 1.1.4. Obtain confirmation from each lender of the subordinated loans owed to them at the balance sheet date.

### 2. Cash gift (Sole Traders and Partnerships)

- 2.1. ARA written report on the ATOL holder's confirmation that since [Date] £[X] of new cash has been donated into [ATOL holder] in the form of a cash gift. This should include confirmation that the cash injections have actually been received into the ATOL holder's bank account and that the ATOL holder has completed the CAA memorandum of cash gift documentation. In addition the ATOL holder will need to make the appropriate disclosure in the statutory (or other annual) accounts in accordance with generally accepted accounting principles.

- 2.1.1. Obtain a copy of the 'memorandum of a cash gift' form
- 2.1.2. Agree the receipt of cash is in the name of the party/parties identified on the form.
- 2.1.3. Agree the receipt of cash to the bank statement of an account in the name of the ATOL holder.

### 3. Guarantees

- 3.1. ARA written confirmation that the completed Deed of guarantee has been drawn to the professional accountant's attention, acknowledging the existence of the guarantee. In

giving this guarantee the provider of the guarantee acknowledges that it will meet all actual and potential liabilities of the ATOL holder (occasionally the parent group). In addition the ATOL holder will need to make the appropriate disclosure in the statutory (or other annual) accounts in accordance with generally accepted accounting principles.

- 3.1.1. Obtain a copy of any deed of guarantee and any other guarantees (usually from the parent or Ultimate Holding Company) given in favour of the ATOL holder (occasionally to the parent group).

#### **4. New Share capital/rights issue**

- 4.1. ARA written confirmation that £[X] new cash has been injected into [ATOL holder] in the form of paid up share capital and/or that £[Y] of the profit and loss account or existing subordinated loan has been capitalised as fully paid up share capital. This should include confirmation that the funds have actually been received into the bank account of the ATOL holder and that share capital has been issued for the consideration received by the ATOL holder. For the capitalisation of a subordinated loan the ARA should confirm the existence of an agreement with the lender converting the subordinated loan into paid up share capital and that shares have been issued. The capitalisation of profit and loss reserves is executed by way of a bonus issue, which should be confirmed by reference to the relevant Companies House filings for an issue of shares.

- 4.1.1. Obtain a copy of the stamped Form 88(2) submitted to Companies House.
- 4.1.2. Obtain minutes and shareholder agreements (if applicable) in respect of the new share issue and confirm the share register records that the new shares have been issued in accordance with the minutes and agreements.

For shares issued for cash:

- 4.1.3. Agree the receipt of consideration for the shares and any premium thereon to the bank statement of a bank account of the ATOL holder.
- 4.1.4. Agree the receipt of cash into a bank account of the ATOL holder. If cash is initially placed in an escrow account, agree the amount to the bank statement and enquire of the directors as to when it is intended that the money will be transferred from escrow to a bank account of the ATOL holder.

Where a subordinated loan has been waived and additional share capital has been issued as consideration:

- 4.1.5. Confirm the existence of an agreement between the lender and company to this end signed by both parties.

#### **5. Bank loan funding**

- 5.1. ARA written confirmation that an amount of £[X] has been injected into [ATOL holder] in the form of a bank loan. The CAA monitors whether the ATOL holder has adequate working capital to support normal operational or capital expenditure in order to renew or retain an ATOL, which may include being dependent on a loan. The confirmation should include that the funds have actually been received into the bank account of the ATOL holder, and that the facility terms and conditions are as previously indicated to the CAA.

- 5.1.1. Obtain a copy of the bank loan agreement.

- 5.1.2. Agree the receipt of cash in the name of the party/parties identified in the loan agreement.
- 5.1.3. Agree receipt of loan monies to the bank statement of a bank account of the ATOL holder.

## 6. Repayment of item post year end

6.1. ARA written confirmation that since [Date] the sum of £[X] has been received from [Named debtor] in respect of the [named debt]. If the balance sheet of the ATOL holder includes certain current assets, in particular other debtors, then the CAA may seek to establish if these assets have been recovered. Part of this assessment is to ascertain if the debt has been settled since the year-end, in which case confirmation is required of the cash amount received. This may include capital items sold since the year-end, associate debt, deposit refunds, etc. ARA written confirmation that the receipt of the item or items in question, such that £[X] has been received since the year-end into the ATOL holder's bank account.

- 6.1.1. Obtain detail of asset being queried by the CAA.
- 6.1.2. Agree receipt of cash post year end to supporting documentation and the bank statement of a bank account of the ATOL holder.

## 7. Confirmation of change of ownership

7.1. ARA written confirmation of the shareholders and their shareholding following a restructure or change of ownership. This should include identification of the individuals or companies who are controlling the business. The CAA has a statutory duty to consider the fitness of those that control (or appear to control) an ATOL holder/applicant and part of their work is to establish ownership and control of companies. The ARA's confirmation should include a check of the share register to confirm who now owns the shares in the company that already holds an ATOL at a given date or is applying for an ATOL.

- 7.1.1. Obtain copies of share transfer/issue forms.
- 7.1.2. Obtain a copy of the new ownership structure provided by the directors of the ATOL holder to the CAA.
- 7.1.3. Confirm that the share register held by the ATOL holder correctly reflects these changes.

### **Pro forma Factual Confirmation Report**

To: The Civil Aviation Authority  
CAA House  
45-59 Kingsway  
London  
WC2B 6TE

### **Factual Confirmations Report**

We have performed the work procedures agreed with you and XYZ Limited ATOL Number [ ] (the ATOL holder) with respect to XYZ Limited. The confirmations made by XYZ Limited are attached (to be attached) and are repeated below. Our engagement was undertaken in accordance with the work procedures in the CAA Guidance Note 10 and under the CAA Standard ARA-ATOL

Terms of Engagement dated March 2016 set out in *CAA Guidance Note 10*. The work procedures were performed solely to assist you in your process for licensing the ATOL holder under the Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012, and with the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007, as amended and our findings are summarised as follows:

[Note: The following is a full list of potential confirmations. \*Delete those confirmations not requested by the CAA]

### **Confirmation of Subordinated loans**

#### **a) confirmation of new subordinated loans**

The directors of the ATOL holder confirmed to us that since [date] £[XX] of new cash has been injected into the bank account of [company name] in the form of a subordinated loan (as issued to the ATOL holder in the CAA's approved form of words) from [the parties from whom the cash was received].

In respect of the confirmation above, we performed the work procedures set out in the CAA Guidance Note 10 dated March 2016 [without exception.]/[and noted the following exceptions: List exceptions.]\*

#### **b) confirmation of total subordinated loans at the balance sheet date**

The directors of the ATOL holder confirmed to us that the total subordinated loans held within [company name] at [date] is [£XX].

In respect of the confirmation above, we performed the work procedures set out in the CAA Guidance Note 10 dated March 2016 [without exception.]/[and noted the following exceptions: List exceptions.]\*

### **Confirmation of cash gift (Sole Traders and Partnerships)**

The Sole trader/Partners of the ATOL holder confirmed to us that since [date] £[XXX] of new cash has been donated into the bank account of the [ATOL holder] by [the parties] in the form of a cash gift.

In respect of the confirmation above, we performed the work procedures set out in the CAA Guidance Note 10 dated March 2016 [without exception.]/[and noted the following exceptions: List exceptions.]\*

### **Guarantees**

We confirm that the completed deed of guarantee dated [date] provided in favour of [ATOL holder]/[Parent Group] by [issuer of guarantee] has been drawn to our attention.

### **Confirmation of new share capital/rights issue**

Either – The directors of the ATOL holder confirmed to us that at [date] £[XXXX] new cash has been injected into the bank account of [company name] in the form of [specify share capital type] paid up share capital.

Or – The directors of the ATOL holder confirmed to us that at [date] £[YYYY] of the [profit and loss account]/[existing subordinated loan] has been capitalised as fully paid up [specify share capital type] share capital.

In respect of the confirmation above, we performed the procedures set out in the CAA Guidance Note 10 date March 2016 [without exception.]/[and noted the following exceptions: List exceptions including, if cash is initially placed in an escrow account, the date the directors intend that the money will be transferred from escrow to a bank account of the ATOL holder.]\*

### **Confirmation of bank loan funding**

The directors of the ATOL holder confirmed to us that an amount of £[XXX] was injected on [date] into the bank account of [company name] in the form of a bank loan from [lender].

In respect of the confirmation above, we performed the work procedures set out in the CAA Guidance Note 10 dated March 2016 [without exception.]/[and noted the following exceptions: List exceptions.]\*

#### **Confirmation of repayment of item post year end**

The directors of the ATOL holder confirmed to us that since [date] the sum of £[XXX] has been received into the bank account of [company name] from [named debtor] in respect of the [named debt].

In respect of the confirmation above, we performed the work procedures set out in the CAA Guidance Note 10 dated March 2016 [without exception.]/[and noted the following exceptions: List exceptions.]\*

#### **Confirmation of change of ownership**

The directors of the ATOL holder confirmed to us that the ownership structure at [date] is as follows [List all shareholders and their shareholdings].

In respect of the confirmation above, we performed the work procedures set out in the CAA Guidance Note 10 dated March 2016 [without exception.]/[and noted the following exceptions: List exceptions.]\*

The work procedures we have performed do not constitute either an audit or a review made in accordance with United Kingdom auditing and review standards and bulletins issued by the Financial Reporting Council. Had we performed additional work procedures or had we performed an audit or review in accordance with such standards and bulletins, other matters might have come to our attention that would have been reported to you.

Our report is prepared solely for the confidential use of the ATOL holder, the CAA and the Air Travel Trust, and solely for the purpose of reporting to the CAA under its licensing procedures. Our report must not be recited or referred to in whole or in part in any other document. Our report must not be made available, copied or recited to any other party without our express written permission except as agreed in the CAA Standard ARA-ATOL Terms of Engagement dated March 2016 set out in the CAA Guidance Note 10 [insert name of ATOL Reporting Accountants] neither owes nor accepts any duty to any other party and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by other parties' reliance on our report.

Date Accountants Address

## **Annex 9 – Ring Fencing & Structural Confirmations and Agreed Work Procedures**

### **1. Ring fencing confirmations**

- 1.1. The reasons for the financial and structural ring fence confirmations in essence relate to circumstances where ATOL holders are part of a wider group and would be unable to satisfy the CAA's financial criteria on a group basis. In exceptional circumstances, the CAA may assess an ATOL holder on a ring-fenced basis, provided that the ring-fenced entity is able to meet the criteria for financial and structural separation as well as the CAA's financial criteria for holding an ATOL. A primary function of both the financial and structural ring fence confirmations is to satisfy the CAA that the ATOL holder is operating independently and would have at least a chance of survival in the event of the failure of the group that operates outside of the ring fence. Further guidance on financial ring fence confirmations is set out in the ATOL Policy and Regulations papers on Groups and Related Parties, and ATOL Bonding, which is available from the CAA's website at [www.caa.co.uk](http://www.caa.co.uk).

### **2. Financial ring fencing**

- 2.1. When reaching a decision on the financial position of an ATOL holder the CAA normally assesses that ATOL holder on the basis of the finances of the largest organisation in which it operates (in most cases the group at the ultimate holding company level). Some ATOL holders are however unable to meet the financial criteria set by the CAA at this level and request that the CAA considers the ATOL holder on an individual or sub-group basis for solvency purposes. In such cases the CAA will consider whether it is realistic to assess the ATOL holder (or sub-group) on a "ring fence" basis: an essential test to the CAA is whether or not the ATOL holder is operating independently and could survive financially the failure of the rest of the wider group outside the ring fence. The CAA takes a similar view when an ATOL holder has a very close relationship with associate firms or groups under similar (common) control. The CAA defines "associate" as a company which has a link with the ATOL holder through common shareholders, directors, partners, significant levels of trading or with whom there are financial links. Financial links include inter-firm loans and cross guarantees (see ATOL Policy and Regulations paper on Groups and Related Parties and ATOL Bonding). In order to obtain some comfort over the financial independence of the ATOL holder, when it forms part of a group of companies for the year in question, the CAA is concerned that:

- 2.1.1. No guarantees, loans or letters of support have been given by the ATOL holder in favour of any group companies;
- 2.1.2. The ATOL holder maintains its own separate bank, account(s) and its cash is not managed centrally with other group companies;
- 2.1.3. All trading with group or associated companies is transacted on normal commercial terms, with balances settled at least monthly; and
- 2.1.4. The ATOL holder has its own merchant agreement with a credit card company.

### **3. Structural ring-fencing**

- 3.1. Structural separation confirmations are required in conjunction with the CAA's financial confirmations however the CAA has procedures regarding these which do not involve the

professional accountants. It is considered that professional accountants do not usually have the knowledge and experience of such matters and they are therefore unable to add any effective comfort to the confirmations made by the ATOL holder direct to the CAA. Professional accountants are not expected simply to report to the CAA representations they have received from management which are incapable of practical independent testing.

- 3.2. The rationale behind the structural separation confirmations is also connected with the ability of the ATOL holder to survive operationally in the event of the failure of the wider group outside the ring fence. If a company was financially ring fenced from a group in terms of inter group trading, but relied on group facilities such as computer networks or shared office premises for example, the CAA would consider that its chances of surviving the failure of the group would be small. This is because at the very least, it would not have been used to paying commercial rates for such services and may therefore be unable to bear the additional overhead. The same applies to companies which are associated in the CAA's terms, sharing common Directors.
- 3.3. It is also important for the CAA to ensure that the ATOL holder directly employs both staff and management and have their own separate trading contracts with suppliers. The CAA's view is that companies that contract these services on a group basis would be unable to re-negotiate such services quickly if the group outside of the ring fence were to fail. In some cases suppliers would not wish to deal directly with the subsidiary or, would require substantial increases in the rates charged.
- 3.4. The CAA would look for comfort from ATOL holders in respect of higher bonds and/or asset base requirements in cases where a company, which is subject to financial ring fence undertaking, is not able to provide the CAA with the full list of confirmations in respect of its structural separation. In some cases the CAA may not be able to renew an ATOL licence in the absence of the structural separation confirmations.

#### **4. CAA Agreed Work Procedures**

The following is a full list of potential confirmations over which the CAA may request ATOL Reporting Accountants to perform the work procedures. Accordingly the relevant work procedures listed should be undertaken only in respect of the particular confirmations requested. In each case, in order to support their work procedures, the ATOL Reporting Accountants should obtain a direct confirmation from the directors of the ATOL holder regarding the requested matter in the form set out in the pro forma report in this Annex.

- 4.1.1. Read the CAA's ATOL Policy and Regulations paper on Groups and Related Parties dated 2010/03, for ATOL holders about licensing requirements for firms that are part of a group or have associates.
- 4.1.2. Obtain copy of ATOL licence offer letters and any variation offer and grant letter(s) filed during the year to understand the agreed ring fence criteria stated as being met by the ATOL holder in their application

##### **Guarantees, loans and letters of support**

- 4.1.3. Obtain and read board minutes of all group companies for the financial year defined by the CAA in their letter to the ATOL holder and note whether any guarantees, loans or letters of support have been provided to the ATOL holder.



- 4.1.4. Also enquire of the directors whether any guarantees, loans or letters of support have been provided to the ATOL holder.

#### **Inter-company debtors**

- 4.1.5. Enquire of the directors as to the nature of all inter-company debtors to the ATOL holder and whether they all arise from trading and are repaid on normal commercial terms. (For normal commercial terms the CAA would expect the balances to be settled at least monthly).
- 4.1.6. Test that the inter-company balance has been settled at least monthly.
- 4.1.7. Test a sample of entries for each inter-company account to backing invoices to agree that they are trading in nature
- 4.1.8. Where the debtor relates to funding of the group undertaking this is to be separately identified to the CAA.

#### **Inter-company creditors**

- 4.1.9. Enquire of the directors as to the nature of all inter-company creditors to the ATOL holder and whether they all arise from trading.
- 4.1.10. Test a sample of entries for each inter-company account to backing invoices to agree that they are trading in nature.
- 4.1.11. Test that the inter-company balance has been settled at least monthly.
- 4.1.12. Where the creditor relates to funding by the group undertaking this is to be separately identified to the CAA.

#### **Merchant agreements with credit card companies**

- 4.1.13. Obtain from management all merchant agreements with credit card companies in the ATOL holder's name and agree whether they are solely for the ATOL holder.

#### **Banking arrangements**

- 4.1.14. Check the ATOL holder's bank accounts to ensure that they are in the sole name of the ATOL holder.
- 4.1.15. Obtain from management copies of the current banking agreements to which the ATOL holder is a party and check that the ATOL holder's bank accounts are not subject to rights of set-off against the accounts of other entities.

- 4.2. Pro-forma factual and ring-fencing confirmation reports are provided below:

## **Pro forma Ring Fencing Confirmations Report**

To: The Civil Aviation Authority  
CAA House  
45-59 Kingsway  
London  
WC2B 6TE

### **Ring Fencing Confirmations Report**

We have performed the work procedures agreed with you and XYZ Limited ATOL Number [ ] (the ATOL holder) with respect to XYZ Limited. The confirmations made by XYZ Limited are attached (to be attached) and repeated below. Our engagement was undertaken in accordance with the work procedures in the CAA Guidance Note 10 and under the CAA Standard ARA-ATOL Terms of Engagement dated March 2016 set out in *CAA Guidance Note 10*. The work procedures were performed solely to assist you in your process for licensing the ATOL holder under the Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012, and with the Civil Aviation (Contributions to the Air Travel Trust) Regulations 2007, as amended and our findings are summarised as follows:

[Notes: The following is a full list of potential confirmations. Delete those confirmations not requested by the CAA. Where it is unrealistic to obtain the evidence to give a confirmation do not give it but state why below.

Where there are associates, similarly worded confirmations will be required.]

[\*Delete the inapplicable option where indicated below.]

### **Licensing requirements**

We have read the CAA's ATOL Policy and Regulations papers on Groups and Related Parties 2010/03 and ATOL Bonding 2010/08, for ATOL holders about licensing requirements for firms that are part of a group or have associates.

### **Ring fencing criteria**

We obtained a copy of the ATOL holder's ATOL licence offer letter dated [date] and the variation offer and grant letter(s) dated [dates] filed during the year to understand the agreed ring fence criteria stated as being met by the ATOL holder in their application.

### **Guarantees, loans and letters of support**

The directors of the ATOL holder confirmed to us that during the financial year to [date] no guarantees, loans or letters of support were given by [company name] in favour of any group companies.

In respect of the confirmation above, we performed the work procedures set out in CAA Guidance Note 10 [without exception.]/[and noted the following exceptions: List exceptions including any guarantees, loans or letters of support.]\*

### **Inter-company balances or balances with associated companies**

The directors of the ATOL holder confirmed to us that during the financial year to [date] all trading with group companies was transacted on normal commercial terms, with balances settled at least monthly.

In respect of the confirmation above, we performed the work procedures set out in CAA Guidance Note 10 dated March 2016 [without exception.]/[and noted the following exceptions: List exceptions including any inter-company debtors not settled on a monthly basis and/or any inter-company debtors or creditors not of a trading nature including funding by group undertakings.]\*

### **Merchant agreements with credit card companies**

The directors of the ATOL holder confirmed to us that during the financial year to [date] [Company name] had its own merchant agreements with credit card companies.

In respect of the confirmation above, we performed the work procedures set out CAA Guidance Note 10 dated March 2016 [without exception.]/[and noted the following exceptions: List exceptions including any merchant agreements with credit card companies not in the ATOL holder's name nor solely for the ATOL holder.]\*

### **Banking arrangements**

The directors of the ATOL holder confirmed to us that during the financial year to [date] [Company name] maintained its own separate bank accounts and its cash is not managed centrally with other group companies.

In respect of the confirmation above, we performed the work procedures set out in CAA Guidance Note 10 dated March 2016 [without exception.]/[and noted the following exceptions: List exceptions including any bank accounts not in the sole name of the ATOL holder or any accounts that are subject to rights of set-off against the accounts of other entities.]\*

The work procedures we have performed do not constitute either an audit or a review made in accordance with United Kingdom auditing and review standards and bulletins issued by the Financial Reporting Council. Had we performed additional work procedures or had we performed an audit or review in accordance with such standards and bulletins, other matters might have come to our attention that would have been reported to you.

Our report is prepared solely for the confidential use of the ATOL holder, the CAA and the Air Travel Trust, and solely for the purpose of reporting to the CAA under its licensing procedures. Our report must not be recited or referred to in whole or in part in any other document. Our report must not be made available, copied or recited to any other party without our express written permission except as agreed in the CAA Standard ARA-ATOL Terms of Engagement dated March 2016 set out in the CAA Guidance Note 10 dated March 2016 [insert name of ATOL Reporting accountants] neither owes nor accepts any duty to any other party and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by other parties' reliance on our report.

Date Accountants Address

## **ANNEX 9A LETTER FROM CAA TO ATOL HOLDERS AND ATOL REPORTING ACCOUNTANTS REQUESTING ADDITIONAL WORK PROCEDURES**

We refer to [name of ATOL holder]'s (the ATOL holder) application for an Air Travel Organiser's Licence and the reports we have received from the ATOL holder's ATOL Reporting Accountants, [name of ATOL Reporting Accountants].

We request that the ATOL holder's ATOL Reporting Accountants perform the additional procedures listed in the appendix to this letter and report their findings to us.

The work performed in accordance with this letter is an extension of the scope of work set out in section 3 of the CAA Standard ARA-ATOL Terms of Engagement dated March 2016 set out in CAA *Guidance Note 10* dated March 2016 and will be performed subject to the CAA Standard ARA-ATOL Terms of Engagement.

## **ANNEX 10 - Professional Accountancy Body Technical Guidance**

13.1 The CAA approved professional accountancy bodies have issued separate guidance for performing work in relation to the Reports required by the CAA under the CAA Standard ARA-ATOL Terms of Engagement which includes suggested work procedures for the report on licensable revenue.

13.2 Additional guidance on the nature of these engagements together with the CAA requested work procedures are available from the approved professional accountancy bodies using the links below.

ACCA <http://www.accaglobal.com/uk/en/technical-activities/guides-factsheets.html>

ICAEW <http://www.icaew.com/en/about-icaew/what-we-do/technical-releases/audit-technical-releases>

ICAS <https://www.icas.com/regulation/atol-reporting-accountants-scheme>

## Annex 11 - Transitional Arrangements

This Guidance Note is applicable to Annual Accountants' Reports for ATOL renewals relating to all ATOL licence periods from 1 April 2016 and all periods thereafter and the first renewal affected for reporting purposes will be the September 2016 renewal.

The transition period to the revised reporting framework is summarised as follows:

ATOL Renewal	Financial Year End	Reporting ATOL Licence QTRS
30-Sep-16	Dec-15	Mar-15
	Jan-16	Jun-15
	Feb-16	Sep-15
		Dec-15
	Mar-16	Jun-15
	Apr-16	Sep-15
31-Mar-17	May-16	Dec-15
		Mar-16
	Jun-16	Sep-15
	Jul-16	Dec-15
	Aug-16	Mar-16
		Jun-16
31-Mar-17	Sep-16	Dec-15
	Oct-16	Mar-16
	Nov-16	Jun-16
		Sep-16

From 1 April 2016, the CAA will accept reports only from trained and designated ATOL Reporting Accountants. This will be reflected in an amendment to the Official Record Series 3.

Due to the nature of ATOL reporting where an ATOL licence period is reported on by the accountant for the financial year end the CAA accepts during the transition period that although the reports will need to be signed by an ARA from 1 April 2016 that the review of part of the ATOL licence period may not have been performed by a designated ARA.

## Annex 12 - Contact Details and Other References

The following list provides web links and contact details for ATOL holders and new applicants.

CAA	<a href="http://www.caa.co.uk">http://www.caa.co.uk</a>
Consumer Protection Group	020 7453 6700
ATOL Advice	<a href="mailto:advice@caa.co.uk">advice@caa.co.uk</a>
New Applicants Advice	020 7453 6361
Civil Aviation (Air Travel Organisers' Licensing) Regulations 2012	<a href="http://www.dft.gov.uk/publications/civil-aviation-air-travel-organisers-licensing/">http://www.dft.gov.uk/publications/civil-aviation-air-travel-organisers-licensing/</a>
ATOL Licensing forms and bonds	<a href="http://www.caa.co.uk/ATOL-protection/Trade/Licensing-forms-and-bonds/Licensing-forms-and-bonds">http://www.caa.co.uk/ATOL-protection/Trade/Licensing-forms-and-bonds/Licensing-forms-and-bonds</a>
ATOL Policy, Compliance and Regulations	<a href="http://www.caa.co.uk/ATOL-protection/Information-for-the-trade/">http://www.caa.co.uk/ATOL-protection/Information-for-the-trade/</a>
CAA Whistleblowing Policy	<a href="http://www.caa.co.uk/Our-work/Make-a-report-or-complaint/CAA-whistleblowing-policy/">http://www.caa.co.uk/Our-work/Make-a-report-or-complaint/CAA-whistleblowing-policy/</a>
ATOL Reporting Accountants' Scheme	<a href="http://www.caa.co.uk/ATOL-protection/Trade/Maintain-and-renew-your-ATOL/ATOL-reporting-accountants-scheme/">http://www.caa.co.uk/ATOL-protection/Trade/Maintain-and-renew-your-ATOL/ATOL-reporting-accountants-scheme/</a>
Official Record Series 3	<a href="http://publicapps.caa.co.uk/docs/33/ORS3_1Oct%202015_complete_p.pdf">http://publicapps.caa.co.uk/docs/33/ORS3_1Oct%202015_complete_p.pdf</a>
ATOL Policy and Regulations paper on Groups and Related Parties	<a href="http://publicapps.caa.co.uk/docs/33/CPG%203.pdf">http://publicapps.caa.co.uk/docs/33/CPG%203.pdf</a>
The Package Travel, Package Holidays and Package Tours Regulations 1992	<a href="http://www.legislation.gov.uk/ukSI/1992/3288/contents/made">http://www.legislation.gov.uk/ukSI/1992/3288/contents/made</a>
BERR - What is a package? A guidance note for travel organisers	<a href="https://www.gov.uk/search?q=What+is+a+package">https://www.gov.uk/search?q=What+is+a+package</a>
BIS - The Package Travel Regulations Travel Questions and Answer Guidance for Organisers and Retailers	<a href="https://www.gov.uk/government/publications/the-package-travel-regulations-question-and-answer-guidance-for-organisers-and-retailers">https://www.gov.uk/government/publications/the-package-travel-regulations-question-and-answer-guidance-for-organisers-and-retailers</a>
ICAEW	<a href="http://www.icaew.com/">http://www.icaew.com/</a>
ICAS	<a href="https://www.icas.com/">https://www.icas.com/</a>
ACCA	<a href="http://www.accaglobal.com/">http://www.accaglobal.com/</a>
AAT	<a href="https://www.aat.org.uk/">https://www.aat.org.uk/</a>
IFA	<a href="http://www.ifa.org.uk/">http://www.ifa.org.uk/</a>
ATOL Criteria: Fitness, Competence and Accountable Person	<a href="http://publicapps.caa.co.uk/docs/33/Fitness%20note%2022814.pdf">http://publicapps.caa.co.uk/docs/33/Fitness%20note%2022814.pdf</a>

ATOL Criteria for an application for and grant of, or a variation to, an ATOL: Financial	<a href="http://publicapps.caa.co.uk/docs/33/CAA-CPG%20ATOL%20Policy%20and%20Regulations%202013%2001%20Financial%20Criteria%20Mar2013%20v3.pdf">http://publicapps.caa.co.uk/docs/33/CAA-CPG%20ATOL%20Policy%20and%20Regulations%202013%2001%20Financial%20Criteria%20Mar2013%20v3.pdf</a>
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