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TO: MAST OWNERS' SUMMIT ATTENDEES
SUBJECT: CUSTOMER WAIVERS AND FORMS – THE BEST PRACTICES
DATE: JUNE 7, 2011

Pestronk's Ten Commandments of Disclaimers

1. Remember the formalities: signed is better than unsigned; having all party members sign is better than one signing for all; and clicking "I agree" is better than mere posting; but they are all better than nothing!
2. Disclose the names of all suppliers!
3. You aren't liable for suppliers' failures, but clients don't understand this!
4. Protect yourself, and let the suppliers take care of themselves!
5. Misunderstanding of suppliers and other third parties' rules leads to most claims, and mistreatment by suppliers leads to almost all the rest!
6. Your employees, IC's, group leaders, and Pied Pipers can all create liability for you!
7. For groups that are organizations, have the group sign a disclaimer!
8. For adventure trips, add a clause that the client assumes all risks!
9. Your agency is liable for its own negligence*, regardless of the disclaimer!
10. Your agency is liable for misrepresentations, regardless of the disclaimer!

*Negligence = the breach of a duty of care that the courts have recognized. The courts have held that agencies are liable for negligence if they fail to disclose "reasonably obtainable relevant information" about the supplier or destination, if that information would not be known to a reasonably informed member of the general public.

Sample Disclaimer To Be Signed

YOUR AGREEMENT WITH ABC TRAVEL

Before we make arrangements for your flight, hotel, car rental, tour, cruise, or other trip, we require that you sign this form; your signature will signify your agreement with the following terms and conditions:

ABC Travel, Inc. ("ABC") acts as a sales agent for any airline, hotel, car-rental company, tour operator, cruise line, or other service provider named in your itinerary ("Suppliers"). ABC is not responsible for acts or omissions of the Suppliers or their failure to provide services or adhere to their own schedules.

ABC assumes no responsibility for and shall not be liable for any refund, personal injury, property damage, or other loss, accident, delay, inconvenience, or irregularity which may be caused by: (1) any defaults, wrongful or negligent acts, or omissions of the Suppliers; (2) any defect in or failure of any vehicle, craft, equipment, or instrumentality owned, operated, or otherwise used or provided by the Suppliers; or (3) any wrongful or negligent acts or omissions on the part of any other party not under ABC's control. You hereby release ABC from all claims arising out of any problem covered in this paragraph.

You acknowledge and understand that: (i) airlines can increase their prices at any time before tickets are issued and that ABC has no control over issuance of tickets for tours; (2) airlines, cruise lines, tour operators, and other Suppliers have their own contracts covering cancellation penalties and other terms and conditions, and that you may be bound by those contracts regardless of whether you receive notice of their terms. By signing below, you are consenting to those terms and conditions.

ABC has no special knowledge regarding the financial condition of the Suppliers,, unsafe conditions, health hazards, weather hazards, or climate extremes at locations to which you may travel. For information concerning possible dangers at destinations, ABC recommends contacting the Travel Warnings Section of the U.S. State Department at (202) 647-5225 or www.travel.state.gov. For medical information, ABC recommends contacting the Centers for Disease Control at (877) FYI-TRIP or www.cdc.gov/travel. You assume full and complete responsibility for checking and verifying any and all passport, visa, vaccination, or other entry requirements of your destination(s), and all conditions regarding health, safety, security, political stability, and labor or civil unrest at such destination(s). You hereby release ABC from all claims arising out of any problem covered in this paragraph and to submit all other claims against us within 30 days after the return of your trip. You agree that the courts in {county name} will be the exclusive jurisdiction for all claims brought by you or ABC, and you hereby submit to the personal jurisdiction of those courts.

For your protection, we strongly recommend that you purchase trip cancellation insurance and that you check the appropriate box below. We also strongly recommend that you use a credit card for your purchase, so that you can exercise your rights under the Fair Credit Billing Act if you do not receive the services you purchased. As our client, you hereby appoint the us to be your attorneys-in-fact for the purpose of signing all documents necessary to purchase and issue airline tickets, tours, cruises, and hotel guarantees for late arrival. You authorize any of the attorneys-in-fact to sign credit card authorizations for said purchases whenever any of them receives an Internet booking request reasonably believed to be from you or someone acting on your behalf, requesting those tickets be charged to this credit card account. You agree that you will pay for all such purchases and will not hold us responsible for any of our actions pursuant to this power of attorney.

Signature: _____

I wish do not wish to purchase
cancellation insurance.

Print Name: _____

Date: _____

Additional Terms for Adventure Trips

[Add the following to the previous form]

You understand and acknowledge that, that during the tour in which you will participate, certain risks and dangers may arise, including, but not limited to, acts of God, the hazards of traveling in unsafe or politically unstable areas or under unsafe conditions, the dangers of civil disturbances, war, extortion, kidnapping, and terrorist activities, the forces of nature, dangers and risks inherent in volunteer activities in underdeveloped countries, dangers and risks of travel by bus, boat, automobile, train, ship, aircraft, or other means of conveyance, local law enforcement activity, and accident or illness in remote places without access to medical facilities, transportation, or means of rapid evacuation and assistance. We are not responsible for any injuries, damages, or losses caused by or arising out of or in connection with any of the above risks and dangers or any other actions, omissions, or conditions outside our control.

YOU DO HEREBY EXPRESSLY ASSUME ALL OF THE RISKS AND DANGERS NOTED IN THE DISCLOSURE PARAGRAPH ABOVE, and YOU DO HEREBY EXPRESSLY AGREE TO FOREVER RELEASE, DISCHARGE AND HOLD US HARMLESS against any and all liability, actions, causes of actions, suits, claims, and demands of any and every kind and nature whatsoever which you now have or which may hereafter arise out of or in connection with your trip or participation in any activities arranged by Rovia. THE TERMS OF THIS AGREEMENT SHALL SERVE AS A COMPLETE RELEASE AND EXPRESS ASSUMPTION OF RISK for yourself, your heirs, assignees, administrators, and executor. YOU HAVE READ AND FULLY UNDERSTAND THE PROVISIONS AND THE LEGAL CONSEQUENCES OF THIS RELEASE AND ASSUMPTION OF RISK, AND YOU HEREBY AGREE TO ALL OF ITS CONDITIONS. WE RECOMMENDED THAT YOU HAVE YOUR ATTORNEY REVIEW THIS RELEASE PRIOR TO SIGNING IT. You acknowledge that in calculating the cost of the tour or trip, we have relied on your consent to these terms and on their enforceability. In the absence of this Release, the tour cost would have been higher, or, alternatively, we would have been unable to offer these services.

Sample Disclaimer For Invoice/Itinerary (Long Form)

YOUR AGREEMENT WITH ABC TRAVEL

Your acceptance of this invoice or itinerary will signify your agreement with the following terms and conditions:

[Add the same paragraphs as set forth above.]

Sample Disclaimer For Invoice/Itinerary (Shortest Form)

ABC Travel, Inc. ("ABC") acts as a sales agent for any airline, hotel, car-rental company, tour operator, cruise line, or other service provider named in your itinerary ("Suppliers"). ABC is not responsible for acts or omissions of the Suppliers, their failure to provide services or adhere to their own schedules, their failure to pay any refund, or for any personal injury, property damage, or other loss, accident, delay, inconvenience, or irregularity which may be caused by any party not under ABC's control. By accepting this invoice or itinerary, you hereby agree to release ABC from all claims arising out of any problem covered in this paragraph, to submit all other claims within 30 days after the return of your trip, and to litigate exclusively in the courts in ____ County, _____ .

Additional Terms for Website Terms & Conditions

[Use Sample for Invoice/Itinerary and Add the Following]

Information on Website: You agree not to use or authorize the use of this information for any purpose other than personal use, and not to engage or authorize anyone to engage in the resale, redistribution, and use of the information on this website for commercial purposes. Any software that is on this website including HTML codes and software made available to download from this website ("Software") is our copyrighted work or the copyrighted work of our suppliers or licensors. [Insert product names] are our trademarks.

NO WARRANTIES: THE CONTENT, CODE, ACCESS, AND OTHER FEATURES OF THIS SITE ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF ACCURACY, RELIABILITY, MERCHANT ABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. WE DO NOT WARRANT THAT ANY SUCH FEATURES WILL OPERATE UNINTERRUPTED OR IN AN ERROR-FREE FASHION, THAT DEFECTS WILL BE CORRECTED, OR THAT THIS SITE OR THE SERVER ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. APPLICABLE LAW MAY NOT ALLOW EXCLUSION OF IMPLIED WARRANTIES, SO THE ABOVE EXCLUSION MAY NOT APPLY TO YOU.

NO CONSEQUENTIAL DAMAGES: IN NO EVENT WILL WE BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, ARISING OUT OF YOUR USE OR INABILITY TO USE ANY CONTENT OR FEATURES, OR YOUR FAILURE TO ACCESS OR CLICK-THRU ACCESS ANY CONTENT OR FEATURES, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION AND EXCLUSIONS MAY NOT APPLY TO YOU.

Some Additional, Useful, Non-Legal Terms for All Disclaimers (*copyright Let's Travel*)

REFUNDS: Availability of refunds for unused travel reservations will vary with the type of reservation and the point at which reservations were not used. Service fees for refunds may be applied. Please note that when you purchase travel services, your money immediately belongs to the supplier. In the event of any supplier bankruptcy, you should seek refunds directly from the supplier or bankruptcy court.

PROOF OF CITIZENSHIP: For US citizens a valid US passport valid 6 months beyond your intended stay at your destination in most cases is the best document to have. A passport is not always required in all destinations however. A certified copy of your birth certificate with a raised seal and a valid, non-expired government issued photo ID such as driver's license will serve when a passport is not required. Please be sure you understand what the proper documentation is required of you, and your destination, before you leave home. For failing to provide proper proof of citizenship, and entry visa, if so required, you may be denied entry at your destination and loss of all monies paid.

AIRLINE RESERVATIONS: Please make sure all name spellings; as they appear on your proof of ID, match the reservation. Please note the destinations, travel dates and times match the agreed upon travel request as well as the number of tickets required. Let's Travel always reviews your reservation with you prior to purchase. Airline imposed schedule changes are possible even after ticket purchase. It is always advisable to reconfirm your flights and times the day before you leave home and upon your return. Some airline tickets are nonrefundable, non endorsable and or non changeable. Some require fees for changes. The individual airlines establish their own terms of sale for their provided transportation. If you do not understand the terms of your purchase, please ask for clarification before you authorize your purchase. Verbal agreements are binding, change fees are your responsibility.

LUGGAGE: Many airlines have instituted a policy of charging travelers for luggage. Charges vary according to individual airline policies. Those charges are payable directly to the airline at the time of check-in.

RENTAL CARS: A major valid credit card in the renter's name is required on all car rentals whether it is on a prepaid voucher or not. Debit cards are not always accepted in all locations due to the limited amount of money available per day. It is advisable to check to see if your personal auto insurance policy applies to rental cars.