



## TERMS AND CONDITIONS

### THE INTERNATIONAL BALLOON FLIGHT COMPANY (AUSTRALIA) PTY LTD

ACN 094 948 919

#### 1. Definitions

In these Terms and Conditions:

- (a) **Associated Services** means any ancillary services provided, or to be provided to the Passenger in connection with the Services, including breakfast and accommodation packages;
- (b) **Balloon Aloft** means The International Balloon Flight Company (Australia) Pty Ltd ACN 094 948 919;
- (c) **Booking** means one or more Tickets purchased at the same time for one scheduled Flight date;
- (d) **Corporate or Large Group Passenger Booking** means a corporate group Booking or a group Booking of ten or more people;
- (e) **Customer** means the person who purchases the Services to be supplied by Balloon Aloft or the person identified on a Ticket to be supplied the Services by Balloon Aloft, as the context requires;
- (f) **Individual or Small Group Passenger Booking** means an individual Booking or a group Booking of nine or less people;
- (g) **Flight** means the hot air balloon flight to be provided by Balloon Aloft and includes flight preparation activities, take-off, flight, landing and pack-up;
- (h) **Partial Cancellation** means a cancellation of less than all Passengers in a Booking;
- (i) **Passenger** means a person holding a Ticket and, where relevant, includes the Customer;
- (j) **Pilot** means the pilot of a Flight;

- (k) **Responsible Adult** means a parent, legal guardian or person with parental responsibility for a Passenger under the age of 18 years;
- (l) **Services** means the provision of a Flight and transportation of the Customer in any motor vehicle operated by Balloon Aloft in connection with the Flight; and
- (m) **Terms and Conditions** means these terms and conditions.

## 2. **Application of these Terms and Conditions**

The Terms and Conditions govern all Services supplied by Balloon Aloft. The purchase of the Services by, or on behalf of, the Customer is conclusive evidence of the Customer's acceptance that the Terms and Conditions apply and are binding on the Customer.

## 3. **Tickets**

- 3.1 The Customer may purchase the Services by purchasing a Flight Ticket, Flexi Ticket, VIP Exclusive Ticket or Gift Voucher (together, **Ticket**).
- 3.2 A Ticket is valid only when issued to the Customer until the expiry date set out on the relevant Ticket.
- 3.3 Subject to clause 6.2, the expiry date for a Ticket is:
  - (a) for a Flight Ticket, a VIP Exclusive Ticket or a Flexi Ticket, one (1) year from the date of purchase; and
  - (b) for a Gift Voucher, three (3) years from the date of purchase, unless an extension to the expiry date is purchased in accordance with clause 5.4, unless stated otherwise on the Ticket.
- 3.4 A Flight Ticket, Flexi Ticket or VIP Exclusive Ticket may be transferred to another person with the written permission of the Customer.
- 3.5 A Gift Voucher may be transferred to another person with the written permission of the Passenger named on the Gift Voucher.

**4. Cancellations by the Customer, Alterations and Failure to Show**

4.1 Gift Vouchers and Flight Tickets are non-refundable, including in the event of cancellation by Balloon Aloft in accordance with clause 6. Refunds may be available for Flexi Tickets and VIP Exclusive Tickets as set out in clauses 4.2, 4.3 and 4.4.

4.2 If a Customer cancels an Individual or Small Group Passenger Booking for a Flexi Ticket or VIP Exclusive Ticket:

- (a) within 72 hours of the scheduled Flight, they will not be eligible for a refund; or
- (b) more than 72 hours prior to the scheduled Flight, a refund of the Ticket price will be provided to the Customer with the prescribed cancellation fee deducted, as set out in the following table:

Notice Period	Cancellation Fee
Between 72 hours and 7 days prior to the scheduled Flight	\$25 per Passenger
More than 7 days prior to the scheduled Flight	\$25 per Booking

4.3 If a Customer cancels a Corporate or Large Group Passenger Booking for a Flexi Ticket or a VIP Exclusive Ticket:

- (a) within 14 days of the scheduled Flight, they will not be eligible for a refund; or
- (b) more than 14 days prior to the scheduled Flight, a refund of the Ticket price will be provided to the Customer with the prescribed cancellation fee deducted, as set out in the following table:

Notice Period	Cancellation Fee
Between 14 days and 21 days prior to the scheduled Flight	\$25 per Passenger
More than 21 days prior to the scheduled Flight	\$50 per Booking

4.4 For a Partial Cancellation of a Flexi Ticket or a VIP Exclusive Ticket, the cancellation fee to be deducted will be:

- (a) for a per Passenger cancellation fee, the per Passenger amount for each cancelled Passenger; and
- (b) for a per Booking cancellation fee, the per Booking fee for each separately notified cancellation of one or more Passengers,

as set out in clauses 4.2 or 4.3 above.

4.5 A Flight date may be rescheduled by the Customer, regardless of the type of Ticket purchased, as follows:

(a) for Individual or Small Group Passenger Bookings:

Notice Period	Reschedule Allowed	Rescheduling Fee
Within 72 hours prior to the scheduled Flight	No	N/A
More than 72 hours prior to the scheduled Flight	Yes	\$25 per Passenger

(b) for Corporate or Large Group Passenger Bookings:

Notice Period	Reschedule Allowed	Rescheduling Fee
Within 14 days of the scheduled Flight	No	N/A
Between 14 and 21 days prior to the scheduled Flight	Yes	\$50 per Passenger
More than 21 days prior to the scheduled Flight	Yes	\$50 per Booking

4.6 Rescheduling is subject to the availability of alternate Flights.

4.7 The Customer acknowledges that under no circumstances will a Ticket be refunded or a Flight date rescheduled if the Customer or any Passenger fails to show on the day of their scheduled Flight prior to the designated arrival time. If a Passenger is unwell or otherwise unavailable for their Flight, the Passenger may send a replacement passenger in their place, so long as Balloon Aloft is notified of the name and estimated weight of the replacement passenger as soon as practicable prior to the scheduled Flight.

## 5. Gift Vouchers

5.1 Gift Vouchers are valid for three (3) years from the date of purchase and the Passenger must fly within that period unless:

- (a) the expiry date is extended in accordance with clause 5.4 or 6.2; or
- (b) the price of the Gift Voucher is discounted, in which case the expiry date will be the date stated on the Gift Voucher.

5.2 A Passenger holding a Gift Voucher must book a Flight. Flight bookings are subject to availability.

- 5.3 Balloon Aloft strongly recommends that Bookings be made well in advance of the Gift Voucher expiry date as it may take several attempts to fly before a successful Flight is achieved.
- 5.4 A three-month extension to the Gift Voucher expiry date is available for a fee of \$75 per voucher. The extension must be requested, and the fee paid, not later than one (1) month before the original expiry date of the Gift Voucher. Subject to clause 6.5, no further extensions will be permitted beyond this period.
- 5.5 The Customer is responsible for ensuring that the recipient of a Gift Voucher is made fully aware of, and complies with, these Terms and Conditions.

## **6. Cancellation by Balloon Aloft**

- 6.1 The Customer acknowledges that hot air ballooning is weather dependent. If Balloon Aloft considers, in its sole discretion, that weather conditions are unsuitable or unsafe to proceed, it may cancel a scheduled Flight at any time prior to launch.
- 6.2 Balloon Aloft may also, in its sole discretion, cancel a scheduled Flight due to lack of staff, mechanical issues, less than minimum Flight numbers being achieved or the existence of any other condition which may pose a risk to safety.
- 6.3 The Customer is responsible for confirming if a scheduled Flight will proceed by following the check-in procedures, as set out in the Booking documentation.
- 6.4 Balloon Aloft will use reasonable endeavours to notify the Customer as soon as reasonably practicable of any cancellation of a Flight which occurs after the check-in time stated in the Booking documentation using the Customer's contact details provided in the Booking.
- 6.5 If a scheduled Flight is cancelled by Balloon Aloft in accordance with clause 6.1 or 6.2, the expiry date identified on the relevant Ticket will automatically be extended by one (1) month. Passengers must reschedule a new Flight and complete the Flight within this extended period.
- 6.6 The Pilot may terminate a flight at any time if they determine, in their absolute discretion, that there is, or there is reasonably likely to be:
  - (a) an adverse change in the weather conditions;
  - (b) an onboard emergency;
  - (c) a risk of material damage to the balloon or any other property;
  - (d) any other circumstance presenting a risk to the safety of Passengers, Balloon Aloft personnel or any other person.

If a flight is terminated after take-off and the total duration of the flight is 39 minutes or less (as determined by Balloon Aloft), the Flight will be deemed incomplete and the Passenger will be entitled to reschedule their Flight, regardless of the type of Ticket purchased. The rescheduled Flight is non-transferable to any other person. To the maximum extent permitted by law, the Passenger will not be entitled to any

refund for the terminated flight. Rescheduling is subject to Flight availability and must be taken within the original validity period of the Ticket or Voucher.

- 6.7 If a Flight is rescheduled in accordance with clause 6.6, the Passenger acknowledges that any Associated Services already received by the Passenger in connection with the terminated flight will not be re-supplied to the Passenger.
- 6.8 Balloon Aloft will not be liable for any direct or indirect costs incurred by the Customer or any Passenger in relation to the cancellation or termination of a Flight in accordance with this clause 6, including any travel, accommodation or other expenses incurred by any Customer or Passenger or the inability of the Passenger to book a suitable replacement Flight. Balloon Aloft recommends that each Passenger take out suitable travel insurance to cover the risk of cancellation.

## 7. Customer Responsibilities

- 7.1 The Customer and each Passenger acknowledges that it is responsible for:
- (a) making as many attempts as is necessary to undertake a Flight prior to the expiry of their Ticket;
  - (b) ensuring they have received their Booking documentation (**Booking Confirmation**) prior to the Flight date and that all details in the Booking Confirmation are accurate, including Passenger details, contact details, the Flight date and the Flight location;
  - (c) complying with the check-in procedures set out in the Booking Confirmation prior to the flight;
  - (d) taking out suitable travel insurance (if required);
  - (e) following the instructions of the Pilot and ground crew, complying with any local codes of conduct and acting sensibly and prudently at all times;
  - (f) not being under the influence of drugs or alcohol during the Flight or taking any medication that could impair their judgement during the Flight;
  - (g) ensuring they do not fly if they are pregnant or have any pre-existing medical conditions that may be detrimentally affected by hot air ballooning or which may pose a risk to other Passengers or Balloon Aloft personnel; and
  - (h) any personal belongings brought on the Flight, including cameras, phones, clothing or attire.
- 7.2 The Customer and each Passenger agrees to indemnify and keep indemnified Balloon Aloft and its owners, officers, agents, contractors and employees (**Indemnified Parties**) from and against all claims, loss or damage incurred by an Indemnified Party in connection with any act or default by the Customer or a Passenger in connection with the Services.

## **8. Liability**

- 8.1 Nothing in this clause 8 excludes, restricts or modifies any terms, conditions or warranties, or Balloon Aloft's liability for them, which are imposed or implied by statute and by statute cannot be excluded, restricted or modified. Limitations and exclusions are made only to the extent that Balloon Aloft may legally do so.
- 8.2 The Customer and each Passenger acknowledges and agrees that Balloon Aloft will not be liable for, and the Customer and each Passenger waives any right it has to claim, any loss not arising naturally according to the usual course of things, damages for disappointment, any loss of income, loss of profit or anticipated savings arising under or in connection with the supply of Services, whether in contract, tort (including negligence), under statute, in equity or otherwise.
- 8.3 Balloon Aloft will not be liable to the Customer or any Passenger, or their personal representatives or dependants for any illness, personal injury or death which occurs in connection with a failure to comply with the statutory consumer guarantees contained in the *Australian Consumer Law (Consumer Guarantees)*, being guarantees as to performance of the services with due care and skill, fitness for purpose of the services and time for performing the supply. This exclusion of liability will not apply to the extent that Balloon Aloft was reckless in performing the Services.

## **9. Insurance and Licencing**

- 9.1 Balloon Aloft holds compulsory carriers' liability insurance for its personal injury liability of up to \$500,000 per Passenger and \$5,000,000 combined single limit legal liability.
- 9.2 Balloon Aloft holds Air Operators Certificate S572815-08 issued by the Civil Aviation Safety Authority.

## **10. Privacy**

Balloon Aloft will deal with personal information in accordance with its published privacy policy. This policy is available on request or on Balloon Aloft's website.

## **11. Safety and boarding restrictions**

- 11.1 Balloon Aloft must comply with the Civil Aviation and Safety Authority (**CASA**) regulations, as well as its own internal Balloon Aloft operations manual.

- 11.2 Balloon Aloft is not permitted to fly any Passenger who is unable to embark or disembark the balloon basket unassisted. The balloon basket is approximately 1.2 metres high, with two footholds for use when climbing into the basket. Balloon Aloft staff will be in attendance to supervise Passengers climbing into the basket but may not assist anyone to enter the basket.
- 11.3 The Customer acknowledges that there are no wheelchair facilities available for the duration of the supply of Services and no aids such as seats, walkers, sticks or crutches permitted in the balloon basket. Balloon Aloft recommends that disabled persons consult their doctor prior to participating in a flight. Balloon Aloft may refuse to fly any Passenger which it considers, in its sole discretion, will be unable to stand unaided for the duration of a Flight.
- 11.4 Balloon Aloft will not knowingly fly any Passenger that is pregnant. Flight landings may be rough, and the balloon basket may be dragged on its side for several metres. Balloon Aloft will not be liable for any claim, loss or damage for any injury caused to a pregnant Passenger arising from or in connection with the supply of Services.
- 11.5 Balloon Aloft will not fly any Passenger:
- (a) younger than seven (7) years of age; or
  - (b) unable to see out of the balloon basket without assistance. The balloon basket is approximately 1.2 metres high. For the avoidance of doubt, no person may be lifted or held off the floor of the balloon basket during the Flight.
- 11.6 A Passenger aged under 16 years of age must be accompanied by a paying Responsible Adult Passenger on the Flight.
- 11.7 Subject to the above boarding restrictions, a Passenger between 16 or 17 years of age may fly without a Responsible Adult Passenger, subject to a Responsible Adult signing a waiver on their behalf prior to the Flight.
- 11.8 The Pilot may, in their sole discretion, refuse to board a Passenger if they reasonably believe the Passenger presents a risk to the safety of any person or enjoyment of the Flight by any Passenger.
- 11.9 Balloon Aloft reserves the right to deny boarding of any Passenger who does not provide a duly executed waiver in accordance with clause 13.
- 11.10 To the maximum extent permitted by law, Balloon Aloft will not give any refund or otherwise be liable for any direct or indirect costs incurred by the Customer or any Passenger in connection with a refusal to board a Passenger in accordance with this clause 11.

## **12. Photographs, filming and media**

- 12.1 Balloon Aloft may take photographs or videos during the Flight for promotional purposes or for purchase by Passengers after the Flight. Photographs taken during



the Flight may be viewed, and are available for purchase, on the Balloon Aloft website.

- 12.2 The Customer and each Passenger acknowledges that Balloon Aloft may use any media obtained during the Flight in any form and for any commercial purpose, including advertising, social media or promotions, without obtaining their prior consent.
- 12.3 Although all images which appear on the Balloon Aloft website are genuine images of Balloon Aloft flights, they are for illustrative purposes only and may not be an exact representation of the Services to be provided, as individual Flight experiences may vary.

### **13. Waiver form**

- 13.1 Balloon Aloft requires each Passenger to sign a waiver prior to the supply of Services. The waiver document will form part of each Passenger's contract with Balloon Aloft. This document is available on request or on Balloon Aloft's website.
- 13.2 A Responsible Adult will also be required to sign a waiver on behalf of each accompanying person under the age of 18 years.

### **14. Subcontracting and Assignment**

- 14.1 Balloon Aloft reserves the right to subcontract any part of the supply of Services without the Customer's consent. Any subcontractor appointed by Balloon Aloft will have the benefit of these Terms and Conditions.
- 14.2 Balloon Aloft may assign its rights or novate its rights or obligations under these Terms and Conditions (in whole or in part) to any person without the consent of the Customer.

### **15. Governing Law and Jurisdiction**

The Terms and Conditions will be governed by and construed in accordance with the laws in force in the State of New South Wales. Each party submits to the non-exclusive jurisdiction of the courts of New South Wales.