

# TERMS AND CONDITIONS

**Club Med**   
Holidays enjoyed in style

## 1. GENERAL

These terms and conditions supplement and modify Club Med's booking conditions in its brochures, website, booking confirmations and/or invoices, which are hereby incorporated into this Agreement and form an integral part hereof. If there is any contradiction between these terms and conditions and those in Club Med's brochures, website, and/or invoices then these terms and conditions shall prevail.

## 2. INTERPRETATION

In these terms and conditions unless the context indicates a contrary intention

- 2.1 clause headings are for convenience only and shall not be used in its interpretation;
- 2.2 an expression which denotes any gender includes the other genders and a natural person includes an artificial person and vice versa;
- 2.3 the singular includes the plural and vice versa.
- 2.4 Unless inconsistent with the context, the expressions set forth below shall bear the following meanings:
  - 2.4.1 "Agreement" refers to these terms and conditions;
  - 2.4.2 "Club Med" refers to Vacances (Pty) Ltd trading as Club Med South Africa;
  - 2.4.3 "Consumer" refers to all natural persons or a juristic person with an annual turnover not exceeding the threshold published in the government gazette from time to time, currently R2 000 000 (two million rand), and as defined in accordance with the Consumer Protection Act, entering into this Agreement with Club Med;
  - 2.4.4 "The Holiday Price" refers to the price for the package as quoted in the final invoice;
  - 2.4.5 "Service Provider" refers to the representative responsible for providing any and all activities, facilities, transport and transfers;
  - 2.4.6 "Parties" Club Med and You
  - 2.4.7 "Resort" refers to the relevant Club Med resort booked or recommended for your travel
  - 2.4.8 "You" refers to the Party entering into this Agreement, be it an agency on behalf of the traveller/s or the traveller/s themselves.
- 2.5 Where any term is defined within the context of any particular clause in this Agreement and conditions, the term so defined, unless it is clear from the clause in question that the term is defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, not withstanding that the term has not been defined in the interpretation clause.
- 2.6 Unless inconsistent with the context or save where the contrary is expressly indicated:
  - 2.6.1 a reference to "days" shall be construed as calendar days unless qualified by the word "business", in which instance a "Business Day" shall be any day other than a Saturday, Sunday or official public holiday in the republic. "business hours" shall be construed as being the hours between 08h30 (eight hours and thirty minutes) and 17h00 (seventeen hours) on any Business Day. Any reference to time shall be based upon South African Standard Time;
  - 2.6.2 when any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a Business Day, in which case the last day shall be the next succeeding Business Day;
  - 2.6.3 in the event that the day for payment of any amount due or performance of any obligation in terms of this Agreement should fall on a day which is not a Business Day, the relevant day for payment or performance, as the case may be, shall be the subsequent Business Day;
  - 2.6.4 Any reference in this Agreement any other agreement or document shall be construed as a reference to this Agreement or (as the case may be) such other agreement or document, as the same may have been, or may from time to time be, amended, varied, novated or supplemented;
  - 2.6.5 no provision of this Agreement constitutes a stipulation for the benefit of any person who is not a party to this Agreement;
  - 2.6.6 a reference to a Party includes that Party's Permitted Successors.
- 2.7 The rule of construction that the Agreement shall be interpreted against the Party responsible for the drafting or preparation of this Agreement, shall not apply.
- 2.8 Where in this Agreement provision is made for the Parties (or either of them) to agree on or grant approval in respect of any matter, such agreement or approval shall only be valid and binding on the Parties thereto if reduced to writing and signed by the duly authorised representative of such Parties.
- 2.9 The use of the word "including" followed by a specific example shall not be construed as limiting the meaning of the general wording preceding it and the eiusdem generis rule shall not be applied in the interpret example.
- 2.10 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate

after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

## 3. MEMBERSHIP

- 3.1 A traveller must be a Club member to participate in a Club Med holiday. Membership is billed at R250 per person and lasts for 12 months from the date Club Med receives this fee. Membership fees are non-refundable.
- 3.2 Club Med membership fees of R320 per person will be applied to all travellers over the age of 2 years, for travel from November 2016 onwards.
- 3.3 Failure to comply with the terms of the Club Med membership as well as codes of conduct at the Resorts, may result in Club Med taking whatever action it feels necessary including recovering from You/Your traveller/s the cost of any damage or loss caused, Your/Your travel ler/s exclusion from the Village as well as entering You/Your travel/s on an "incident" list (You/Your traveller/s will thereby lose, if necessary, all the benefits attached to the Club Med membership). In the case of exclusion from a Resort, Club Med's responsibility and contractual obligations towards You/Your travellers will be terminated immediately. Club Med will have no obligation towards You/Your travellers in respect of Your/their return travel arrangements, unused accommodation or any compensation.

## 4. SERVICES

- 4.1 You undertake to ensure that the terms and conditions hereunder applicable to the traveller shall be made known to the traveller failing which you undertake to be accountable thereto.
- 4.2 The reservation is initially booked upon confirmation and payment of the deposit. Full payment is required for final reservation. For the avoidance of any doubt, Club Med shall not be liable to perform any services in terms of this Agreement or howsoever arising until such time as the full Holiday Price has been paid to Club Med.

## 5. HOLIDAY PACKAGE INCLUSIONS

- 5.1 Published prices for accommodation at Resorts are based on a twin share rooming. Children under 12 may be required to share a room with parents and the child pricing reflects this responsibility.
- 5.2 The following services are included when staying at the Club Med Resort:
- 5.3 Airfare transfers and airport departure taxes are included in Package Holidays only;
- 5.4 Accommodation at the Club Med Resort
- 5.5 3 full meals per day with table wines, local beer and mineral drinks provided for lunch and dinner;
- 5.6 Open bar and snacking (VSOP beverages are not included, unless otherwise specified).
- 5.7 Free use of all the Resort facilities and sports equipment (except snow equipment) and services of trained instructors as provided by the Resort operator; certain sports activities may be extra.
- 5.8 Free daily and evening entertainment;
- 5.9 Service taxes at the Resort. Tipping at a Resort is not permitted.

## 6. NOT INCLUDED IN YOUR CLUB MED HOLIDAY

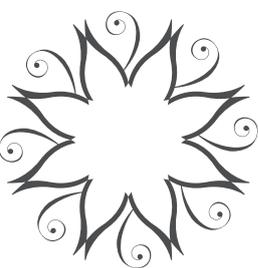
- 6.1 The costs of airfares, including all respective taxes and fuel levies should accommodation only be booked.
- 6.2 VSOP beverages are not included unless otherwise specified;
- 6.3 Excess baggage charges;
- 6.4 Laundry, gifts, excursions, and some activities where there is a charge for individual lessons, scuba diving, and certain equipment according to individual resorts.

## 7. CRUISES ON CLUB MED 2

Where your Club Med holiday includes a cruise on a Club Med cruise ship, additional terms applicable to that cruise are set out in a separate "Extract of passenger contract" leaflet, copies of which are available from Club Med on request.

## 8. VILLAS & CHALETS

Prices are quoted per Villa and per night. Accommodation is provided as a maximum number of guests staying in the Villa (four, six or eight people



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respectively). Only traveller's registered under the same booking may share a Villa. Club Med offers traveller's that book a villa the option of requesting extra baby cots and children's beds (the number of cots/beds available depends on the category of villa booked). The additional beds provided for children are pullout beds (for children under the age of 11) and are set up in Standard rooms. Cots for babies are set up in the Master bedrooms.

### 9. PRICE

- 9.1 Your reservation for a Club Med holiday will only be confirmed when Club Med receives the deposit amount specified on your booking confirmation, and it will automatically cancel any booking in respect of which it does not receive this payment by the specified date on your booking confirmation.
- 9.2 Once we have accepted your deposit and the monies are reflecting into our account the holiday price will not change and is guaranteed.

### 10. PAYMENT

- 10.1 A deposit of 10% of the accommodation plus 100% of the airfare cost including all respective taxes and fuel levies (which are at all times subject to fluctuation) shall be paid in accordance with clause 9.1 above. Deposits are non-refundable and non-transferable. The balance of the Holiday Price must be paid to Club Med at least 42 days before the traveller's scheduled date of departure.
- 10.2 In the event that your booking is made less than 42 days before the traveller's scheduled date of departure, the full holiday cost and any membership fees must be paid to Club Med at the time of your booking.
- 10.3 Please note that the monies that are being paid to Club Med have to reflect in our account in order for the confirmed price to be guaranteed.

### 11. CANCELLATIONS

Any cancellation of a booking, requested by you **MUST BE IN WRITING** and shall be dealt with as follows:

- 11.1 The following cancellation charges apply:
- 11.1.1 42 days or more before scheduled departure, cancellations will result in the loss of deposit of 10% of the Club Med stay plus 100% of the airfare cost excluding all airport taxes.
- 11.1.2 41 to 21 days before scheduled departure, 25% of package price plus 100% of the airfare cost excluding airport taxes.
- 11.1.3 20 to 8 days before scheduled departure 50% of package price plus 100% of the airfare cost excluding airport taxes.
- 11.1.4 7 or less days before scheduled departure 100% of package price

### MODIFICATIONS

Any cancellation of a booking, requested by You **MUST BE IN WRITING** and shall be dealt with as follows:

- 11.2 The following modification fees are actual fees charged by the airline:
- 11.2.1 42 days or more before scheduled departure, amendments will be processed at an administration fee of R500-00 (incl. VAT) per traveller and any charges imposed by the airline for such changes.
- 11.2.2 41 to 21 days before scheduled date of departure, amendments will be processed at 25% of the Holiday Price plus the airline change fee.
- 11.2.3 20 to 8 days before scheduled date of departure, amendments will be processed at 50% of the Holiday Price plus the airline change fee.
- 11.2.4 7 days before scheduled date of departure, amendments will be processed at 100% of Holiday Price.
- 11.3 Any modification to a confirmed booking are subject to Resort and airline availability. Applicable pricing for new dates will apply. Reinstatement of discounts and/ or promotions secured on previous bookings shall be subject to availability and eligibility.
- 11.4 Once a client has departed all changes are to be handled at resort level by the client directly with the resort.
- 11.5 In the event of a date modification, a price difference may be applicable based on your new holiday dates.

### 12. NAME CHANGES

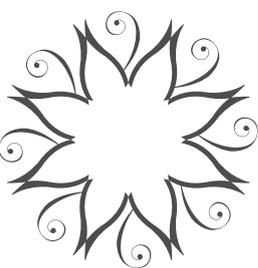
At the time of booking, You must provide Club Med with the full names as they appear on Your/ Your traveller's passport. Please note the airlines Club Med utilises do not permit name changes for any reason. Such changes are likely to result in You being charged the full cost of the flight and will be subject to space being available for a new reservation.

### 13. SAFETY & SECURITY

- 13.1 You shall be responsible for ensuring that You/You advise Your travellers that they, are obliged to:
- 13.1.1 Respect and comply with all directions issued by Club Med's staff, Service Providers or representatives, including those relating to safety and security.
- 13.1.2 Conduct themselves in a way, which is in accordance with the code of conduct of any Resort and/or in a manner, which is not contrary to public order or to accepted standards of behaviour.
- 13.2 Club Med reserves the right to take any action it requires necessary, including to expel any traveller from a Village and claim damages for any loss suffered by Club Med, for failure of the traveller/s to behave as set out in clause 13.1 above.
- 13.3 You acknowledge and accept, and will ensure that all travellers acknowledge and accept that:
- 13.3.1 It is the traveller/s duty to familiarize himself/herself with the inherent dangers of the proposed travel and any mental and/or physical levels of health required for the proposed travel arrangements.
- 13.3.2 Club Med reserves the right not to serve alcohol to any traveller if it considers that it is in the best interests of Club Med, other guests and or the traveller concerned.
- 13.3.3 The services and activities booked need not be provided by a Service Provider if they cannot be provided without breaching any relevant law;
- 13.3.4 Participation in any activities and/or uses of the facilities provided by a Service Provider or the Village are at the traveller's own risk and the traveller absolves the Service Provider and the Resort from any and all liability in contract, or in tort for any loss from any cause whatsoever (including negligence) arising from such participation and/or uses;
- 13.3.5 Acknowledge and assume those extra risks encountered by using facilities and/or participating in activities that intrinsically involve the possibility or risks greater than those encountered in daily life;
- 13.3.6 That Club Med acts merely as intermediary for the purposes of securing bookings on your behalf with the Service Providers when booking, inter alia, activities, transport and transfers on your behalf and accordingly accepts no liability in contract or in tort for any loss caused by any activity mentioned in this clause whatsoever; and
- 13.3.7 That the services provided by a Service Provider will be governed by the laws of the place where those services are provided and any legal action concerning those services or any claim concerning any loss arising in respect of those services will be dealt with in the courts of that place against the Service Provider and Club Med shall have no involvement or incur any liability in that regard.

### 14. LIABILITY

- 14.1 This clause 14 will only apply in circumstances where Club Med is not in breach of its duties in terms of this Agreement or the Consumer Protection Act if applicable; and
- 14.2 Will not apply to gross negligence or wilful misconduct on the part of Club Med, its representatives or any person for whose actions Club Med is legally liable.
- 14.3 The proposed travel arrangements are made on the express condition that Club Med, its employees and agents, acting as intermediaries for the purposes of booking Your travel arrangements, shall not be responsible for, and shall be exempt from, all liability in respect of loss, damage, accident, injury, illness, harm, trauma, death, delay or inconvenience to You (which shall be deemed to include Your heirs, executors, administrators or assigns), Your luggage, or other property, wherever, whenever and however the same may occur. You indemnify and hold harmless Club Med, its employees and agents accordingly. Club Med, its employees and agents shall furthermore not be liable for any indirect and/or consequential loss or damages whatsoever.
- 14.4 Disclaimers And Limitation Of Liability
- 14.4.1 To the fullest extent permissible by law, Club Med disclaims all warranties of any kind, whether express or implied in respect of the Services and You utilise the Services at your own risk.
- 14.4.2 You agree that Club Med is unable to, and is not required to guarantee a particular experience/result at your destination.
- 14.4.3 Club Med's liability to You pursuant to the provisions of this Agreement shall furthermore be limited to the total amount of the fees charged and paid by You in respect of the Services that gave rise to any such liability.



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## 15. INDEMNITY

15.1 You hereby defend and indemnify Club Med and Club Med's associates, respective suppliers and any of their officers, directors, employees and agents from any loss, damage, liability, claim, expenses, causes of action, demands, recoveries, fines, penalties or other costs or expenses of any kind or nature including, but not limited to, reasonable legal and accounting fees, which may arise as a result, and/or brought by third parties as a result of:

15.1.1 Your breach of this Agreement and notices or the documents referenced herein;

15.1.2 Your violation of any law or the rights of any third party;

15.1.3 Unlawful conduct, wilful misconduct and/or gross negligence by You and/or the traveller or a party for whose actions You are legally liable for.

15.2 You indemnify and shall keep Club Med indemnified against any claim from any traveller in connection with any information supplied to the traveller on Club Med's behalf which is incorrect (Misinformation) and against any and all costs, expenses and damages which Club Med may incur or become liable for as a result of such Misinformation.

15.3 Club Med shall give You prompt notice in writing of any claim being made or action threatened or brought against Club Med and will permit You, at Your own expense, to conduct any litigation that may ensue and all negotiations for a settlement of the claim.

## 16. UNSCHEDULED EXTENSIONS

In the unlikely event of there being an unscheduled extension to the final itinerary caused by flight re-scheduling, flight delays, bad weather, strikes or any other cause which is beyond the control of Club Med, its agents or assigns, it is understood that expenses relating to these unscheduled extensions (hotel accommodation etc.) will be for Your/Your traveller's account.

## 17. ITINERARY VARIATIONS AND TRANSFERS

17.1 While every effort is made to keep to the final itinerary, Club Med reserves the right to make changes intended for Your convenience e.g. in some cases, weather conditions can necessitate an alteration in the itinerary and this does not constitute any reason for a refund. It is Your duty to check each amendment to the itinerary.

17.2 Although no changes are anticipated, Club Med reserves the right to withdraw, alter or modify published tours, itineraries, facilities and activities at any time at Club Med's discretion without notice and without liability for any loss. You will be advised of such changes and you should ask if there are any amendments of which you should be aware of prior to departure.

## 18. PASSPORTS, VACCINATIONS, VISAS AND RE-ENTRY PERMITS

18.1 It is Your responsibility to ensure that You/Your travellers obtain and pay for all necessary documentation, visas and vaccinations required for the travel destination. Club Med will not be held liable or responsible in any way whatsoever for Your failure or the failure of a traveller to secure same.

18.2 You must ensure that the traveller/s comply with the countries' medical and vaccination requirements, which he/she plans to visit, and that any vaccinations, inoculations, prophylactic (e.g. for malaria) and the like, where required, have been obtained.

18.3 It is the entirely Your responsibility to ensure that all passports and visas are current, valid, obtained on time, and will be valid for six months after return by the traveller/s to their home country. You are strongly advised to check the relevant requirements with Club Med before travelling. The club Med agent will endeavour to assist You but such assistance will be at Club Med's discretion and You acknowledge that in doing so, Club Med is not assuming any obligation or liability and You indemnify Club Med against any consequences of non-compliance.

## 18.4 STAY OUTSIDE A CLUB MED VILLAGE

In some cases Club Med arranges packages that combine a stay at a Club Med Village with tours operated by other operators, or with an overnight stay at non-Club Med hotels. During those outside tours or overnight stays (unless otherwise specified in the itinerary), only the twin share hotel room, breakfast and transfers are included in the price.

## 19. FORCE MAJEURE

19.1 If Club Med is prevented or restricted directly or indirectly from carrying out all or any of its obligations under this Agreement by reason of strike, lock-out, fire, explosion, floods, riot, war, accident, act of God, embargo, legislation, shortage of or a breakdown in transportation facilities, adverse weather conditions, closure of ports or airports, air traffic control

delays, technical problems, civil commotion, unrest or disturbances, cessation of labour, government interference or control, or any other cause or contingency beyond the control of Club Med, Club Med shall be relieved of its obligations hereunder during the period that such event and its consequences continue but only to the extent so prevented and shall not be liable for any delay or failure in the performance of any obligations hereunder or loss or damages either direct, general, special or consequential which You may suffer due to or resulting from such delay or failure. Club Med shall forthwith provide written notice of any such inability to perform.

19.2 Club Med shall, upon termination of the force majeure event, forthwith give written notice thereof to You. Should such force majeure continue for a period of more than 90 days then You shall be entitled forthwith to cancel this Agreement in respect of any obligations still to be performed hereunder.

## 20. COMPLAINTS AND ARBITRATION

20.1 You are obliged to/it is Your responsibility to advise Your travellers to, lodge a complaint which arises during the holiday, by reporting such complaint to Club Med's management at the Village who will endeavour to rectify the problem on site. If the problem is not resolved during the Your/Your traveller's stay, then You/Your traveller must obtain/prepare a written report and submit it to Club Med for consideration within 28 days of completion of Your/Your traveller's stay.

20.2 You are hereby made aware of/ and shall advise Your travellers that no refund or credit will be given for unused days resulting from non-use of transfers, meals or other services, or from late arrival at the Village and/or premature departure from Village, except if such withdrawal is at the express request of the Village operator and is for reasons other than the bad behaviour of, or breach of this Agreement or the Village rules by You/Your traveller/s.

## 21. AIRLINES AND OTHER CARRIERS

Airlines and or other carriers do not, by endorsing Club Med holidays, represent themselves as having an agreement or any other relationship with You or Your traveller/s. The passenger ticket in use by a carrier providing transport, when issued, shall constitute the sole agreement between the traveller and the carrier for that transportation.

## 22. GOVERNING LAW

This Agreement shall be governed and interpreted in accordance with the laws of the Republic of South Africa.

## 23. ARBITRATION

Any disputes arising from or in connection with this Agreement shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator or arbitrators appointed by the Foundation.

## 24. DOMICILIUM AND NOTICES

24.1 The Parties choose domicilium citandi et executandi ("domicilium") for the purposes of the giving of any legal notice or the serving of any process, as follows:

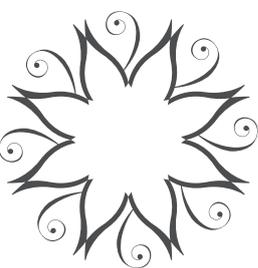
24.1.1 Club Med – Offices 212-214 Design Quarter, corner William Nicol and Leslie road, Fourways, 2128, Gauteng.

24.1.2 You – Your physical address as advised by Yourself at the time of reservation/Your registered head office or the place of business, where applicable.

24.2 Each of the parties shall be entitled from time to time, by written notice to the other, to vary its domicilium to any other address which is not a post office box or poste restante. 24.3 Any notice given by either party to the other ("the Addressee") which:

24.3.1 Is delivered by hand during the normal business hours of the Addressee at the Addressee's domicilium for the time being shall be presumed, until the contrary is proved by the Addressee, to have been received by the Addressee at the time of delivery;

24.3.2 Is posted by prepaid registered post to the Addressee at the Addressee's domicilium for the time being shall be presumed, until the contrary is proved by the Addressee, to have been received by the Addressee on the fourth (4th) day after the date of posting.



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- 25.1 Subject to clause 26.2 below this Agreement, read together with Club Med's Booking Conditions in its brochure or website, and the invoices, will constitute the sole agreement between the parties and shall supersede all other agreements and/or representations whether written, oral and/or implied between the parties.
- 25.2 Neither party shall be bound by any express or implied term, representation, promise, warranty or the like not recorded herein.
- 25.3 No addition to, variation, or agreed cancellation of this Agreement, including this clause, shall be of any force or effect unless in writing and signed by or on behalf of the parties. For purposes hereof "in writing" shall exclude any written document that is in the form, either wholly or Partly, of a data message as defined in the Electronic Communications and Transactions Act 25 of 2002, and "signed" shall mean a signature executed by hand with a pen and without any electronic process or intervention.
- 25.4 No indulgence which either party ("the grantor") may grant to the other ("the grantee") shall constitute a waiver of any of the rights of the grantor, who shall not thereby be precluded from exercising any rights against the grantee which may have arisen in the past or which might arise in the future.
- 25.5 Nothing in this Agreement shall constitute a partnership, joint venture, agency or employment between the parties hereto, and neither party shall have the authority or power to bind, or agreement in the name of, or to create a liability against, the other in any way for any purpose.
- 25.6 Any invalidity, in whole or in part, of any provision of this Agreement shall not affect the validity, enforceability or legality of any other of its provisions.

### 26. DIRECT MARKETING: CONSUMER'S RIGHTS TO WITHDRAW FROM THE AGREEMENT

- 26.1 If this Agreement is concluded as a result of direct marketing, a Consumer has the right to terminate this Agreement by written notice to be delivered to Club Med, within five (5) days after the last party to sign this Agreement has signed this Agreement (being conclusion of the Agreement).
- 26.2 The five (5) day period mentioned in clause 27.1 is calculated with the exclusion of the date of conclusion of this Agreement and of any Saturday, Sunday or public holiday. This notice will have no effect unless it:
- 26.2.1 Is signed by the Consumer or his representative on his written authority;
- 26.2.2 Refers to this Agreement as the agreement that is being revoked or terminated, as the case may be; and
- 26.2.3 Is unconditional.

### 27. CONSUMER'S RIGHT TO CANCEL ADVANCE BOOKINGS

- 27.1 A Consumer has the right to cancel an advance reservation in accordance with clause 17 of the Consumer Protection Act, and Club Med shall have the

29. ACCEPTANCE BY YOU OF THIS AGREEMENT SHALL BE DEEMED TO HAVE TAKEN PLACE IN THE EVENT THAT YOU ENGAGE WITH CLUB MED FOR ANY OF ITS SERVICES. EVERY INSTANCE OF CLUB MED'S SUPPLY OF GOODS AND/OR SERVICES TO YOU SHALL BE SUBJECT TO THE ABOVE TERMS AND CONDITIONS.

right to charge a reasonable cancellation fee for such cancellation, having regard to: -

- 27.1.1 The nature of the services that were reserved or booked;
- 27.1.2 The length of notice of cancellation;
- 27.1.3 The reasonable potential to find an alternative traveller between the time of receiving the cancellation notice and the time of the cancelled reservation; and
- 27.1.4 The general practice of the travel industry.
- 27.2 Club Med shall not be liable for any charges levied by airlines and other Service Providers in respect of cancellations by the Consumer. Club med will liaise with the airlines and Service Providers on the Consumer's behalf in order to facilitate the resolution of any dispute in relation to the cancellation charges in respect of cancellations.

### 28. PERSONAL INFORMATION

Club Med may use the personal details You give to Club Med in relation to your membership for commercial communications regarding its products and services to our members exclusively. You have the right to refuse to accept any such communications and are welcome to inform Club Med that You do not wish to receive any and/or all commercial communications.