

AGENCY SALES COMMERCIAL TERMS

1. Definitions

1.1 The following expressions shall have the following meanings:

“ADM”	means Agency Debit Memorandum, which is issued by the Airlines to the Agent for booking and ticketing violations, including underpayment on ticket sales, details of which are set out on Virgin Atlantic Partner Hub
“Agent”	shall have the meaning set out in the ASA
“Agency Sales Commercial Terms”	means these terms and conditions, available and accessible at https://flywith.virginatlantic.com/gb/en/partner-hub/policies.html ;
“Airline” or “Airlines”	shall have the meaning set out in the ASA
“Applicable Route”	means a route operated by an Airline from time to time
“ASA”	means the Agency Sales Agreement (incorporating these Agency Sales Commercial Terms), including all schedules attached thereto, entered into between the Agent and the Airline(s)
“ATOL”	means an Air Travel Organisers Licence granted by the Civil Aviation Authority pursuant to the Civil Aviation (Air Travel Organiser’s Licensing) Regulations 1995
“Baseline”	means the minimum Flown Revenue that the Agent must achieve before any Service Fee is paid by the Airlines, as set out in Schedule 1
“BSP”	means the IATA Billing and Settlement Procedures
"Carrier Content"	is the package of data Virgin Atlantic (VS) prepares using its experience and which it provides to Agents or Entities for the purpose of them using it to provide travel services. The package of information making up Carrier Content may include, but is not limited to, all fares, schedules, seat availability, seat assignment, service enhancements, flight information, frequent flyer program account information, functionality, ancillary products and services, merchandising opportunities and inventory availability
“Confidential Information”	means all confidential information (however recorded or preserved) disclosed by a party or its Representatives to the other party or parties and its or their Representatives, whether before or after the Effective

Date, in connection with the Service Fees, including but not limited to:

(a) the existence and terms of the ASA

(b) any data which is disclosed in a manner clearly indicating it is of a confidential nature or which by its nature or in the circumstances in which it was disclosed, is clearly confidential; and

(c) without limiting the generality of the foregoing, specifically includes information and material relating to each party's business, past or present customers, discounts, processes, business plans or financial information.

"Delta"	shall have the meaning as set out in the ASA
"Distribution Policy"	means Virgin Atlantic's global distribution policy which can be found on Virgin Atlantic Partner Hub, as updated from time to time
"Effective Date"	means the date of the ASA
"Flown Revenue"	means the total audited ticket value less all applicable commissions, overrides, taxes and fees as defined in Schedule 1.
"GDS"	means Global Distribution System, which is a computerised system (containing information about schedules, availability, fares and related services) through which reservations can be made and/or tickets issued, and which make some or all these facilities available to subscribers
"IATA"	means the International Air Transport Association
"IATA Agency Agreement"	means the IATA Passenger Sales Agency Agreement(s) in effect between the Agent and each Airline
"Insolvency Event"	means the occurrence of any of the following events: (a) a party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction

- (b) a party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business
- (c) a party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the ASA has been placed in jeopardy

"Losses"	means all liabilities, costs, charges, damages, expenses, actions, proceedings, claims, demands and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses)
"Marketing Plan"	means the marketing plan (if any) agreed between the Agent and an Airline or the Airlines, as set out in Schedule 3
"Net Fare"	means a standard discount fare, which is a confidential and private tariff distributed by an Airline to the Agent
"Office"	means one or more of the Agent's ticketing or booking locations designated by the Agent, as set out in Schedule 2
"Private Fare"	means a fare which is filed in a private tariff distributed by an airline to the Agent
"O&D"	means the Origin and Destination of all connecting legs on a ticket; either a connection time in excess of 24 hours or returning to a previously visited city on the itinerary will result in the commencement of a new O&D within that ticket
"Passive Bookings"	means a booking made on an Agent's GDS which has not been confirmed with an Airline's internal reservation system
"PNR"	shall have the meaning given to it by IATA;
"Qualifying Sales"	means tickets sold by the Agent for an Applicable Route;
"Representative(s)"	means, in relation to a party, its employees, directors, officers, representatives, advisers, joint ventures partners, subcontractors and Sub Agents
"RRP"	means the recommended resale price as may be recommended by the Airline
"Service Fee"	means the fee(s) set out in Schedule 1

“Sub-Agent”	means a third-party agent of the Agent making a booking through the Agent on services operated by the Airlines
“Term”	means the period of time as set out in the ASA
“Virgin Atlantic”	shall have the meaning set out in the ASA
“Virgin Atlantic Partner Hub”	means the Virgin Atlantic trade website containing standard conditions which the Agent is subject to and which may be amended by Virgin Atlantic from time to time
“POS”	the point of sale for which the IATA is registered and the booking is made

In these Agency Sales Commercial Terms (unless the context otherwise requires):

- 1.2 any reference to a schedule is to a schedule to the ASA
- 1.3 any references to the plural indicates the singular and vice versa;
- 1.4 any references to one gender includes all genders
- 1.5 any references to a person includes natural persons, corporate bodies, partnerships, firms, unincorporated bodies and all legal persons whatsoever
- 1.6 headings are given for convenience only and shall not affect interpretation;
- 1.7 any reference to any document (including the ASA) includes that document as from time to time varied, updated, amended, supplemented or novated;
- 1.8 reference to any statute or statutory provision includes a reference to that statute or statutory provision as amended, extended or re-enacted from time to time; and
- 1.9 the word “including” shall be deemed to read “including without limitation”
- 1.10 the Global Distribution Policy, Ticketing Policy and Booking Policy overrules the ASA (Agency Sales Agreement) an updated copy of these can be found on Virgin Atlantic Partner Hub
- 1.11 the ASA is valid on all contracts signed on or after 1st January 2023

2. Authority of Agent

- 2.1 Each Airline, pursuant to the IATA Agency Agreement, has appointed the Agent as its authorised, non-exclusive agent to use the Airlines' Carrier Content to market, promote and sell such Airline's air transportation services and related products in the POS in accordance with the terms and conditions set out in the IATA Agency Agreement and the ASA. Nothing in the ASA shall circumvent or affect any respective rights or remedies a party may have under the IATA Agency Agreement to which it is a party.

2.2 The Agent shall not have any power, right or authority to bind the Airlines, except as expressly set out in the ASA, the IATA Agency Agreement or as otherwise permitted in writing by the applicable Airline.

3. Variable terms, Conditions and Rates

3.1 The Agent acknowledges and agrees that Virgin Atlantic and Delta are entitled, each at its sole discretion, to offer certain Service Fees to Agent from time to time in addition to those set out in the ASA, the terms of which will be automatically incorporated into and subject to the terms of the ASA upon written (including by e-mail) acceptance by the Agent.

4. Net Fare Sales

4.1 The Airlines will from time to time, at their sole discretion, make available Net Fares to the Agent by inputting them live into the GDS. These Net Fares must be sold in compliance with the terms and conditions of the applicable Net Fare, as set out in the GDS.

4.2 The Agent shall not offer or sell to customer's inclusive tour rates for the purposes of flight only bookings. Any breach of this term shall be regarded as an irremediable material breach of the ASA entitling either or both Airlines to terminate the ASA in accordance with clause 13.

4.3 Taxes, fees, charges and surcharges may change from time to time and shall be inputted live by the Airlines into the GDS.

4.4 Taxes, fees and charges can be imposed and/or increased by a government body or other authority after the date the ticket is issued. If there is such an imposition of, or increase in, a tax, fee or charge, the Agent is responsible for notifying the customer, collecting the outstanding monies and remitting such sums to the Airlines in accordance with the ASA and the IATA Agency Agreement (except where collecting the additional amounts would be contrary to applicable laws). If Agent fails to remit such additional payments, the Airlines shall issue ADMs as appropriate.

5. Service Fees and Marketing

5.1 The Airlines agree to make available to the Agent the Service Fee for Qualifying Sales for the period stipulated in Schedule 1 (or subsequent schedules issued in accordance with clause 3).

5.2 The parties may agree to adhere to a Marketing Plan of which all associated costs within the plan will be covered by any Marketing Funds as set out in Schedule 1. If no marketing plan is agreed during the term of the contract the funds may be used on expenditure as stipulated in Schedule 1.

5.3 The Agent shall use the Carrier Content to promote, publicise and advertise the Airlines' respective services and any brochures or other marketing material (online or offline) and shall make reasonably prominent references to the Airlines.

6. Obligations of the Agent

6.1 The Agent represents, warrants and undertakes that:

- (a) it has registered with VS Partner Hub and it has read and understood all the terms set out in the ASA and the Distribution Policy and confirms that it shall comply with both
- (b) it has full capacity and authority to enter into the ASA
- (c) it will not bid on the Airlines brands to influence traffic for its own benefit or to obtain an advantage in the conduct of its business
- (d) it shall immediately upon an Airline's request, produce documentary evidence reasonably satisfactory to such Airline, that all applicable licences, permits and consents, including an IATA licence, an ATOL where applicable, and those licences imposed by industry bodies, required to enter into and perform its obligations under the ASA are in effect or not necessary as the case may be
- (e) any failure by the Agent to maintain applicable licences shall be regarded as an irremediable material breach giving the Airlines the right to terminate the ASA with immediate effect and without incurring any liability
- (f) it shall provide the Airlines with its full details by signing up to Virgin Atlantic Partner Hub and completing the registration form
- (g) except as authorised by the Airlines, it shall not to act in a way which will incur any liabilities on behalf of the Airlines nor pledge the credit of the Airlines
- (h) it shall comply with all reasonable and lawful instructions of the Airlines from time to time concerning the marketing and sale of the Airlines' fares, products and services; and
- (i) where the agent receives Seat only content it shall describe itself in all dealings with the public and in all associated advertising and promotional material as "agent", "booking agent", "sales agent" or similar of the Airlines
- (j) it shall not make fraudulent, fictitious or speculative bookings in the GDS, or hold reservations or block space to accommodate anticipated demand
- (k) it shall only create Passive Bookings for the purpose of ticketing an identical reservation that exists in an Airline's internal reservation system; and
- (l) it shall only use Passive Bookings in its GDS for ticketing and not for accounting or administrative purposes, or for satisfying productivity requirements contained in any agreement between the Agent and a GDS provider or to circumvent any fare rules
- (m) it shall ensure that it removes any inactive segments from PNRs. These include, but are not limited to UN, UC, HX or NO as the status code
- (n) it shall ensure that all reservations originate from the POS for which the IATA is registered and the booking is made

6.2 The Agent acknowledges and warrants that it has duly authorised and executed the ASA which constitutes a legally valid and binding obligation, enforceable against it in accordance with its terms.

7. Obligations of Airlines

7.1 Each Airline confirms and agrees that:

- (a) it has full capacity and authority to enter into the ASA
- (b) it has duly authorised and executed the ASA, and the ASA constitutes a legally valid and binding obligation, enforceable against it in accordance with its terms
- (c) there will be no unsolicited marketing contact with customers using the Agent's passenger data without seeking prior written consent from the Agent; and
- (d) it will not bid on the Agent's brands to influence traffic for its own benefit or to obtain an advantage in the conduct of its business
- (e) it shall comply with all applicable laws and regulations (including those relating to marketing, the sale of passenger transportation by air and the operation of its business) and shall maintain all applicable licences, permits and consents, including an IATA licence, an ATOL where applicable, and those licences imposed by industry bodies, required to enter into and perform its obligations under the ASA
- (f) it shall immediately upon an Agent's request, produce documentary evidence reasonably satisfactory to such Airline, that the licences required under clause (a) are in effect or not necessary as the case may be

8. Payment

8.1 The Agent shall remit all payments due to the Airlines for bookings made under the ASA via the BSP, in accordance with its applicable payment time limits in place with IATA.

8.2 Any refunds in respect of:

- (a) a passenger's cancellation of a booking; or
- (b) an Airline's cancellation of a flight prior to the date of departure, shall only be made by the Agent to the passenger in accordance with the applicable Airline's refund policy. Reimbursement by the Airline to the Agent for refunds in accordance with its policy shall be done by BSP.

8.3 Any reimbursement, refund or compensation due to a passenger by an Airline in respect of flight cancellation, delay or denied boarding by the Airline on the day of the relevant flight shall be dealt with by the Airline directly with the passenger and the Agent shall direct any passengers to the Airline in respect of such queries.

8.4 Tracking of sector and revenue under the ASA (including the Baseline as defined in Schedule 1) shall be based on revenue information provided by the

Airlines, which is tracked automatically from the Agent and/or Office unique IATA code. The Airlines will provide these tracking reports to the Agent on a monthly basis. Such information shall be binding and conclusive on the parties, absent manifest error.

- 8.5 Payment of any Service Fee shall be made to the Agent's bank account within ninety (90) days from the date the audited data is available after expiry of the Term as contained in Schedule 1.

9. IATA Details

- 9.1 The Agent is required to be registered with IATA and its details are as set out in Schedule 2. The Agent shall notify the Airlines in writing not less than thirty (30) days in advance of any change in the identity or status of any Office. This notification is vital and the responsibility of the Agent. Each Airline agrees that an Office may be changed on a quarterly basis by the Agent provided that such change shall be subject to the prior written notification to the Airlines including such Office's IATA number. Failure to notify the Airlines of the change in Office may result in Qualifying Sales being excluded from the calculation of Flown Revenue under the ASA.

10. Airlines' right to cancel flights

- 10.1 Each Airline, without prior notice, may cancel flights, amend departure times, change equipment and transfer passengers to alternative carriers in case of necessity.
- 10.2 All travel on an Airline shall be subject to its Conditions of Carriage and Conditions of Contract as may be amended from time to time.

11. Confidentiality and Data Protection

- 11.1 Each party (the "**Receiving Party**") acknowledges the economic value to the other party (the "**Disclosing Party**") of the Disclosing Party's Confidential Information and, in accordance with the terms of the ASA, shall keep in confidence all such Confidential Information. The Receiving Party shall (and shall procure that its Representatives who have access to the Confidential Information of the Disclosing Party pursuant to clause **Error! Reference source not found.** shall):
- (a) treat and maintain as confidential all Confidential Information of the Disclosing Party by taking the same security measures and using the same degree of care as the Receiving Party applies to its own confidential information and which it warrants as providing adequate protection against any unauthorised disclosure, copying or use (but shall in any event use all reasonable endeavours to keep the Confidential Information of the Disclosing Party confidential)
 - (b) not disclose the Confidential Information of the Disclosing Party to any other person other than with the prior written consent of the Disclosing Party or in accordance with clauses **Error! Reference source not found.** and 11.3; and

- (c) not use the Confidential Information of the Disclosing Party for any purpose other than the performance of its obligations under the ASA
- 11.2 For the duration of the ASA, the Receiving Party may disclose Confidential Information of the Disclosing Party to its Representatives where the following conditions are met: (i) the Receiving Party has considered and taken any necessary steps to ensure compliance with applicable competition and anti-trust laws and (ii) the Receiving Party considers that the disclosure is necessary for the purposes of the ASA or to develop future contractual relationships with the Agent.
- 11.3 The Receiving Party shall procure that each Representative is made aware of and complies with all the Receiving Party's obligations of confidentiality under the ASA as if the Recipient was a party to the ASA. The Receiving Party shall be fully responsible and liable for any breaches of this clause 11 by any of its Representatives as if such breach were made by the Receiving Party.
- 11.4 The obligations of confidence under this clause 11 shall not apply to any information that:
 - (a) is or becomes generally available to the public (other than as a result of disclosure by the Receiving Party or its Representatives in breach of this clause)
 - (b) was available to the Receiving Party on a non-confidential basis before disclosure by the Disclosing Party
 - (c) was, is or becomes available to the Receiving Party on a non-confidential basis from a person who, to the Receiving Party's knowledge, is not bound by a confidentiality agreement with the Disclosing Party or otherwise prohibited from disclosing the information to the Receiving Party;
 - (d) the parties agree in writing is not confidential or may be disclosed; or
 - (e) is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible
- 11.5 All Confidential Information, including permitted copies, shall be deemed the property of the Disclosing Party. The Receiving Party shall, within twenty (20) days of receiving a written request from the Disclosing Party, destroy or return to the Disclosing Party (at the Disclosing Party's discretion) all Confidential Information, including permitted copies thereof.
- 11.6 The obligations of confidence under this clause 11 shall survive expiry or termination of the ASA howsoever arising for a period of two (2) years thereafter.

12. Variation and Amendments

- 12.1 Subject to clause 3.1, no variation or amendment of the ASA shall be effective unless made in writing and signed by a duly authorised representative on behalf of both parties.

13. Termination

- 13.1 Any party may terminate the ASA immediately or with up to 30 days written notice to the others, if any party:
- (a) commits a material breach of the ASA, which it fails to remedy within fourteen (14) days of having been notified of such breach; or
 - (b) suffers an Insolvency Event
- 13.2 An Airline may exit the ASA (and/or terminate any schedules) for any reason, with or without cause and without liability, upon providing the other parties 30 days' prior written notice. Unless otherwise notified to the Agent in writing, exit by one Airline shall not affect the continuation of the ASA in respect of the other parties.
- 13.3 Any termination or expiration of the ASA shall be without prejudice to the rights and remedies of the parties that may have accrued up to the date of termination or expiration. The exercise of any right to terminate the ASA pursuant to this clause 13 shall be without prejudice to any other right or remedy of either party in respect of the breach concerned or any other breach.
- 13.4 If the ASA terminates for any reason, such termination shall have no impact on any bookings made but not yet flown or any outstanding amounts owed by the Agent to the Airlines prior to the effective date of such termination.
- 13.5 On termination or expiration of the ASA all rights and obligations of each of the parties under the ASA shall automatically terminate except for any provisions which expressly or by implication are intended to come into or continue in force on or after such expiration or termination (all of which shall survive termination or expiry of the ASA for any reason whatsoever).
- 13.6 If the performance of the ASA or any obligation hereunder is prevented, restricted or interfered with by any act or condition whatsoever beyond the reasonable control of the affected party, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance, except for the making of payments hereunder, to the extent of such prevention, restriction, or interference, for so long as the non-performing party uses reasonable endeavours to resume performance. In the event of non-performance pursuant to this clause 13 for more than sixty (60) days, the other party may terminate the ASA upon fifteen (15) days written notice to the other parties.

14. Online Sales / Distribution

- 14.1 Except for any applicable corporate booking tools, for online distribution of the Airlines' respective fares, products and services the Agent must be either a registered member of Electronic Reservation Services Provider or have a dedicated IATA number notified to the Airlines in accordance with clause 9.1.

15. No Bias Display.

- 15.1 Agent and each Agent Branch and authorized Sub Agent shall display and make available for sale each Airline's respective fares (and related schedules, and seat availability) or ancillary services and products that such Airline makes available to Agent, Agent Branch or Sub-Agent from time to time.
- 15.2 Unless otherwise directed by a customer of Agent, neither Agent nor any Agent Office and authorized Sub Agent shall bias against any Airline in any way the display, distribution of or access to any "Carrier Content" or preference another air carrier's content, products or services as compared to the Carrier Content, products or services of each Airline at any time. Any integrated display provided by or through Agent or any Agent Office and authorized Sub Agent shall be determined on the basis of service criteria that do not reflect carrier identity and that are applied consistently to all air carriers and to all markets (e.g. lowest fare, shortest elapsed travel times, non-stop versus one or more stops).

Appointment of Sub-Agents

16.

- (a) the Airlines agrees that the Agent is entitled to appoint Sub-Agents, provided that the appointment is made on the following terms, namely:
- (b) no Sub-Agent shall be entitled to assign or create further sub-agencies
- (c) the relevant sub-agency is automatically terminated in the event that the ASA is terminated or expires or the relevant Airline exits the ASA pursuant to clause 13
- (d) each Sub-Agent shall be subject to the obligations imposed on the Agent pursuant to the ASA
- (e) in the capacity of principal obligor (not merely as surety), the Agent unconditionally and irrevocably guarantees the full and prompt performance by the Sub-Agent of the obligations contained in the ASA; and
- (f) the Agent shall indemnify and keep indemnified, the Airlines from all Losses howsoever arising out of, or in connection with, any failure of the Sub-Agent to perform any of its obligations
- (g) the Agent will not redistribute our Carrier Content without the Airline giving its prior written consent

17. Assignment

- 17.1 Neither the rights nor the obligations of the Agent under the ASA may be assigned, transferred, sub-contracted or otherwise disposed of, in whole or in part, without the prior written consent of each Airline.

18. Severance

18.1 The court may strike out or override any part of the ASA which it considers to be unreasonable, invalid or unlawful (whether an entire clause or only part of one) and enforce the contract as if the offending part had never been contained in it. The remaining provisions shall remain unaffected.

19. Notices

19.1 Any notice required to be given by one party to the ASA to the others will be in writing and will be served by hand delivery, pre-paid first class post, airmail or e-mail to the designated representative at the address as set out in the ASA (or as otherwise notified by a party to the others in accordance with this clause).

19.2 A notice: -

(a) if sent by pre-paid first class post, shall be deemed to be received two (2) days after the day on which it was posted

(b) if sent by airmail, shall be deemed to be received seven (7) days after the day on which it was posted

(c) if delivered by hand or courier during normal business hours on a business day, shall be deemed to be received on that day, or (if outside normal business hours) on the business day following the date of delivery; and

(d) if delivered by e-mail, shall be deemed to be received on the next business day after the day on which it was sent

19.3 Notwithstanding the above, any notice to terminate the ASA shall be served by the means set out in clauses 19.2(a), 19.2(b) or 19.2(c) only.

20. Public Statements

20.1 No party shall make or publish any public announcements, communication or circular as to the existence or contents of the ASA for any reason whatsoever, without the consent of all the other parties.

20.2 The parties shall not (and each procures that their Representatives shall not) make public statements or comments in writing or verbally that expressly or impliedly disparage or defame another party to the ASA or such party's Representatives, trademarks, products, services, customers or method of doing business.

21. Ethical Business

21.1 In accordance with the Airlines' commitment to ethical business practices, each party warrants that when performing any service for or on behalf of the other party, and/or otherwise in relation to any activities it undertakes in connection

with the performance of the ASA, it shall (and shall procure that its Representatives shall):

- (a) comply with all applicable anti-bribery and anti-corruption laws, including but not limited to the UK Bribery Act 2010
- (b) not offer, promise, give or accept any financial or other advantage to or from any person (including any customer or supplier) with the intention of improperly influencing any person in the performance of any function or activity; and
- (c) not make, promise or offer, directly or indirectly, any payment, gift or other advantage to a foreign public official with the intention of influencing such official and obtaining or retaining an advantage in the conduct of business

22. Entire Agreement

22.1 Subject to clause 3, the ASA constitutes the entire agreement between the parties relating to the subject matter of the ASA and supersedes all previous agreements between the parties whether written or oral. No party has relied on any representation or promise except as expressly set out in the ASA, save that nothing in this clause shall excuse either party from fraudulent misrepresentation.

23. Third Parties

23.1 A person who is not party to the ASA shall have no right under The Contracts (Rights of Third Parties) Act 1999 to enforce any term of the ASA. This clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

24. Governing Law

24.1 The ASA and any non-contractual obligations arising out of or in connection with it shall be governed by and construed in accordance with English law and the English courts shall have exclusive jurisdiction.

25. Liability

25.1 In no event shall Virgin Atlantic and Delta be held jointly and severally liable for any actions of each other under the ASA.

25.2 All Offices are considered to be the Agent for the purposes of the ASA and the Agent will be liable for any costs or losses incurred by Virgin Atlantic or Delta arising out of, or in connection with, any act or omission of a Branch.

25.3 Each party's total liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the ASA shall be limited to 10% of total Flown Revenue generated under the ASA.

