

<date>

M. ZZZ Company
ZZZ Company
ZZZ Company
ZZZ Company ZZZ Companyxx

Dear ZZZ Company,

We are pleased to inform you that the Massachusetts Institute of Technology ("MIT"), acting on behalf of the MIT Alumni Association and the MIT Alumni Travel Program ("MIT AA") has selected ZZZ Company ("ZZZ COMPANY") to make the arrangements and provide the services to members of the MIT community in accordance with the Tours (each, the "Tour") listed on page two. This letter sets forth our Agreement (the "Agreement") with you relating to the Tours that you are agreeing to provide.

1. **Tour/Costing.** ZZZ COMPANY will use its commercially reasonable best skills in arranging and providing the Tours. ZZZ COMPANY agrees that prices are firm, unless surcharges are imposed upon ZZZ COMPANY or the value of the dollar against foreign currencies fluctuates. In either case, if the cost of the Tour in the aggregate increases by more than 10%, ZZZ COMPANY may maintain the original firm price or may re-offer the Tour to Participants (each, a "Participant") at an increased price. If ZZZ COMPANY re-offers the Tour at an increased price, each Participant shall have the right to accept the Tour at the increased price, or reject the offer and receive, within 14 days of such rejection, a refund from ZZZ COMPANY of all deposits and other payments made in connection with the Tour. If ZZZ COMPANY makes a material change to the Tours listed below, all Participants must be notified immediately and shall have the right to accept the change(s), or cancel their participation, receiving a refund, in full, from ZZZ COMPANY within 14 days of such notification of the change. Material changes include, but are not limited to, changes in main mode of accommodation (cruise ship, hotel), the class of accommodation, which results in a lower quality tour product, or major changes to the itinerary, including excursions that were highlighted in the Tour brochure as a featured component of the Tour.
2. **Mailing and Handling.** The MIT AA will assist ZZZ COMPANY in the distribution of Tour brochures, by arranging for the mailing of the brochures to members of the MIT community. For these mailings, the MIT AA shall provide a list of MIT names and addresses for approximately xx,000 members of the MIT community, and forward the list directly to ZZZ COMPANY. These names and addresses shall be used **solely** for the purpose of these specific mailings and each list subsequently destroyed by ZZZ COMPANY, upon each mailing, with a written confirmation to the effect, issued by ZZZ COMPANY to MIT.
3. **Correspondence.** ZZZ COMPANY shall not send any correspondence, brochures or other related materials to members of the MIT community without the prior approval of the MIT AA. MIT must review and approve in writing the final trip brochure copy, as well as all subsequent correspondence from ZZZ COMPANY to the MIT Tour participants, before any materials are printed and mailed. **Any use of MIT passenger names and information other than for these specific Tours is strictly prohibited.** ZZZ COMPANY shall provide **daily** updates of or changes to the list of MIT Tour participants to the MIT AA.

Commented [mcg1]: This paragraph can be switched to reference an email campaign, which MIT would conduct. I would detail that all text and images come from the tour operator.

4. **Deposits.** The MIT AA shall receive all deposit monies and notify each Participant of receipt of his/her deposit on behalf of ZZZ COMPANY. The MIT AA shall deliver to ZZZ COMPANY, on a weekly basis, all deposits received from Participants. If ZZZ COMPANY receives deposit payments, ZZZ COMPANY shall notify the MIT AA on the same business day, or within a 24-hour time period.

5. **Administrative Fees.** ZZZ COMPANY shall pay to the MIT AA, upon respective departure dates, an administrative fee, for services provided and related costs for all mailings, communications and record keeping associated with the Tour, of:

(i) ~~a. x%/or \$xxx per Participant, based on the full Participant cost of the Tour for 1-12 paying Participants; b. % per Participant for 13-18 paying Participants (retroactive back to first booking); and c. % per Participant for 19 or more paying Participants (retroactive back to first booking) for the XYZ tour.~~

Commented [mcg2]: This paragraph changes depending on trip and commission situation.

MIT AA will receive a (xx) complimentary space for an MIT faculty or staff member up front, and will receive an additional (xx) complimentary tour space at xx Participants. If the staff or faculty chooses to bring a companion, sharing the same cabin or hotel room, and the Participant number is below xx, a pro-rated cost will be determined.

Commented [mcg3]: I like to know the spouse rate up front if possible.

6. **Commitment.** To provide as many members of the MIT community as possible with an opportunity to participate in the Tour, ZZZ COMPANY agrees to reserve the following allotments for the respective Tour:

Tour	Dates	Allotment	Co-Share(s)	Tour Price
Trip XYZ	Trip date, 2017	##	Listed here	\$0,000

** Tour prices are indicated on a per person basis, based on double occupancy accommodations, excluding air.*

Any changes in Tour prices, allotments, and co-shares are subject to the mutual agreement of both ZZZ COMPANY and MIT.

These allotments will be re-examined at a commercially reasonable point in time (10 weeks after the brochure mailing), should the need arise to increase or release space accordingly, but changes in allotment shall only be made upon mutual agreement of the parties. The Tour price will be the same for all travelers for each trip regardless of Co-share affiliation, including independent travelers.

Although the MIT AA expects the Tour to be successful, it does not guarantee a minimum number of Participants. ZZZ COMPANY agrees that the administrative fees and cost of the Tours to Participants shall be as set forth in this letter agreement, regardless of the number of Participants in the Tours.

7. **Cancellations.** If ZZZ COMPANY fails to operate or cancels any of the Tour, or if MIT terminates this Agreement, pursuant to the terms of Article 13 of this Agreement, ZZZ COMPANY agrees to refund to all Participants, within 14 days of such failure or cancellation, all deposits and other payments made in connection with the Tour(s). In the event of a serious and imminent travel warning or threat, involving an area covered by the Tour, ZZZ COMPANY and MIT shall agree to a mutual solution, up to, and including, trip cancellation and full refunds to all participants.

8. **Indemnity.** ZZZ COMPANY agrees to indemnify and hold MIT and all of its affiliates, divisions, departments and other units, committees and groups, and its and their respective governing boards, officers, directors, principals, trustees, legal representatives, members, owners, employees, agents, administrators, assigns and contractors (collectively, "Releasees"), harmless from any and all liability, damages, loss, cost, expenses and attorney's fees, of whatever kind and nature, which the Releasees may hereinafter incur, suffer or be required to pay, by reason of, or in consequence of, bodily injury, sickness, death, property damage or other loss or any claim for such damage or loss arising out of any negligence or willful misconduct on its part or the part of any carrier, supplier of accommodations or purveyor of services or goods ZZZ COMPANY may select; or any noncompliance with any laws, regulations or ordinances on its part or the part of any carrier, supplier of accommodations or purveyor of services or goods ZZZ COMPANY may select.

ZZZ COMPANY agrees that in the event of any breach of this letter agreement by ZZZ COMPANY, MIT shall be entitled to reasonable attorney's fees.

9. **Insurance.** ZZZ COMPANY agrees to maintain, at its own expense and on a current basis, ZZZ COMPANY's professional liability and general liability insurance policies, with limits of \$5,000,000 per occurrence. ZZZ COMPANY further agrees to name MIT as an additional insured party to these policies, *providing written evidence to this effect within 10 days hereof.* The policies will contain a clause requiring the carrier to send MIT notice of intent to cancel at least 30 days prior to cancellation.

In addition, ZZZ COMPANY shall request evidence of liability insurance from the carriers, suppliers of accommodations, or purveyors of goods or services selected by ZZZ COMPANY to service the Tours and provide any such evidence it receives to MIT.

10. **Limited Liability.** No officer, director, member, employee, or other principal, agent or representative (whether disclosed or undisclosed) of MIT, nor any participant with MIT, shall be personally liable to ZZZ COMPANY hereunder, for MIT's obligations or otherwise, ZZZ COMPANY hereby agreeing to look solely to the assets of MIT for the satisfaction of any liability of MIT hereunder. In no event shall MIT be liable to ZZZ COMPANY for indirect, incidental or consequential damages.
11. **Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Massachusetts for all purposes, without regard to Massachusetts law on choice of law.
12. **Severability/Waivers.** Any waiver of the obligations under this Agreement must be made expressly and in writing by the waiving party, using the word "waiver". Any waiver on one occasion or with respect to a particular provision shall not constitute a waiver on any other occasion or with respect to any other provision. If any provision of this Agreement is found to be invalid, the remaining provisions shall remain in full force and effect.
13. **Termination of Agreement.** MIT may terminate this Agreement: i) with or without cause, upon written notice at least ninety (90) days prior to the respective Tour departure date; or ii) immediately, by written notice to ZZZ COMPANY, if ZZZ COMPANY violates any material provision of this Agreement, or fails to perform or observe any material terms or conditions of this Agreement. This Agreement shall terminate automatically, without the need for additional action, upon the insolvency, assignment for the benefit of creditors, commencement of any proceedings under any bankruptcy or insolvency law, or any other law relating to the relief of debtors, by or against ZZZ COMPANY or its principals, or upon the appointment of a Trustee, custodian, or other agent of ZZZ COMPANY, or its principals, or of their respective property.

Any termination of this Agreement shall not effect or impair the right of any party to recover damages occasioned by any default of the other party or set off such damages against amounts otherwise owed the other party.

14. **Notices.** All notices given or required under this Agreement shall be in writing and shall be given only by U.S. mail, return receipt requested, postage prepaid, or by commercial overnight delivery service, with a receipt from such delivery service and delivery charges prepaid, or by hand delivery, with a receipt from such delivery service and delivery charges prepaid, addressed or delivered, as the case may be, to MIT or ZZZ COMPANY, at the addresses specified on pages one and 4 of this Agreement, or to such other addresses as either party may specify to the other by notice given in accordance with this Paragraph 14. Such notices shall be effective on the date of delivery to the addressee's address, as reflected by the receipts required in this Paragraph.
15. **Non-Use of MIT Name.** ZZZ COMPANY shall not use the name of "Massachusetts Institute of Technology", the "MIT Alumni Association", the "MIT Alumni Travel Program", or any variation, adaptation, or abbreviation thereof or of any of its trustees, officers, faculty, students, employees, or agents, or any trademark owned by MIT, or any terms of this Agreement in any promotional material, registration form or other public announcement or disclosure, without the prior written consent of MIT's Technology Licensing Office.
16. **Disputes.** All claims, disputes and other matters in question, between MIT and ZZZ COMPANY, arising out of or relating to this Agreement or the breach thereof shall be submitted for resolution to a court of competent jurisdiction in Suffolk or Middlesex County, Massachusetts, unless otherwise agreed by the parties. No such action shall be brought, however, until the completion of all services under this Agreement or the earlier termination thereof as provided in Paragraphs 7 and/or 13 above, the parties agreeing to negotiate in good faith any claims, disputes or other matters in question during the term of this Agreement before resorting to litigation.

This Agreement shall in no way create a joint venture or partnership between ZZZ COMPANY and MIT. MIT does not appoint or designate ZZZ COMPANY as an agent, nor shall ZZZ COMPANY act or attempt to act to represent MIT as its agent. ZZZ COMPANY shall be an independent contractor and acknowledges its status as such.

If the foregoing reflects your understanding and agreement, please sign this letter in the space provided and return the letter to us, whereupon it shall take effect as an agreement under seal.

Sincerely,

Melissa Chapman Gresh, Director
MIT Alumni Travel Program, MIT Alumni Association
xx
xx 02139

AGREED AND ACCEPTED

Massachusetts Institute of Technology

ZZZ COMPANY

Tour Operator

Date: _____

Date: _____

By: _____

By: _____

Title: Director of Contracts

Title: _____