

requested by the participant the operator shall return all the participant's money within 7 days after receiving it unless the participant, in accordance with paragraph (c) of this section, has authorized the operator to retain the payments while the operator attempts to make other arrangements for the participant. If the operator retains the payments while attempting to make other arrangements for the participant, it shall notify the participant of the fact within 7 days after receiving the payments, but in no event later than the departure. For the purpose of the time periods in this paragraph, receipt of money by a travel agent on behalf of a charter operator will not be considered as receipt by the operator.

(e) Except as set forth in §380.33a for operator's option plan contracts, the operator-participant contract shall not specify alternative dates for the outbound or return flights, or alternative origin or destination cities for any flight leg.

(f) The contract form shall be printed in 7-point or larger type. The statements required by paragraph (a), (f), (h), (l), (r), (s), and (x) of §380.32 shall be printed so as to contrast with the rest of the contract by the use of bold-faced type, capital letters, or a type size that is at least 50 percent larger than that used for the rest of the contract.

(g) The contract form shall include a space that participants may check to indicate that they wish to be furnished details of trip cancellation, health, and accident insurance.

(h) The contract form shall be designed so as to enable participants to retain a copy of the general terms and conditions after signing it. The specific information supplied by participants (such as choices of dates, cities, or other options) need not be retainable.

**§ 380.32 Specific requirements for operator-participant contracts.**

Contracts between charter operators and charter participants shall state:

(a) The name and complete mailing address of the charter operator;

(b) The name of the direct air carrier, the dollar amounts of that carrier's liability limitations for participant's baggage, the type and capacity of the

aircraft to be used for the flight, and the conditions governing aircraft-equipment substitutions;

(c) The dates of the outbound and return flights;

(d) The origin and destination cities of each flight leg;

(e) The amount and schedule of payments;

(f) If a depository agreement as provided in §380.34(b) is used: That all checks, money orders, and credit card drafts must be made payable to the escrow account at the depository bank (identifying bank)<sup>1</sup> or, when the charter is sold to the participant by a retail travel agent, checks and money orders may be made payable to the agent, who must in turn make his check payable to the escrow account at the depository bank;

(g) The tour itinerary, if any, including the name and location of the hotels, length of stay at each, and other ground accommodations and services that are part of the tour;

(h) That the charter operator may not cancel the charter less than 10 days before the scheduled departure date, except for circumstances that make it physically impossible to perform the charter trip;

(i) That if a charter is canceled 10 or more days before the scheduled departure date, the operator will notify the participant in writing within 7 days after the cancellation, but in any event at least 10 days before the scheduled departure;

(j) That if a charter is canceled less than 10 days before departure (*i.e.*, for circumstances that make it physically impossible to perform the charter trip), the operator will get the message to the participant as soon as possible;

<sup>1</sup>If the credit card merchant account is separate from the depository account, it must be used solely as a conduit, *i.e.*, all credit card payments toward Public Charter trips must be immediately remitted to the depository account in full, without holdback, or retention of any portion of the participant's payment. If the depository bank is not the credit card merchant bank, the Department must be satisfied that there are adequate procedural safeguards for the protection of participants' payments.

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(k) That if the charter is canceled, a refund will be made to the participant within 14 days after the cancellation;

(l) The right to refunds if the participant changes plans is limited;

(m) The right to refunds if the participant changes plans, including

(1) The right to a full refund, for sales made by credit card, until an operator-participant contract is signed; and

(2) That any participant who wishes to cancel will receive a full refund (less any applicable administrative fee, not to exceed \$25) upon providing a substitute participant to the charter operator or its sales agent, or upon being substituted for by a participant found by the charter operator;

(n) The procedure for obtaining the refunds described in paragraph (m) of this section, including that they will be made within 14 days after the cancellation or substitution;

(o) The meaning of "major change", as set forth in §380.33(a);

(p) That if the charter operator knows of a major change 10 or more days before scheduled departure, the operator will notify the participant of the change within 7 days after first knowing of it, but in any event at least 10 days before scheduled departure;

(q) That is the operator first knows of a major change less than 10 days before scheduled departure, the operator will get the message to the participant as soon as possible;

(r) That within 7 days after receiving a pre-departure notification of a major change but in no event later than departure, the participant may cancel, and that a full refund will be made to the participant within 14 days after canceling;

(s) That upon a post-departure notification of a major change, the participant may reject the substituted hotel or the changed date, origin, or destination of a flight leg and be sent, within 14 days after the return date named in the contract, a refund of the portion of his payment allocable to the hotel accommodations or air transportation not provided;

(t) That the participants rights and remedies set forth in the contract, including the procedures for major changes, shall be in addition to any

other rights or remedies available under applicable law, although the operator may condition a refund on the participant's waiver of additional remedies;

(u) That trip cancellation, health, and accident insurance is available and that the operator will furnish details of the insurance to participants who check the space provided for this purpose on the contract form;

(v) The name and address of the surety company or bank issuing the security agreement; and that unless the charter participant files a claim with the charter operator or, if he is unavailable, with the securer, within 60 days after termination of the charter, the securer shall be released from all liability under the security agreement to that participant. Termination means the date of arrival (or in the case of a canceled charter, the intended date or arrival) of the return flight. If there is no return flight in a participant's itinerary, termination means the date or intended date of departure of the last flight in the participant's itinerary;

(w) For international flights only: That additional restrictions may be imposed on the flight by the foreign government involved, and that if landing rights are denied by a foreign government the flight will be canceled with a full refund to the participant. This statement need not be included in the contract if—

(1) The prospectus includes a certification by the charter operator and the direct air carrier that landing rights have been obtained from all the foreign governments involved, and

(2) All the foreign governments involved have adopted country-of-origin rules for charterworthiness;

(x) That the charter operator is the principal and is responsible to the participants for all services and accommodations offered in connection with the charter. However, the contract may expressly provide that the charter operator, unless negligent, is not responsible for personal injury or property damage caused by any direct air carrier, hotel or other supplier of services in connection with the charter.