



# IL SALVAGENTE

## GUARANTEE FUND

for the consumer of tourist package

**The Cooperative Society in R.L. "IL SALVAGENTE"**

in concert with

**A.I.A.V. Italian Association of Travel Agents**

- having regard to Legislative Decree No 62 of 21 May 2018 issued in implementation of Directive (EU) 2015/2302 of the European Parliament and of the Council on package tours and related tourist services; - having regard to the amendments made to Chapter I of Title VI of Legislative Decree No. 79 of 23 May 2011 (Code of State legislation on the organization and market of tourism), fully declared by the aforementioned Legislative Decree no. 62 of 21 May 2018; - having regard to Art. 47 paragraph 3 of legislative decree lgs. 79/2011 as amended, "Protection in the event of insolvency or bankruptcy", which allows organizers and intermediaries to form consortia or other forms of association suitable to provide collectively, also through the establishment of a special fund, to cover the risks referred to in paragraph 2 and which provides that the purposes of this paragraph can also be pursued through the direct involvement in consortia and other forms of associations of companies and trade associations in the insurance sector, including providing for forms of reinsurance; - having regard to the need for Italian tourist undertakings to provide themselves with appropriate consumer guarantee measures, and noting the impossibility of adopting bank guarantees and the difficulty of finding insurance policies capable of supporting the risk,

### Intend

to protect both the collective interests of the category of tourist enterprises defined as "travel agencies" which exercise, in accordance with the Law, the economic activities organized for the production, marketing, brokering and management of tourist packages, and the interests of consumers who address these companies.

## GENERAL TERMS AND CONDITIONS OF THE GUARANTEE FUND

**1 - CANCELLATION OF THE TRIP BEFORE DEPARTURE** (This section is valid and operating only if the relevant Annual Guarantee Fee has been paid).

**Art. 1.1 - Cover Covered by the Guarantee Fund** - The Guarantee Fund, constituted in accordance with the provisions of Art. 47 of Legislative Decree 79/2011, in case of insolvency or bankruptcy of the Contracting Member that determine the total impossibility of using the services purchased and included in the Tourist Package, subject to the travel contract, will compensate the Traveler a sum equal to the amount paid by them to the Contracting Member for the purchase of the Tourist Package itself. It will be the traveler's responsibility to prove through specific tax documentation (receipt, invoice, etc.) the amount of the sums actually paid to the Contracting Member.

**2 - IMMEDIATE RETURN/ REIMBURSEMENT OF SERVICES NOT ENJOYED/ CONTINUATION OF THE JOURNEY** (This section is valid and operating only if the relative Annual Guarantee Fee has been paid).

**Art. 2.1 - Cover Covered by the Guarantee Fund**



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If the insolvency or bankruptcy of the Contracting Member occurs during the Traveler's journey, and the tour package, subject to the travel contract, includes the traveler's transport, the Guarantee Fund:

- will bear the cost of the ticket for the immediate return of the Traveler (with equivalent means of transport compared to that originally provided for in the travel contract for the return) at the place of 2 return provided for in the purchased travel contract. The coverage will be operating only in the event that the travel tickets already in the possession of the Insured are not usable for immediate return.
- It will refund what the Traveler has documentedly paid to the Contracting Member for the services not enjoyed included in the Tourist Package, subject to the travel contract, purchased.
- It will reimburse the Traveler for the costs documented incurred before the immediate return, including those deriving from the need to delay the same for any difficulties of finding places on the means of transport. Alternatively, the Guarantee Fund will pay for the services not yet used by the Traveler in order to guarantee the latter full use of what was originally provided for in the travel contract.

### 3 - GENERAL REGULATION OF THE GUARANTEE FUND

**Art. 3.1 - Ceiling** - The covers provided in this Guarantee Fund are lent up to the total amount of the sums actually paid by the Traveller to the Contracting Member, documented, for the services purchased and not used, in the limit for accident /event/year and aggregate for all Travelers of 20% (twenty-percent) of the last volume of business and with the maximum limit of € 150,000.00 (one hundred and fifty thousand).

- turnover up to 200,000.00 euros; individual ceiling per Contracting Member euro 50,000.00
- turnover from 200,001.00 to 350,000.00 euros; individual ceiling per Contracting Member euro 60,000.00
- turnover from 350,001.00 to 500,000.00 euros; individual ceiling per Contracting Member euro 80,000.00
- turnover from 500,001.00 to 650,000.00 euros; individual ceiling per Contracting Member euro 100,000.00
- turnover from 650,001.00 to 800,000.00 euros; individual ceiling per Contracting Member euro 120,000.00
- turnover from 800,001.00 to 1,000,000.00 euros; individual ceiling per Contracting Member euro 140,000.00
- turnover over 1,000,000.00 euros; individual ceiling per Contracting Member euro 150,000.00

**Art. 3.2 - Documentation to be delivered to the Company** - Before the subscription of this Guarantee Fund, the Contracting Member will have delivered to the Company all the time-limited documentation whose lists can be found on the website: <http://www.ilsalvagente.info/legaranzie/documenti/documenti-integrativi-richiesti-per-agenzie-di-viaggioe-tour-operator/> .

In particular, the following documents will be determined for the formation of the Guarantee Fee:

- a) Modello Unico, ISA Annex (studi di settore), rigo C01 – rigo C03 (latest update available);
- b) "Agency evaluation form with monthly departures detail" correctly and fully completed;
- (c) Last financial statements filed in CCIAA, including a supplementary note.
- (d) Declaration by the trader attesting to the turnover of package tours in the last year, for which no official documents have yet been available.



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The Contracting Member also acknowledges that the documentation requested and provided is the essential element through which the Company has assessed the assumption of the Risk and, consequently, declares that it expressly accepts the company's right not to proceed with the subscription of the Guarantee Fund or to withdraw with immediate effect from this Guarantee Fund should the data declared and transmitted to the Company itself not prove, in whole or in part, to be true, complete and/or correct. In such event, nothing will be due to the Contracting Member by way of refunds, expenses, damages or compensation or any other title otherwise named. The documentation and information provided are necessary and fundamental elements for the assessment of the risk by the Company and therefore the same must be accurate, truthful and complete and no information and/or circumstance must be kept quiet, omitted or altered as this will lead to an assumption of responsibility both in civil and criminal proceedings.

The Contracting Member, to any legal effect, must be aware that untruthful, inaccurate or reticent statements relating to the information required for the conclusion of the contract may compromise the right to performance pursuant to and for the effects of Articles 1892c.C. "Inaccurate statements and reticence with gross misconduct or misconduct" and 1893 C.C. "Inaccurate statements and reticence without malicious misconduct or gross negligence" and that the Company has the right to:

- challenge the validity of the contract within three months of the day on which it became aware of the inaccuracy or reticence of the declaration;
- do not provide any insurance guarantee and refuse, at all time, any payment.

The Contracting Member must also be aware of the criminal liability arising from false statements and/or information during the application and/or renewal of the Fund.

The Contracting Member is required to constantly inquire about the updates of this Regulation as the subscription or renewal of the Fund implies acceptance of the Regulation itself.

**Art. 3.3 – Statements relating to the circumstances of the Risk** - Statements relating to circumstances affecting the risk assessment, whether false, inaccurate or reticent, and which are reported by the Contracting Member with malicious misconduct or gross negligence at the conclusion of the contract, will not take effect against the Traveler. If the claim occurs within three months of the day on which the inaccuracy of the declaration or reticence is known, the Fund shall not be required to pay any sum. If these declarations have been made falsely, inaccurately, or reticence, but not through malicious misconduct or gross negligence, the Fund may withdraw within three months of having experienced inaccuracy. If the claim occurs within three months of knowledge of the inaccuracy, the amount covered by the Fund will be reduced in proportion to the weight that these declarations will have on the development of the claim. However, it is understood that the Company will have the right to retaliate against the Contracting Member for any sums paid in regard to that part of risks communicated inaccurately and/or with the reticence of the Contracting Member himself.

**Art. 3.4 – Payment of the Guarantee Fee, effect and duration of the guarantee** - The effective date of the Guarantee Fund is represented by 00 hours (zerozero) of the day indicated on the Guarantee Certificate that corresponds to the date of actual payment of the annual fee. The quotas will have to be paid in full in advance and correspond to an entire year; there are no fractions. The duration of the validity of the coverage of the Guarantee Fund is one year (365 days) from the aforementioned effective date. The quotas will be



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determined on the overall value of sales of both intermediated and own-based package tours made during the previous year as specified below:

- a) from 000,000 to 200,000 Euros = Annual fee € 225.00 + Management expenses € 30.00
- b) from 200,001 to 350,000 Euros = Annual fee € 275.00 + Management expenses € 35.00
- c) from 350,001 to 500,000 Euros = Annual fee € 325.00 + Management expenses € 45.00
- d) from 500,001 to 650,000 Euros = Annual fee € 490.00 + Management expenses € 55.00
- e) from 650,001 to 800,000 Euros = Annual fee € 650.00 + Operating expenses € 60.00 4
- f) from 800,001 to 1,000,000 Euros = Annual fee € 750.00 + Management expenses € 70.00

For sales volumes exceeding 1,000,000.00 euros/year, the Annual Guarantee Fee will be defined by resolution of the Management Committee. "Management costs" will be subject to VAT.

**Art. 3.5 - Changes to the Guarantee Fund** - Any changes to the Guarantee Fund must be tried in writing.

**Art. 3.6 - Risk aggravation** - The Contracting Member must give written notice to the Company of any aggravation of the Risk. By partial derogation from Art. 1898 of the Civil Code, it remains understood among the Parties as, in case of aggravation of the risk in the course of the contract, the Company will have the right to require from the Contracting Member also the part of the highest Guarantee Share that it would have requested if it had been educated in regard to the real extent of the Risk.

**Art. 3.7 - Reduction of risk** - In the event of a decrease in risk, the Company is required to reduce the Guarantee Fee following the communication of the Contracting Member, pursuant to Art. 1897 of the Civil Code and waives the relative right of withdrawal.

**Art. 3.8 – Withdrawal in the event of an Accident** - After each Claim reported and up to the 60th (sixtyth) day from the day on which the Compensation was paid or the Claim was otherwise defined, the Contracting Member or the Company may withdraw from the Insurance Contract. The withdrawal has the effect of:

- in the event of withdrawal from the Contracting Member: from the date of sending his communication;
- in the event of the company's withdrawal: 30 (thirty) days have elapsed since the date of receipt by the Contracting Member of the communication sent by the Company.

In the event of withdrawal exercised by the Company, the latter, after 15 (fifteen) days from receipt by the Contracting Member of the withdrawal notice, will not cover the Risk related to the Tourist Packages sold by the Contracting Member from the aforementioned term. In this case, on the other hand, the coverage of the Risk in relation to the Tourist Packages sold by the Contracting Member until the effect of the withdrawal begins remains confirmed. All communications between the parties relating to this Article should be made by registered mail or by JEP.

**Art. 3.9 - Duration of coverage of the Fund** - The coverage of the Guarantee Fund has an annual duration and is signed without tacit renewal. It terminates and ceases all effect on the expiry date indicated on the Certificate of Membership of the Fund without the need by the Contracting Member or the Company to give any prior notification.



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## **Art. 3.10 - Start and duration of guarantees for Travellers**

**Section 1** – Cancellation of the trip before departure: In respect of individual Travellers, the guarantee starts from the date of purchase of the package intermediated or organized by the Contracting Member and ends on the day of departure, at the time when the Traveler begins to benefit from the first tourist service provided by the Contracting Member. Without prejudice to the provisions of the second paragraph of Art. 1.1.

**Sez. 2** – Immediate return / Reimbursement of services not enjoyed / Continuation of the trip: In respect of individual Travelers the coverage starts from the moment of departure of the trip and ceases at the end of the services covered by the Tourist Package.

**Art. 3.11 – Tax charges** - The tax charges related to the subscription of the Guarantee Fund are borne by the Contracting Member.

**Art. 3.12 – Reference to the rules of law - Right of subrogment** - For everything that is not differently regulated here, the rules of Italian law apply. All disputes are subject to Italian jurisdiction. Any retaliation, pursuant to art. 1916 of the Civil Code, against responsible Third Parties or other obliged subjects will be exercised by the Company for the same title as the Compensation paid. The right of the Company to exercise the right to subrogation also against the Contracting Member for each Compensation paid and for each assistance provided remains expressly confirmed, none except in the event of temporary default (i.e. temporary insolvency).

**Art. 3.13 – Exclusions and limits valid for all guarantees** - The guarantees provided for in this Guarantee Fund are not in operation in the case of:

- state of war (declared or not), revolution, riots or popular movements, looting, acts of terrorism or vandalism, strikes;
- earthquakes, floods and other natural phenomena as well as phenomena occurring in connection with the transformation or energy adjustments of the atom, artificially caused.
- Pandemic.
- traveler's arson or fraud.

**Art. 3.14 – Faculty of Withdrawal** - The parties will have the right to withdraw from this Guarantee Fund in the event of a change in the property or social fabric of the other party. This option may be exercised within 30 (thirty) days of knowledge of this change by means of a registered letter AR or PEC sent to the other party. In any case, the exercise of the right of withdrawal will take immediate effect and will make it impossible for the Company to cover the Risk related to the Tourist Packages sold by the Contracting Member from the aforementioned deadline. The risk relating to the Tourist Packages sold by the Contracting Member until the end of the withdrawal is confirmed.

**Art. 3.15 – Exclusion of alternative compensation** - If the Traveller does not receive one or more benefits, the Company is not required to provide compensation or alternative benefits as compensation.

**Art. 3.16 - Obligations of the Traveler in case of Accident** - In the event of an Accident, the Traveler must give a telephone notice and write to the Company in the manner provided for in the following details. Failure



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to comply with this obligation may result in the total or partial loss of the right to Compensation pursuant to Article 1915 of the Civil Code.

**Art. 3.17 - Territorial extension** - The Guarantee Fund is valid throughout the world. For the purposes of this Guarantee Fund, travel agencies not established in Italy may not qualify as a Contracting Member.

**Art. 3.18 - Criteria for the settlement of claims** - The Company undertakes to settle the claims that can be compensated within a maximum of 90 (ninety) days from the moment of receipt of all the documentation required for the education of the Claim. The payment of what is contractually due is made only upon presentation in the original of the relevant notules, distinct and received duly quieted. At the request of the Traveler, the Company returns the above originals, subject to the settlement date and the amount settled. If the Traveller has submitted to third parties the original of the notules, distinct and received to obtain reimbursement, the Company will make the payment of what is due under this contract after proof of the expenses actually incurred, net of what is borne by the aforementioned third parties. Refunds will always be made in Euros. The Company will reimburse the Traveler only after the presentation of the documentation proving, through specific tax documentation (receipt, invoice, etc.), the amount of the sums actually paid to the Contracting Member for the services not enjoyed.

**Art. 3.19 - Verification of documentation in the event of an accident** - In the event of an accident, the Guarantee Fund reserves, at its own unquestionable judgment, the right to ask the agency for the production of additional documentation accounting and /or tax that the same agency will have to acquire at its own care and expenses at its consultants, no later than the deadline that will be indicated by the company. Where, from the examination of that documentation and the comparison of the latter with that produced when joining the Guarantee Fund (referred to in Art. 2 of these conditions) inconsistencies or differences arise regarding the criteria for admission to the Guarantee Fund, or situations other than those declared arise, the company reserves, at its own unquestionable judgment, the right to deny the coverage of the Guarantee Fund with respect to the claim complained of and deny the compensation requested in full or in part.

**Art. 3.20 - Obligations of the Contracting Member** - The Contracting Member undertakes to deliver to Travellers, in paper or electronic format, the General Conditions of the Guarantee Fund and its glossary.

**Art. 3.21 - Reinsurance** - The company reserves the right to reinsurance the position of each individual Contracting Member, in whole or in part, with the Insurance Company to the liking of the Company and to the unquestionable judgment of the Board of Directors.

## **Art. 3.22 - Management Committee**

1. The Fund shall operate through a management committee, hereafter referred to as the Committee, with decision-making and control tasks consisting of:

- (a) a representative of the founding members of the Company (member of the company);
- b) a lawyer registered in the Bar Association of Turin;
- (c) a member of the National Council of the AIAV appointed by the President pro tempore of the Association, with the function of Chairman of the Committee;

2. The Management Committee shall decide:





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- (a) on each case for which assistance from the Fund is requested, setting out the timing and method of disbursement of the sum granted, on the basis of the investigation carried out;
- (b) any other matter relating to the application of the law and this Regulation;
- (c) any refunds of operations already carried out and not used for the purpose for which the Fund had intervened and the means of redress thereon;
- (d) the exercise of the right of redress against the person in place of which the Fund intervened.

3. In the cases referred to in paragraph 2(b), it shall be for the Committee to:

- (a) carry out all preparatory activities, as quickly as possible, to verify the existence of the requirements and conditions necessary for fund intervention.
- (b) decide on the determinations to be taken, taking into account also the allocation of the Fund;
- (c) order the appropriate checks to be carried out after the payment of the sum by the Fund.

## **WHAT TO DO IN CASE OF NEED - ASSISTANCE**

In case of Accident contact IMMEDIATELY the Guarantee Fund "IL SALVAGENTE s.c. a r.l." by calling the following number: 011 0888111. From abroad you can contact the Guarantee Fund by calling +39.011.0888.111 by immediately communicating the following information:

- First and last name
- Certificate of membership number of the Guarantee Fund
- Reason for the call
- Telephone number and/or address to which a contact will be possible.

## **WHAT TO DO IN CASE OF ACCIDENT - Other guarantees**

All Claims must be reported through one of the following procedures:

- Via the website [www.ilsalvagente.info](http://www.ilsalvagente.info), section "For the consumer" following the relevant instructions
- By e-mail by sending an email to [info@ilsalvagente.info](mailto:info@ilsalvagente.info)
- By phone at +39.011.0888.111

Correspondence and/or documentation should be sent to: THE LIFE JACKET S.c. a r.l. - Corso Regio Parco n. 15/bis - 10152 Torino (TO) - Operative Headquarters C/O AIAV According to the general rules and those that regulate each performance, it is necessary to correctly specify the damage suffered and, in order to speed up the liquidation times, it is necessary to attach to the complaint of the Accident the documentation indicated in each coverage and summarized below:

## **IMPORTANT NOTE**

It is always necessary to provide the Company with the originals of each document proving the payment of amounts from the Traveler to the Contracting Member. Compensation will be limited to the amounts actually paid to the Contracting Member, as evidenced by specific banking and tax documentation.

The Contracting Member must notify the Company of any change in the risk that may take place after the conclusion of the Guarantee Fund. Please note that the right to Compensation is prescribed after 2 (two) years from the last written request received by the Company regarding the Claim. (Art. 2952 Civil Code).



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Important! In any case of Claim, together with the documentation, the Insured sends to the Company the details of the current account on which he wants the refund or compensation to be credited (bank account number, bank, address, agency number, ABI codes, CAB and CIN). The current account communicated must be in the name/co-name of the Traveler who has signed the Travel Agreement.

## Glossary

The following text refers to:

**Traveler:** The person whose interest is protected by the Guarantee Fund or any traveler who has purchased the Tourist Package organized or intermediated by the Contracting Member.

**Fund or Guarantee Fund:** The coverage signed between the Contracting Member and the Company.

**Assistance:** Timely help, in cash or in kind, provided to the Traveler who is in difficulty following the occurrence of a Claim.

**Contracting Member:** The Travel Agency (legally constituted and authorized to exercise the activity) intermediary or organizer of the Tourist Package, as defined below.

**Travel contract:** The contract for the purchase and sale of the Tourist Package, concluded between the Travel Agency (i.e. the Contracting Member) and the Customer (i.e. the Traveler).

**Bankruptcy:** Legal institute regulated by the R.D. of 16 March 1942, No. 267 (bankruptcy law) and subsequent amendments. Bankruptcy is always affirmed by the competent Court according to the current rules through a special declaration, called "Declaration of Bankruptcy".

**Deductible:** A sum that is deducted from the amount of damage and that remains the responsibility of the Traveler for each Claim.

**Enterprise:** IL SALVAGENTE s.c. a r.l. – Corso Regio Parco n. 15/bis - 10152 Torino TO

**Compensation or indemnity:** The amount due by the Company in the event of an Accident covered by the guarantees of the Guarantee Fund.

**Insolvency:** The insolvency situation of the Contracting Member that manifests itself with defaults or other external facts, which prove that the debtor is no longer able to regularly fulfill his obligations, arising from the Travel Agreement, towards the Traveler; or • The appointment of an insolvency administrator for the Contractor, in accordance with Italian bankruptcy law or under any other law applicable to the insolvency or bankruptcy of the Contractor. The state of insolvency shall be considered manifest when the entrepreneur and/or the company which owns the Travel Agency is unable to use credit to meet the obligations on them or have become unavailable and have become a fugitive or have closed the premises where the business was carried out and/or fraudulently stolen or decreased the assets, this prevents the regular fulfilment of the obligations deriving from the Travel Agreement towards the Insured.

**Contracting Member :** The state of insolvency shall be considered manifest at the time when the entrepreneur and/or the company which owns the Travel Agency is unable to use the credit to meet the obligations imposed on them or have become unavailable and have become a fugitive or have closed the premises where the business was carried out and/or have fraudulently stolen or decreased the assets, this prevents the regular fulfilment of the obligations deriving from the Travel Agreement towards the Traveler.

**Italy:** The territory of the Italian Republic, the State of Vatican City and the Republic of San Marino.

**Ceiling:** The maximum cover obligation per claim and/or per coverage period provided for a specific guarantee.

**World:** All the countries of the world.

**Tourist package:** The tourist package (as defined in the Tourism Code, Legislative Decree no. 79 of 23 May 2011) described in the Travel Contract.

**Certificate of membership of the Fund:** The document certifying of membership of the Guarantee Fund.





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**Guarantee fee:** The sum due by the Contracting Member to the Company, calculated at the time of the conclusion of the Guarantee Fund and at the time of renewal of each annuity, (i.e. flat rate).

**Residence:** The place where the natural/legal person has his habitual residence/seat as shown in the personal certificate.

**Risk:** The probability that the harmful event against which the Guarantee Fund coverage is provided will occur.

**Tourist services:** Air passages, hotel accommodations, transfers, car rentals, etc. sold by the Contracting Member to the Traveler.

**Sinister:** The occurrence of the harmful event or event for which the Guarantee Fund Coverage is provided.

**Volume of Business:** The total amount of revenues made by the Contractor, including the costs of intermediated or organized trips and any commissions and fees deriving from sales, as evidenced by the Single Model, ISA Annex, staff C01 - staff C03 as well as the "Agency evaluation form with monthly departures detail" and /or the declaration of its professional attesting to the extent of the turnover of package tours.