

Trust Declaration Form

This Trust Declaration is made as of _____ by _____
(Date) (Travel Seller Legal Business Name: Travel Retailer/Wholesaler)
for the establishment of the **Travel Industry Act, 2002 Trust Account** for the benefit of its customers.

Part 1: Recitals

Whereas:

1. The travel seller is a travel agent or travel wholesaler as those terms are defined in the *Travel Industry Act, 2002* (the "Act").
2. The Act and Ontario Regulation 26/05 (the "Regulation") requires the travel seller to maintain a trust account for all money received from or on behalf of customers for travel services, designated as a "Travel Industry Act Trust Account".
3. [TICO's Trust Accounting Guidelines](#) (the "Guidelines") provide the details of how the trust account shall be maintained.
4. This Trust Declaration establishes the travel seller's Travel Industry Act Trust Account (the "Trust Account").

Part 2: Declaration

Now therefore the travel seller hereby declares as follows:

1. **Definitions:** Unless otherwise explicitly provided herein the definitions of terms in this Trust Declaration shall be the same as in the Act and the Regulation.
2. **The Travel Seller's Trust Account**
 - 2.1 The travel seller hereby establishes the travel seller's Trust Account and appoints itself as Trustee.
 - 2.2 The travel seller's Trust Account shall consist of the funds received from time to time from or on behalf of customers for travel services whether in cash, or by credit card payments, or any other method of payment (the "Funds"). The Funds shall constitute the Trust Account hereby created and established (the "Travel Industry Act Trust Account")
 - 2.3 The travel seller has established the following bank account (s) for the purpose of segregating the Trust Account from the travel seller's other bank accounts and any other property, which are listed on the letter from the travel seller's bank dated _____ and attached as Schedule A.
 - 2.4 The travel seller accepts the trust and undertakes to deposit, hold, distribute, and administer the Trust Account in accordance with the provisions of this Declaration, the Act, the Regulation, the Guidelines, and any other relevant legislative provisions.
 - 2.5 The Trust Account includes all Funds now or hereinafter received by the travel seller from or on behalf of customers for travel services.
 - 2.6 It is the intent of the travel seller, in establishing this Trust Account, that all Funds deposited into the Trust Account shall always be held for the benefit of customers. At no time shall any part of the Trust Account be used for or diverted to purposes other than for the exclusive benefit of the customers.
3. **Term of the Trust**
 - 3.1 The Trust Declaration shall be continued until such time as a new trust declaration is executed as part of the annual registration renewal process.

4. Records and Accounts

- 4.1 The travel seller shall establish and maintain true and accurate records and books of account by booking of all proceedings and financial transactions for the Trust Account, in accordance with the Act, the Regulation, the Guidelines, and any other relevant legislative provisions.
- 4.2 The Trust Account shall be reconciled when the surplus is transferred to the general account. At no time shall the amount in the Trust Account be less than the amount received from customers for travel less any payments made by customers or on customers' behalf for travel services. Amounts in excess of this minimum requirement for a particular booking may be transferred to the travel seller's general account as a surplus when and only when all suppliers for a particular booking have been paid.
- 4.3 Payment must be received from or on behalf of the customer before payment can be made from the Trust Account for the travel services purchased for that customer's booking.

5. General Provisions

- 5.1 This Trust Declaration may not be modified, amended, cancelled or in any way altered, nor may it be modified by custom and usage of trade or course of dealing, except by an instrument in writing and executed by TICO and the travel seller.
- 5.2 If any provision of this Trust Declaration is deemed or held to be unlawful, void, or for any reason, unenforceable, it shall be deemed severable from, and shall in no way affect the validity or enforceability of the remaining provisions hereof or thereof, which shall remain valid and enforceable according to their terms. If such illegality shall make impossible or impractical the functions of the Trust Account, TICO shall have the option of either terminating this Trust Declaration or adopting a new provision to take the place of the illegal, void, or unenforceable provision.
- 5.3 The recitals above set forth are incorporated herein by reference. Each recital of fact concerning a party shall be conclusive as between the parties hereto.
- 5.4 **Governing Law:** This Trust Declaration was made in the Province of Ontario, and its validity, construction, interpretation, and legal effect shall be governed by the laws and judicial decisions of Ontario.
- 5.5 **Choice of Forum:** Any action at law or in equity arising under this Trust Declaration shall be filed only in the Courts of the Province of Ontario.

6. Consent

- 6.1 The travel seller agrees to act and deal with the Trust Account in accordance with the terms of this Trust Declaration.
- 6.2 The travel seller hereby irrevocably consents to the Registrar, *Travel Industry Act, 2002* (the "Registrar") to obtain any financial information about the accounts listed in the letter from the travel seller's bank and authorizes the bank to disclose the information to the Registrar.
- 6.3 The travel seller further authorizes the bank to apply any property freezing order issued by the Registrar against the travel seller's property that it holds on deposit, under its control or for the travel seller for safe keeping, regardless of the jurisdiction of the property.

Date (MM/DD/YYYY) *

Print Name (authority to bind company)

Applicant Signature