



Terms and Conditions

1. Definitions

The following expressions shall have the following meanings:

- 1.1 "Supplier" means Heathery Heights of Lochgilphead, Argyll;
- 1.2 "Customer" or "Client" means any person who purchases Services from Heathery Heights;
- 1.3 "Consumer" shall have the meaning ascribed in section 2 of the Consumer Rights Act 2015;
- 1.4 "Services" means the services described in the Agreement to be provided by Heathery Heights to the Client;
- 1.5 "Terms and Conditions" means the terms and conditions of supply of Services set out in this document and any subsequent terms and conditions agreed in writing by Heathery Heights;
- 1.6 "Booking" means the formal request by the Client for Services provided by Heathery Heights;
- 1.7 "Agreement" means the contract between Heathery Heights and the Client for the provision of the Services incorporating these Terms and Conditions.

2. General

- 2.1 Please read these Terms and Conditions carefully as they will make up the basis of the Agreement with Heathery Heights.
- 2.2 These Terms and Conditions shall apply to the Agreement for the supply of Services by Heathery Heights to the Client and shall supersede any other documentation or communication between Heathery Heights and the Client.
- 2.3 Any variation to these Terms and Conditions must be agreed in writing by Heathery Heights.
- 2.4 Nothing in these Terms and Conditions shall prejudice any condition or warranty, express or implied, or any legal remedy to which Heathery Heights may be entitled in relation to the Services, by virtue of any statute, law or regulation.
- 2.4 Nothing in these Terms and Conditions shall affect the Client's statutory rights as a Consumer.
- 2.5 Heathery Heights reserves the right to change these Terms and Conditions without notice. Please check the website from time to time for any changes as these Terms and Conditions are binding.

3. Booking

- 3.1 Heathery Heights specialises in guided walks and related activities for individuals and small groups (the normal maximum is 8-12 persons per guide but - due to Coronavirus - numbers will conform to Government guidelines for the country in which the activity is taking part). For larger groups please contact Heathery Heights for information on how to book.
- 3.2 To make a Booking please contact Heathery Heights for available dates before completing a Booking Form. A provisional date can be held for up to 7 days but it is not secured until a confirmed booking Agreement is made (see 3.7).
- 3.3 A Booking may only be made by persons over the age of 18. The Client making the Booking does so on behalf of all persons [Clients] in the group and is deemed to have the authority to do so. The Client, by making the Booking, accepts all the Terms and Conditions herein.
- 3.4 Persons under 18 years of age may form part of a group if a parent or appointed responsible adult accompanies them at all times. It is the duty of the parent or appointed responsible adult to ensure that those in their care comply with these Terms and Conditions in their entirety. Please discuss requirements with Heathery Heights to ensure a Booking is appropriate and to avoid disappointment, particularly for younger children.
- 3.5 Heathery Heights welcomes persons from every background and with a wide range of abilities. Please discuss requirements with Heathery Heights to ensure a Booking is appropriate and to avoid disappointment.
- 3.6 Clients must complete and accept the Booking Form in its entirety and return it to Heathery Heights with either the full payment or a non-refundable deposit. Please see section 4 for payment details.
- 3.7 The Agreement between Heathery Heights and the Client, incorporating these Terms and Conditions, shall only come into force when all of the following criteria are fulfilled:
- Heathery Heights receives the booking form
 - Heathery Heights receives the full payment or deposit (see 4)
 - Heathery Heights confirms the booking in writing to the Client, by letter or email.

Prior to confirmation Heathery Heights reserves the right to refuse any Booking. Payments, including deposits less expenses incurred, will be returned to the Client if a Booking is refused.

4 Price and payment

- 4.1 Please contact Heathery Heights for a price when making a Booking as it will depend on group numbers and requirements. Guideline prices for Services are as follows:
- Guided day walks (generally less than 8 hours)- from £180
 - Guided challenge day walks (generally over 8 hours) - from £200
 - Multi day/long distance walks, expeditions and navigations skills - price on request
 - Deposit (non-refundable): £50 per day/per guide (all Bookings)

4.2 To reserve a Booking for services with Heathery Heights the Client must pay either:

A non-refundable deposit of £50 per day/per guide booked with the remaining balance due four weeks (28 days) prior to the commencement of agreed Services

OR

Payment in full at the time of booking for bookings made within four weeks (28 days) of the commencement of agreed Services.

4.3 Heathery Heights currently only accepts payments via Bank Transfer, payable to 'Heather Thomas-Smith'. The details are on the Booking Form. Deposits and fees are not considered paid until they have cleared into our bank account.

4.4 Heathery Heights is also entitled to recover all reasonable expenses incurred in obtaining payment from the Client where any payment due to Heathery Heights is late.

4.5 The Client is not entitled to withhold any monies due to Heathery Heights; failure to pay any balance due by the correct date may result in Heathery Heights cancelling the Booking with no recompense.

4.6 Heathery Heights is entitled to vary the price to take account of:

- any additional Services requested by the Client which were not included in the original Booking;
- any significant increase in costs that affect Services offered beyond the control of Heathery Heights (ie government action)

and any variation must be intimated to the Client in writing by Heathery Heights.

5 Client Obligations

5.1 The Client acknowledges that the booking Agreement is based on their acceptance of the following:

5.1.1 Risk: There is inherent risk when undertaking outdoor activities. Our activities often take place in mountainous and remote areas. Such environments may involve a wide range of hazards including, but not limited to, water; uneven and/or slippery ground; scree; inclement weather conditions; steep terrain; remote location; farm and other animals; people and manmade hazards. Such hazards may carry a risk of injury or death.

5.1.2 Health: Activities in the outdoors can be demanding and require a good level of fitness, strength and stamina. It is the responsibility of the Client to ensure they are physically able to participate and that, if they are in any doubt about their medical health or suitability for an activity, they seek advice from their GP. If a Client's fitness is not commensurate for an activity on the day and they have to retire early they must do so at their own expense. The Client must notify Heathery Heights of any medical conditions/medication/allergies/dietary needs or other special requirements, including emergency contact details, and complete a health form for use during the activity. Please see our Privacy Policy for more details.

5.1.3 Safety: The Client agrees that they will act in a safe and responsible manner at all times and that they are prepared to take responsibility for their own actions and involvement whilst participating in any activity provided by Heathery Heights. The Client agrees to abide by instructions and guidelines provided by Heathery Heights and the Government, which may include but is not limited to: following Governmental/Public Health/WHO guidelines for the country in which the activity is being undertaken; ensuring you have suitable clothing/footwear, food and equipment for your activity; respect for the environment. The Client understands that Heathery Heights reserves the right to cancel or alter routes/activities if issues arise that compromise safety including inclement weather, injury, bad behaviour and unsuitable equipment. (Please see 15 for separate conditions appertaining to Force Majeure)

5.1.4 Dogs: Heathery Heights welcomes dogs on many Guided Walks but there may be routes which are unsuitable or where there are exclusions in place. Please contact Heathery Heights about the suitability of a route before bringing your dog. Clients are fully responsible for their dogs and must ensure they are kept under close control at all times. Heathery Heights accepts no liability for loss, damage, infection or injury associated with a Client's dog in any form.

5.1.5 Countryside Code (England & Wales)/Scottish Outdoor Access Code (Scotland): The Client agrees to follow the Countryside Code/Scottish Outdoor Access Code guidelines to help preserve and look after the special qualities of the environment, its flora and fauna. More information can be found at <https://www.gov.uk/government/publications/the-countryside-code> and <https://www.outdooraccess-scotland.scot/>. The BMC '[Green Guide to the Uplands](#)' booklet is also very useful and can be found as a PDF online.

5.1.6 Data: The Client agrees to provide the necessary information required on Booking to enable Heathery Heights to: process the Booking; undertake administration; enhance the Services offered through the website and marketing; comply with legislation. Please see our Privacy Policy for more information.

5.1.7 Images: The Client agrees to allow Heathery Heights to record activities via photography, digital imagery, video and sound for marketing purposes relating solely to the business of Heathery Heights. If there are any instances where this is not acceptable to the Client they should make this clear in writing to Heathery Heights prior to the commencement of Services.

5.2 The Client shall be liable for any expenses incurred by Heathery Heights as a result of the Client's failure to comply with the obligations as defined by these Terms and Conditions.

6 Heathery Heights Obligations

6.1 Heathery Heights shall supply the Services as specified in the booking Agreement.

6.2 Heathery Heights is committed to Customer satisfaction and shall perform the Services with reasonable skill and care, to a reasonable standard and in accordance with recognised codes of practice.

6.3 Heathery Heights shall comply with all relevant health and safety regulations and within the remit of the relevant mountaineering/outdoor activity qualification gained.

- 6.4 Heathery Heights shall ensure that all necessary qualifications and certificates required to provide the Services are current including but not limited to [Mountain Leader (Summer); Outdoor First Aid].
- 6.5 Heathery Heights shall hold a valid public liability insurance policy.
- 6.6 Heathery Heights shall protect and respect Client privacy and conform with the Data Protection Act 2018. Please see our Privacy Policy for more details.

7 Cancellation

7.1 The Client may need to cancel or request a change of Services with Heathery Heights for a number of reasons. Cancellations and requests for a change of Services, including date, should be made immediately to Heathery Heights by phone, followed by a confirmation in writing.

7.1.1 Where a Client requests a change of Services, including date, Heathery Heights will endeavour to amend the booking where possible to suit the Client. However, please note Heathery Heights is at no obligation to do so and a change may be construed as a cancellation.

7.1.2 Where a Client requests a cancellation of Services **less** than four weeks prior to commencement of agreed Services Heathery Heights is entitled to retain the non-refundable deposit and the balance of monies owed must be paid in full. If the Services are resold prior to their commencement Heathery Heights is entitled to retain the non-refundable deposit and other monies paid to Heathery Heights will be refunded to the Client subject to the deduction of expenses and any shortfall in income incurred by Heathery Heights caused by the Client's cancellation of Services.

7.1.3 Where a Client requests a cancellation of Services **more** than four weeks prior to commencement of agreed Services Heathery Heights is entitled to retain the non-refundable deposit. Other monies paid to Heathery Heights will be refunded in full subject to the deduction of expenses incurred by Heathery Heights on behalf of the Client.

7.2 Heathery Heights, whilst endeavouring to avoid changes or cancellations, has the right to change or cancel Services offered in accordance with these Terms and Conditions. If, for any reason, Heathery Heights has to cancel Services outwith these Terms and Conditions the Client will be offered either an alternative date or a full refund for any monies paid for Services cancelled including the deposit.

8 Insurance

It is highly recommended that the Client takes out adequate holiday/travel insurance, to cover accommodation, travel, hillwalking and any other outdoor activities in which they wish to participate. Heathery Heights accepts no liability for costs other than those ascribed to in these Terms and Conditions. Personal insurance will give the Client peace of mind and will usually cover a variety of issues that may arise, ie delays or cancellation for travel and accommodation; loss, damage to or theft of equipment; illness or injury.

9 Intellectual Property Rights

All intellectual property rights, registered or unregistered, including but not limited to patents, trademarks, design rights and know-how remain the property of Heathery Heights and cannot be used by the Client without the written permission of Heathery Heights.

10 Property and Risk

10.1 Heathery Heights takes every care to ensure property and equipment belonging to Heathery Heights is in good condition and fit for purpose. Risk in any property or equipment used to provide the Services shall pass to the Client when they are in the physical possession of the Client, ie if a client borrows walking poles or a head torch.

10.2 Title or ownership of any property or equipment belonging to Heathery Heights remains with Heathery Heights. Any property or equipment belonging to Heathery Heights that is lost or damaged whilst in the possession of the Client must be paid for in full.

11 Default

11.1 The Agreement shall continue until the Services have been provided in terms of the booking or any subsequent date as mutually agreed in writing by both parties or until terminated by either party in accordance with these Terms and Conditions.

11.2 Either party may terminate the Agreement by notice in writing to the other if:

11.2.1 the other party commits a material breach of these Terms and Conditions and, in the case of a breach capable of being remedied, fails to remedy it within a reasonable time of being given written notice from the other party to do so; or

11.2.2 the other party commits a material breach of these Terms and Conditions which cannot be remedied under any circumstances; or

11.2.3 the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect; or

11.2.4 the other party ceases to carry on its business or substantially the whole of its business; or

11.2.5 the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

11.3 In the event of termination the Client must make over to Heathery Heights any payment due for Deposits, Services and expenses incurred up to the date of termination.

11.4 Any rights to terminate the Agreement shall be without prejudice to any other accrued rights and liabilities of the parties arising in any way out of the Agreement as at the date of termination.

12 Warranties

Heathery Heights warrants that the Services will be performed using all reasonable skill and care.

13 Limitation of Liability

13.1 Heathery Heights shall not be responsible for:

13.1.1 losses that were not caused by any breach on the part of Heathery Heights; or

13.1.2 losses outwith the Agreement for Services (including but not limited to accommodation, travel, food, equipment); or

13.1.3 any business loss (including loss of profits, revenue, contracts, anticipated savings, data, goodwill or wasted expenditure); or

13.1.4 any indirect or consequential losses that were not foreseeable to both the Client and Heathery Heights (ie Force Majeure).

13.2 Heathery Heights shall not be held responsible for any delay or failure to comply with its obligations under these Terms and Conditions if the delay or failure arises from any cause which is beyond its reasonable control. This condition does not affect the Client's legal right to have Services provided within a reasonable time or to receive a refund if Services ordered cannot be supplied within a reasonable time owing to a cause beyond Heathery Heights' reasonable control.

13.3 Nothing in these Terms and Conditions limits or excludes Heathery Heights' responsibility for fraudulent representations made by it or for death or personal injury caused by Heathery Heights' negligence or wilful misconduct.

14 Indemnity

The Client shall indemnify Heathery Heights against all claims, costs and expenses which Heathery Heights may incur and which arise directly or indirectly from the Client's breach of any of its obligations under these Terms and Conditions.

15 Force Majeure

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, terrorist activity, epidemics,

fire, flood, severe weather conditions and unavoidable or unforeseeable technical problems with transport, and the party shall be entitled to a reasonable extension of its obligations.

16 Assignment

The Client shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of Heatherly Heights.

17 Severance

If any term or provision of these Terms and Conditions is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if these Terms and Conditions had been agreed with the invalid, illegal or unenforceable provision eliminated.

18 Waiver

The failure by either party to enforce at any time or for any period any one or more of the Terms and Conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all Terms and Conditions.

19 Notices

Any notice to be given by either party to the other may be served by email, personal service or by post to the address of the other party given in the Booking or such other address as such party may from time to time have communicated to the other in writing. If a notice is sent by email it shall, unless the contrary is proved, be deemed to be received on the day it was sent; if given by letter it shall, unless the contrary is proved, be deemed to have been served at the time at which the letter was delivered personally or if sent by post it shall, unless the contrary is proved, be deemed to have been delivered in the ordinary course of post.

20 Entire Agreement

These Terms and Conditions supersede any previous agreements, arrangements, documents or other undertakings either written or oral.

21 Governing Law

These Terms and Conditions shall be governed by and construed in accordance with the law of Scotland and the parties hereby submit to the exclusive jurisdiction of the Scottish courts.