

**2023 KIRBY CONTRACT MOOT  
CLARIFICATIONS**

**A. CLARIFICATIONS**

1. The helicopter flew to and from the Island once per day on each day in June 2022. The helicopter had a seating capacity exceeding the total number of Guests at all times. The helicopter takes Guests from the Island shortly after delivering arriving Guests, at about 5.45am.
2. The Terms and Conditions were displayed in full on the same page of B&W Lotus' website as the "confirm and pay" button that Portia clicked in order to complete the booking. On that webpage, the text of the Terms and Conditions was located above the "confirm and pay" button. The Terms and Conditions were also displayed in full in the body of the confirmation email that Portia received after completing Ms Coolidge's booking.
3. All rooms and services at the Hotel were provided in accordance with the description of the 2022 Winter Solstice Package between 18 and 24 June 2022.
4. The Palermo's crew are employees of B&W Lotus. B&W Lotus owns the Palermo.
5. The Terms and Conditions did not include a right for a Guest to cancel his or her booking and obtain a refund.
6. The Terms and Conditions did not include an "entire agreement" clause.

**B. OTHER MATTERS**

7. The parties must only make submissions in respect of the Claims with reference to the common law of contract. The parties must not make submissions with reference to any legislation or equitable doctrine.
8. The parties must make submissions in respect of each Claim as described in the Joint Referral to Arbitration and the Expert Determination.