

CINOLLA ACTIVITY - TERMS OF SERVICE

This Terms of Service document (the "**Terms**") is a legal agreement between Cinolla Software Limited of 26 Caledon Road, Lower Parkstone, Poole, Dorset, BH14 9NN ("**we**", "**us**", "**our**") and you, our customer ("**you**", "**your**"), for access to and use of the Cinolla Activity Platform subscription service.

AGREED TERMS

1 INTERPRETATION

1.1 In these Terms, the following definitions and rules of interpretation shall apply:

- 1.1.1 **"Authorised Users"** means those users (who may be employees, agents, independent contractors or volunteers of yours) who are authorised by you to access the Platform and use the Services and the Documentation. Your maximum number of Authorised Users will depend on your chosen Subscription.
- 1.1.2 **"Business Day"** means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
- 1.1.3 **"Centre"** means a physical site from which your organisation operates. We grant Subscriptions on a per-Centre basis.
- 1.1.4 **"Confidential Information"** means information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 12.6 or clause 12.7.
- 1.1.5 **"Customer Data"** means the data inputted onto the Platform by you, by your Authorised Users, or by us (on your behalf).
- 1.1.6 **"Data Protection Legislation"** means the General Data Protection Regulation ((EU) 2016/679) ("**GDPR**") (so long as the GDPR is directly applicable in the UK) and the Data Protection Act 2018 and any other regulations and secondary legislation, as amended or updated from time to time, in the UK.
- 1.1.7 **"Documentation"** means the documentation (including any instructional materials and the Cinolla knowledge base) relating to the Platform which we provide or make available to you from time to time.
- 1.1.1 **"Effective Date"** means the commencement date set out in your Fee Quote or, if no Fee Quote is provided, such time as you are permitted access to the Platform as a paid user.
- 1.1.2 **"Fee Quote"** means the fee quote provided to you in accordance with clause 10.2, the terms of which may be varied from time to time in accordance with clause 10.3.
- 1.1.3 **"Normal Business Hours"** means 8.00 am to 6.00 pm local UK time, each Business Day.
- 1.1.4 **"Platform"** means the Cinolla Activity Platform.
- 1.1.5 **"Renewal Period"** means the period described in clause 15.1.
- 1.1.6 **"Services"** means the services provided by us to you under these Terms via the Cinolla Activity Platform from time to time, comprising the Cloud based booking Platform and its resource and staff management features, customer relationship management features, online booking functionality (price plan dependent), financial reporting and integrations, and our customer support service.
- 1.1.7 **"Subscription"** means your subscription to access to the Platform, Documentation and to receive the Services. The terms of your Subscription are confirmed in your Fee Quote.
- 1.1.8 **"Subscription Fee"** means the subscription fee payable by you to us for the access to and use of the Platform and Documentation and for receipt of the Services.
- 1.1.9 **"Subscription Term"** has the meaning given in clause 15.1 (being the Initial Subscription Term together with any subsequent Renewal Periods).

1.1.10 **"Virus"** means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of these Terms.

1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.

1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

1.5 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of these Terms.

1.6 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of these Terms under that statute or statutory provision.

2 ACCEPTANCE

These Terms govern the legal relationship between you and us in relation to your access and use of the Platform, Documentation and Services. By accessing the Platform or Documentation, or by permitting your Authorised Users to do the same, you will be deemed to have accepted these Terms.

3 TERMS OF TRIAL

3.1 If you are trialling the Platform or Services on an unpaid basis then, until such time as you become a paying customer (which shall occur upon us issuing an invoice to you and you settling that invoice in full):

3.1.1 the following sections in these Terms are hereby excluded: clause 5 (Services); and clause 8 (Our Obligations); and

3.1.2 to the extent not already excluded by the preceding clause 3.1.1, we give you no representation or warranty whatsoever concerning the Platform, Services or Documentation.

4 LICENCE

In consideration of the Subscription Fee paid by you to us, we hereby grant you a non-exclusive, non-transferable right to permit you and your Authorised Users to access the Platform and use the Services and the Documentation during the Subscription Term in accordance with these Terms.

5 SERVICES

5.1 We shall, during the Subscription Term, provide the Services and make available the Documentation to you on and subject to these Terms.

5.2 We shall use commercially reasonable endeavours to make the Services available 24 hours a day, seven days a week, except for:

5.2.1 planned maintenance carried out during the maintenance window of 10.00 pm to 4.00 am UK time; and

5.2.2 unscheduled maintenance performed outside Normal Business Hours, provided that we have used reasonable endeavours to give you at least 6 Normal Business Hours' notice in advance.

5.3 We will, as part of the Services provide you with our standard customer support during Normal Business Hours.

6 CUSTOMER DATA

- 6.1 You shall own all right, title and interest in and to all Customer Data and you shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of all such Customer Data.
- 6.2 We backup Customer Data on a periodic basis (currently every four hours). These backups are made on a snap-shot basis and so capture only the information which exists on our systems at the time of the backup.
- 6.3 Should we experience any issues with accessing Customer Data from our hosting providers (e.g. as a result of technical issues experienced by Amazon Web Services) then we will make commercially reasonable endeavours to reinstate Customer Data to the Platform as soon as reasonably practicable using the latest backup available to us.

7 DATA PROTECTION

- 7.1 We shall, in providing the Services, comply with our then-current Privacy Notice (accessible from <https://www.cinolla.com/privacy-policy/>) in order to ensure the privacy and security of Customer Data.
- 7.2 Both you and we will comply with all applicable requirements of Data Protection Legislation when discharging our obligations under these Terms. This clause 7 is in addition to, and does not relieve, remove or replace, our respective obligations under Data Protection Legislation.
- 7.3 You and we hereby acknowledge that:
 - 7.3.1 where we process any personal data on your behalf when performing our obligations under these Terms, you are the data controller and we are the data processor for the purposes of Data Protection Legislation (where "**Data Controller**" and "**Data Processor**" have the meanings as defined in the Data Protection Legislation);
 - 7.3.2 Schedule 1 sets out the scope, nature and purpose of processing by us, the duration of the processing and the types of personal data and categories of data subject (as defined in the Data Protection Legislation, "**Personal Data**", "**Data Subject**") to be processed by us under these Terms; and
 - 7.3.3 the Personal Data may be transferred or stored outside the EEA or the country where you and your Authorised Users are located in order to carry out the Services and our other obligations under these Terms.
- 7.4 Without prejudice to the generality of clause 7.2, you will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to us for the duration and purposes of these Terms so that we may lawfully use, process and transfer the Personal Data in accordance with these Terms on your behalf.
- 7.5 Without prejudice to the generality of clause 7.2, we shall, in relation to any Personal Data processed in connection with the performance by us of our obligations under these Terms:
 - 7.5.1 unless otherwise required, process that Personal Data only on your written instructions unless we are required by the laws of any member of the European Union or by the laws of the European Union applicable to us ("**Applicable Laws**") to process the Personal Data in another manner;
 - 7.5.2 where we are relying on Applicable Laws as the basis for processing Personal Data, we shall promptly notify you of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit us from notifying you in this manner;
 - 7.5.3 not transfer any Personal Data outside of the European Economic Area and the United Kingdom unless the following conditions are fulfilled:
 - 7.5.3.1 you or we have provided appropriate safeguards in relation to the transfer;
 - 7.5.3.2 the data subject has enforceable rights and effective legal remedies;

- 7.5.3.3 we comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- 7.5.3.4 we comply with reasonable instructions notified to us in advance by you with respect to the processing of the Personal Data;
- 7.5.4 assist you, at your cost, in responding to any request from a Data Subject and in ensuring compliance with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 7.5.5 notify you within 72 hours upon us becoming aware of a Personal Data breach;
- 7.5.6 at your written direction, delete or return Personal Data and copies thereof to you on termination of these Terms unless required by Applicable Law to store the Personal Data; and
- 7.5.7 maintain complete and accurate records and information to demonstrate our compliance with this clause 7.
- 7.6 Both you and we shall respectively ensure that we have in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of your and our respective systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures; and
- 7.7 You hereby consent to us appointing a third-party processor of Personal Data under these Terms. We confirm that we have or (as the case may be) we will enter into a written agreement incorporating terms which are substantially similar to those set out in this clause 7 with the third-party processor. As between you and us, we shall remain fully liable for all acts or omissions of any third-party processor appointed by us pursuant to this clause 7.

8 OUR OBLIGATIONS

- 8.1 We undertake that:
 - 8.1.1 the Services will be performed with reasonable skill and care; and
 - 8.1.2 the Platform and Services will materially conform to the specifications provided on our website, *www.cinolla.com*, as may be updated from time to time in line with the Platform's routine development.
- 8.2 The undertaking at clause 8.1 shall not apply to the extent of any non-conformance which is caused by use of the Platform or Services contrary to our instructions, or modification or alteration of the Platform or Services by any party other than us or our duly authorised contractors or agents.
- 8.3 If the Platform or Services do not conform to the undertaking at clause 8.1, we will, at our expense, use all reasonable commercial endeavours to promptly correct such non-conformance, or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your sole and exclusive remedy for any breach of the undertaking set out in clause 8.1.
- 8.4 Notwithstanding the foregoing clauses 8.1 to 8.3, we:
 - 8.4.1 do not warrant that your use of the Platform or Services will be uninterrupted or error-free; or that the Platform, Services, Documentation and/or the information obtained by you through the Platform or Services will meet your requirements; and

8.4.2 are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and you acknowledge that the Platform, Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

8.5 We warrant that we have and will maintain all necessary licences, consents, and permissions necessary for the performance of our obligations under these Terms.

9 CUSTOMER'S OBLIGATIONS

9.1 You shall not:

9.1.1 (and shall not permit any third party to) copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Platform in whole or in part;

9.1.2 (and shall procure that your Authorised Users do not) access, store, distribute or transmit any Viruses, or any material during the course of your (or their) use of the Platform and Services that:

9.1.2.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

9.1.2.2 facilitates illegal activity;

9.1.2.3 depicts sexually explicit images;

9.1.2.4 promotes unlawful violence;

9.1.2.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or

9.1.2.6 is otherwise illegal or causes damage or injury to any person or property,

and we reserve the right, without liability or prejudice to our other rights to you, to disable your (and your Authorised Users') access to any material that breaches the provisions of this clause;

9.1.3 except as may be allowed by any applicable law which is incapable of exclusion by agreement between you and us and except to the extent expressly permitted under these Terms:

9.1.3.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform and/or Documentation (as applicable) in any form or media or by any means; or

9.1.3.2 attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Platform; or

9.1.3.3 access all or any part of the Services and Documentation in order to build a product or service which competes with the Services and/or the Documentation; or

9.1.3.4 use the Services and/or Documentation to provide services to third parties (other than in the ordinary course of your business); or

9.1.3.5 subject to clause 22.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except the Authorised Users;

9.1.4 permit access to the Platform to a number of Authorised Users, and/or from a number of Centres, which exceeds the limits permitted under your Subscription. We reserve the right, without liability to you, to restrict the creation of further user accounts in order to

enforce these restrictions where we reasonably believe you have reached or exceeded the limits set by your Subscription.

9.2 You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Platform, Services and/or the Documentation and, in the event (or your reasonable suspicion) of any such unauthorised access or use, promptly notify us.

9.3 You shall:

9.3.1 provide us with:

9.3.1.1 all necessary co-operation in relation to these Terms; and

9.3.1.2 all necessary access to such information as may be required by us,

in order to provide the Services, including but not limited to Customer Data, security access information and configuration services;

9.3.2 without affecting your other obligations under these Terms, comply with all applicable laws and regulations with respect to your activities under these Terms;

9.3.3 carry out your responsibilities set out in these Terms in a timely and efficient manner;

9.3.4 ensure your login credentials (and those of your Authorised Users) are kept secure at all times and shall be responsible for, and hold us harmless from, any Authorised User's breach of our End User Licence Agreement (available from <https://www.cinolla.com/end-user-license>);

9.3.5 obtain and shall maintain all necessary licences, consents, and permissions necessary for us, our contractors and agents to perform our obligations under these Terms, including without limitation the Services;

9.3.6 ensure that your network and systems comply with the relevant specifications provided by us from time to time; and

9.3.7 be, to the extent permitted by law and except as otherwise expressly provided in these Terms, solely responsible for procuring, maintaining and securing your network connections and telecommunications links from your systems to our data centres, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or telecommunications links or caused by the internet.

10 CHARGES AND PAYMENT

10.1 You shall pay your Subscription Fee in accordance with this clause 10.

10.2 The amount and payment terms of your Subscription Fee will be set out in the Fee Quote we provide to you at the outset of your Subscription.

10.3 We may vary the amount of your Subscription Fee, its payment terms and any related restrictions on your use of the Platform and Services from time to time by providing you with a revised Fee Quote in respect to an upcoming Renewal Period (as such term is defined in clause 15.1). In doing so we will endeavour to adhere to any limitations contained in our previous Fee Quote.

10.4 All amounts and fees stated or referred to in these Terms:

10.4.1 shall be payable in pounds sterling;

10.4.2 are, subject to clause 14.3.2, non-cancellable and non-refundable;

10.4.3 are exclusive of value added tax, which shall be added to our invoices at the appropriate rate.

10.5 If we have not received payment by the due date for a payment (as specified in accordance with clauses 10.2 and 10.3) then, without prejudice to any other rights and remedies available to us:

10.5.1 we may, with prior notice to you and without liability to you, disable your (and your Authorised Users') access to all or any part of the Platform and we shall be under no

obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

- 10.5.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of Barclay's Bank from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

11 PROPRIETARY RIGHTS

- 11.1 You hereby acknowledge and agree that we and/or our licensors own all intellectual property rights in the Platform, Services and the Documentation. Except as expressly stated herein, these Terms do not grant you any rights to, under or in, any patents, copyright, database right, trade secrets, trade names, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Platform, Services or the Documentation.
- 11.2 We hereby confirm that we have all the rights in relation to the Platform, Services and the Documentation that are necessary to grant all the rights we purport to grant under, and in accordance with, these Terms.

12 CONFIDENTIALITY

- 12.1 You and we may each be given access to Confidential Information by the other in order to perform our respective obligations under these Terms. Confidential Information shall not be deemed to include information that:
- 12.1.1 is or becomes publicly known other than through any act or omission of the receiving party;
 - 12.1.2 was in the other party's lawful possession before the disclosure;
 - 12.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure; or
 - 12.1.4 is independently developed by the receiving party, which independent development can be shown by written evidence.
- 12.2 Subject to clause 12.4, you and we shall hold each other's Confidential Information in confidence and not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of these Terms.
- 12.3 You and we shall respectively take all reasonable steps to ensure that the other's Confidential Information to which we respectively have access is not disclosed or distributed by our respective employees or agents in violation of these Terms.
- 12.4 You and we may each disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction, provided that, to the extent they are legally permitted to do so, the disclosing party gives the other as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 12.4, the disclosing party takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 12.5 Neither you nor we shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 12.6 You acknowledge that our Confidential Information includes details of the Platform and Services.
- 12.7 We acknowledge that your Confidential Information includes Customer Data.
- 12.8 The above provisions of this clause 12 shall survive termination of these Terms, however arising.

13 INDEMNITY, ASSISTANCE WITH CLAIM

- 13.1 You shall defend, indemnify and hold us harmless against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with your (and/or your Authorised Users') use of the Platform, Services and/or Documentation, provided that:

- 13.1.1 We give you reasonable notice of any such claim;
 - 13.1.2 we provide reasonable co-operation to you in the defence and settlement of such claim, at your expense; and
 - 13.1.3 you are given sole authority to defend or settle the claim.
 - 13.2 Subject to clause 14.3, we shall defend you, your officers, directors, employees and volunteers against any claim that the Platform, Services or Documentation infringes any United Kingdom patent effective as of the Effective Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify you for any amounts awarded against you in judgment or settlement of such claims, provided that:
 - 13.2.1 we are given prompt notice of any such claim;
 - 13.2.2 you provide reasonable co-operation to us in the defence and settlement of such claim, at our expense; and
 - 13.2.3 we are given sole authority to defend or settle the claim.
 - 13.3 In the defence or settlement of any claim, we may procure the right for you to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate these Terms on two Business Days' notice to you without any additional liability or obligation to pay liquidated damages or other additional costs to you.
 - 13.4 In no event shall we, our employees, agents and sub-contractors be liable to you to the extent that the alleged infringement is based on:
 - 13.4.1 a modification of the Platform, Services or Documentation by anyone other than us; or
 - 13.4.2 your use of the Platform, Services or Documentation in a manner contrary to the instructions we have given to you; or
 - 13.4.3 your use of the Platform, Services or Documentation after notice of the alleged or actual infringement from us or any appropriate authority.
 - 13.5 The foregoing state your sole and exclusive rights and remedies, and our (including our employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.
- 14 LIMITATION OF LIABILITY**
- 14.1 Except as expressly and specifically provided in these Terms:
 - 14.1.1 you assume sole responsibility for results obtained from the use of the Platform, Services and the Documentation by you (and your Authorised Users);
 - 14.1.2 we shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts which you provide to us, or any actions we take at your direction;
 - 14.1.3 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from these Terms; and
 - 14.1.4 the Platform, Services and the Documentation are provided to you on an "as is" basis.
 - 14.2 Nothing in these Terms excludes our liability for:
 - 14.2.1 death or personal injury caused by our negligence; or
 - 14.2.2 fraud or fraudulent misrepresentation.
 - 14.3 Subject to clause 14.1 and clause 14.2:
 - 14.3.1 we shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or

information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under these Terms; and

- 14.3.2 your and our respective total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of these Terms shall be limited to the total Subscription Fees paid during the 12 months immediately preceding the date on which the claim arose.

15 TERM AND TERMINATION

- 15.1 These Terms shall, unless otherwise terminated as provided in this clause 15, commence on the Effective Date and shall continue for the term set out in the Fee Quote (the "**Initial Subscription Term**") and, thereafter, these Terms shall be automatically renewed for successive renewal periods as specified in the Fee Quote (each a "**Renewal Period**"), unless:

15.1.1 either you or we give written notice to terminate to the other at least five days before the end of the Initial Subscription Term or any Renewal Period, in which case these Terms shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period; or

15.1.2 otherwise terminated in accordance with the provisions of these Terms;

and the Initial Subscription Term together with any subsequent Renewal Periods shall constitute the "**Subscription Term**".

- 15.2 These Terms may be terminated immediately upon written notice:

15.2.1 without prejudice to clause 10.5.1, by us if you fail to pay any amount due under these Terms on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;

15.2.2 by you or us if the other party commits a material breach of any other term of these Terms which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of seven days after being notified in writing to do so;

15.2.3 by you or us if the other party repeatedly breaches any of these Terms in such a manner as to reasonably justify the opinion that the breaching party's conduct is inconsistent with them having the intention or ability to give effect to these Terms;

15.2.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

15.2.5 the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

15.2.6 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

15.2.7 an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;

15.2.8 the holder of a qualifying floating charge over the assets of that other party has become entitled to appoint or has appointed an administrative receiver;

15.2.9 a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;

- 15.2.10 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party's assets and such attachment or process is not discharged within 14 days;
- 15.2.11 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.2.4 to clause 15.2.10 (inclusive).

15.3 On termination of these Terms for any reason:

- 15.3.1 all licences granted under these Terms shall immediately terminate and you (and your Authorised Users) shall immediately cease all use of the Platform, Services and the Documentation;
- 15.3.2 you and we shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party; and
- 15.3.3 we will make commercially reasonable endeavours, at your cost, to comply with your instructions relating to the migration of Customer Data. If such instructions are not forthcoming within 60 days of the date of termination of these Terms then we shall be entitled to confidentially destroy the Customer Data.

16 FORCE MAJEURE

We shall have no liability to you under these Terms if we are prevented from or delayed in performing our obligations under these Terms, or from carrying on our business, by acts, events, omissions or accidents beyond our reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving our or your workforces), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that we notify you of such an event and its expected duration.

17 VARIATION

No variation of these Terms shall be effective unless it is in writing and signed by you (or your authorised representative) and us (or our authorised representative). For the avoidance of doubt, oral variation shall not be permitted.

18 WAIVER

No failure or delay by you or us to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19 RIGHTS AND REMEDIES

Except as expressly provided in these Terms, the rights and remedies provided under these Terms are in addition to, and not exclusive of, any rights or remedies provided by law.

20 SEVERANCE

- 20.1 If any provision or part-provision of these Terms is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Terms.
- 20.2 If any provision or part-provision of these Terms is deemed deleted under clause 20.1 then you and we shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

21 ENTIRE AGREEMENT

- 21.1 These Terms, and any documentation expressly referred to in these Terms with the clear intention that it be incorporated into the agreement between you and us, constitute the entire agreement between you and us and supersede and extinguish all previous agreements, promises,

assurances, warranties, representations and understandings between you and us, whether written or oral, relating to these Terms' subject matter.

21.2 You hereby acknowledge that you do not respectively rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Terms and/or any documentation expressly referred to in these Terms with the clear intention that it be incorporated into the agreement between you and us.

21.3 You and we hereby agree that neither you nor we shall have any claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Terms and/or any documentation expressly referred to in these Terms with the clear intention that it be incorporated into the agreement between you and us.

21.4 Nothing in this clause shall limit or exclude any liability for fraud.

22 ASSIGNMENT

22.1 You shall not, without our prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of your rights or obligations under these Terms.

22.2 We may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of our rights or obligations under these Terms.

23 NO PARTNERSHIP OR AGENCY

23.1 You and we respectively confirm that we are each acting on our own behalves and not for the benefit of any other person.

23.2 Nothing in these Terms is intended to or shall operate to create a partnership between you and us, or authorise you or us to act as agent for the other, and neither you nor we shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

24 THIRD PARTY RIGHTS

These Terms do not confer any rights on any person or party (other than you and us and, where applicable, our respective successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

25 NOTICES

25.1 Any notice required to be given under these Terms shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its registered office, or such other address as may have been notified by that party for this purpose.

25.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.

25.3 This clause 25 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

26 GOVERNING LAW

These Terms and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

27 JURISDICTION

You and we irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Terms or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 1

DATA PROCESSING

Processing Details

Scope

As specified in this agreement (including this Schedule), as may be varied from time by agreement between the parties.

Nature

Processing of personal data relating to individuals who have made bookings with the data controller (each a **customer**), where such bookings are recorded and stored using Cinolla's software service.

Purpose of processing

To provide Cinolla's booking software service to the data controller.

Duration of the processing

For the duration of this agreement.

Types of personal data

- (a) **For individuals who make bookings with or enter into email correspondence with the Customer:** Name, address, email address, telephone number, emergency contact details (name, telephone number, email address, nature of relationship), dietary and medical details.
- (b) **For the Customer's members of staff:** NI number, salary grade, hourly rate, employment dates, contracted hours, next of kin and their emergency contact details (name, telephone number, email address, nature of relationship), and relevant qualifications.

Categories of data subject

- (a) Individuals who make bookings with the data controller and those individuals' emergency contacts, where such bookings are recorded and stored using Cinolla's software.
- (b) Individuals who contact the Customer by email where those emails are stored using Cinolla's software.
- (c) The Customer's members of staff and their emergency contacts where their data is stored using Cinolla's software.