

Dated

KAJIMA PARTNERSHIPS LIMITED

[♦ CUSTOMER NAME]

**CONTRACT FOR THE
PROVISION OF
BOOKINGSPLUS SERVICES**

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This Contract is made on

Between

(1) **KAJIMA PARTNERSHIPS LIMITED** (Company No. 03841821) of 10 St Giles Square, London, WC2H 8AP (the **Service Provider**); and

(2) [**♦ Customer Name**] of [**♦ Customer Address**] (the **Customer**)

(each a **Party** and together the **Parties**).

It is agreed as follows:

1 Definitions and Interpretation

1.1 In this Contract:

Administration System means a bookings and payments system to allow members of the public to book facilities within the Customer's organisation and to pay the Customer for such bookings, as further described in paragraph 4 of Schedule 1

Authorised User means any individual that the Service Provider has agreed with the Customer is to be provided with a password and access key to use the BookingsPlus Services as a result of the Customer's subscription to the BookingsPlus Services

BookingsPlus Services means the resources to which the Service Provider provides the Customer access through its BookingsPlus website to allow the Customer to administer and process the hiring of facilities at the Customer's venue(s) which includes (1) the Website Front End; (2) the Content Management System; (3) the Administration System; and (4) the Clients Account.

Clients Account means the account issued by the Customer to the client, where clients can view their bookings information, and make payments to the venue, as further described in paragraph 5 of Schedule 1

Commencement Date means [**♦ Contract start date**]

Commercially Sensitive Information means the information relating to the Service Provider, its intellectual property rights or its business or which the Service Provider has indicated to the Customer that, if disclosed by the Customer, would cause the Service Provider significant commercial disadvantage or material financial loss.

Content Management System means the system which allows publishing, editing, modification and maintenance of the information on the Website Front End.

Contract Year means:

- (a) the period from the date upon which the Customer enters into this Contract until 31 December of the same calendar year;
- (b) the period from 01 January of each subsequent calendar year until the earlier of 31 December of that calendar year or date upon which this Contract is terminated

Crown Body means the government of the United Kingdom (including the Northern Ireland Assembly and the Executive Committee, the Scottish Executive and the National Assembly for

Wales) including, but not limited to, government ministers and government departments and particular bodies, persons and government agencies.

Customer Services and Support Specification means:

- (a) providing a helpline to provide advice and assistance in respect of the Customer's use of the BookingsPlus Services which can be contacted by telephone (01604 677764) or email (support@bookingsplus.co.uk) and which is staffed from 09:00 to 17:30 on Working Days;
- (b) providing updates to the BookingsPlus Services where the software is updated;
- (c) providing training to the Customer's Authorised Users in respect of how to add text and photographs to the Website Front End;
- (d) providing assistance in respect of the Customer putting into place a merchant account with the payment gateway provided; and
- (e) migration of any bookings, in place prior to the date of the BookingsPlus Services becoming available to the Customer, in respect of the Customer's organisation from an access database or from Excel format to the BookingsPlus Services.

Data Processor Agreement means the agreement set out in Schedule 4

Data Protection Laws means as defined in the Data Processor Agreement

Data Subject means as defined in the Data Processor Agreement

Default Interest Rate means 5% above the base rate from time to time of HSBC Bank plc

Development Costs means the development costs as set out in Schedule 1 and as payable in accordance with Clause 8

End Date means [♦ Contract end date]

Fees and Charges means the fees and charges quoted in Schedule 1 and as payable in accordance with Clause 8

Final Invoice has the meaning given in Clause 8.9

Force Majeure means any cause affecting the performance by a Party of its obligations under this Contract arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial or labour dispute relating to the Service Provider, the Service Provider's personnel or any other failure in the Service Provider's supply chain

Go Live Date is the date that the BookingsPlus Services will be effective and the Monthly Payment will begin.

Incidents Procedures means the procedure set out in Schedule 3

Initial Term means a period of ♦ (♦) years from the Commencement Date

Insolvency Event means:

- (a) other than for the purposes of a bona fide reconstruction or amalgamation, the relevant party passing a resolution for its winding up, or a court of competent jurisdiction making an order for it to be wound up or dissolved, or that party being otherwise dissolved; or
- (b) the appointment of an administrator of, or the making of an administration order in relation to, the relevant party, or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or any part of the entity's undertaking, assets, rights or revenue;
- (c) the relevant party entering into an arrangement, compromise or composition in satisfaction of its debts with its creditors or any class of them, or taking steps to obtain a moratorium, or making an application to a court of competent jurisdiction for protection from its creditors; or
- (d) the relevant party being unable to pay its debts, or being capable of being deemed unable to pay its debts, within the meaning of section 123 of the Insolvency Act 1986; or
- (e) the relevant party entering into any arrangement, compromise or composition in satisfaction of its debts with its creditors

Intellectual Property means patents (including rights in and/or to, inventions), trademarks, service marks, trade names and business names (in each case including rights in goodwill attached thereto), design rights, rights in and/or to internet domain names and website addresses, copyright (including future copyright), database rights, rights in and to confidential information (including know how and trade secrets), and all other intellectual property rights, in each case subsisting at any time in any part of the world (whether registered or unregistered) and (i) any pending applications or rights to apply for registrations of any of these rights that are capable of registration in any country or jurisdiction; and (ii) any similar or analogous rights to any of these rights, whether arising or granted under the laws of England and Wales or in any other jurisdiction

Minimum Monthly Payment is the fee that will be charged when the Monthly Payment totals less than the amount defined in Schedule 1 in any given month.

Monthly Payment means as set out within Fees and Charges in Schedule 1 and as payable in accordance with Clause 8, beginning from the Go Live date set out in Schedule 1 (2.1).

Personal Data means as defined in the Data Processor Agreement

Prohibited Act means the following acts:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Customer a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Contract;
- (c) committing any offence:

- (i) under the Bribery Act 2010;
- (ii) under legislation creating offences concerning fraudulent acts;
- (iii) at common law concerning fraudulent acts relating to this Contract or any other contract with the Customer; or
- (iv) defrauding, attempting to defraud or conspiring to defraud the Customer.

Quotation means the agreed yearly price for accessing the BookingsPlus Services and Administration System

Registration Information has the meaning given to it in Clause 4.1(a)

Senior Officers means Chris Smith and/or Kevin Hawkins on behalf of the Service Provider and [♦ Name of appropriate person to be Senior Officer] on behalf of the Customer

Service Provider's Liability Cap means 50% of the sum of the previous 12 months Monthly Payments

Software has the meaning given to it in Clause 3.5

Termination Date means the date of expiry or termination of this Contract

Third Party Charges has the meaning given to it in Schedule 1

User Content has the meaning given to it in Clause 6.4

VAT means value added tax

Website Front End means the images and text which can be accessed by the public via the internet, as further described in paragraph 1.7 of Schedule 1

Working Days means Mondays to Fridays, excluding any public holidays in England and Wales

Working Hours means 0900 to 1730 Mondays to Fridays excluding any public holidays in England and Wales

- 1.2 Except where the context expressly requires otherwise, references to Clauses or Schedules are references to clauses and schedules of this Contract.

2 Commencement and duration

- 2.1 This Contract shall commence on the Commencement Date and shall terminate automatically on the End Date unless previously terminated in accordance with the provisions of this Contract.

3 General Usage

- 3.1 The Customer may access and use the BookingsPlus Services only for its internal business purposes as contemplated by the terms of this Contract. The Customer shall not:
- (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, or otherwise commercially exploit or make the BookingsPlus Services available to any third party, unless otherwise stated in this Contract;

- (b) use the BookingsPlus Services to process data on behalf of any third party; or
 - (c) use the BookingsPlus Services in any unlawful manner or in any manner that interferes with or disrupts the integrity or performance of the BookingsPlus Services and its components.
- 3.2 The Customer shall not use the BookingsPlus Services to:
 - (a) send unsolicited e-mails or text messages;
 - (b) communicate, store or distribute anything offensive;
 - (c) promote anything illegal, harass anyone; or
 - (d) distribute content which is in violation of any other party's rights, including, but not limited to, copyrights and privacy and publicity rights.
- 3.3 The Customer may not use the BookingsPlus Services for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes.
- 3.4 The Customer shall not attempt to duplicate, modify, or disclose any portion of the BookingsPlus Services.
- 3.5 The Customer shall not attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form any software which becomes available to it through its use of the BookingsPlus Services (**Software**), except as may be allowed by any applicable law which is incapable of exclusion by agreement between the Parties.
- 3.6 The Customer shall not attempt to obtain, or assist others in obtaining, access to the BookingsPlus Services other than as provided under Clause 3.1.
- 4 Registration and BookingsPlus Services accounts**
- 4.1 If the Customer registers for an account to use the BookingsPlus Services, it agrees to:
 - (a) provide accurate, current and complete registration information (**Registration Information**) to the Service Provider;
 - (b) maintain the security of its password and access keys; and
 - (c) keep your Registration Information, and any other information you provide to us in relation to the BookingsPlus Services, accurate, current and complete.
- 4.2 The Customer is responsible for any and all activity on its BookingsPlus Services account, and for all third party charges incurred, including (but not limited to):
 - (a) any charges made in respect of card payments; and
 - (b) any charges made in respect of the integrated payment gateways available within BookingsPlus.
- 4.3 The Customer agrees and acknowledges that any password and access keys provided to it may only be provided to and used by one Authorised User. A single set of password and access keys shared by multiple people is not permitted. The Customer may create separate passwords and access keys for as many Authorised Users as it wishes.

- 4.4 The Customer is responsible for the actions of all of its Authorised Users and any other person who accesses the BookingsPlus Services using a password and access key provided to the Customer, and to ensure all such Authorised Users and other persons adhere to the terms of this Contract.

5 Data Protection

- 5.1 To the extent that either Party processes Personal Data, it shall each comply with Data Protection Laws and the obligations as set out in the Data Processor Agreement.

6 Intellectual Property

- 6.1 All Intellectual Property rights and all materials in each case comprising or contained in the BookingsPlus website and any of the BookingsPlus Services are owned by, or as the case may be, licensed to, the Service Provider.
- 6.2 The materials contained on or comprising the BookingsPlus website may not be copied or redistributed for commercial or private purposes of any kind without the Service Provider's prior written permission. If the Customer reproduces, copies or re-sells any part of the BookingsPlus website in contravention of the provisions of this Contract, the Customer's right to use the BookingsPlus website will end immediately and the Customer must, at the Service Provider's option, either return or destroy any copies of the material that have been made.
- 6.3 The Service Provider grants the Customer a non-transferable and limited personal licence to access and use the BookingsPlus website. This licence is conditional on the Customer's continued compliance with the terms of this Contract.
- 6.4 The Customer shall retain ownership of any content or material it provides, submits, uploads, posts, shares or otherwise makes available through the BookingsPlus website (**User Content**) and shall licence such User Content to the Service Provider. This licence continues even if the Customer stops using the BookingsPlus website. The Customer must have the necessary rights to grant the Service Provider this licence for any such content or material.

7 Hosting, security and availability

- 7.1 The Customer agrees that the security of its account is solely its own responsibility. The Customer further agrees that if it believes the security of its account has been compromised in any way, it will notify the Service Provider immediately. The Customer shall be held fully responsible for any misuse or compromise to its account of which the Service Provider is not properly notified.
- 7.2 The Customer agrees that if the Service Provider believes any security violations have occurred in association with the Customer's account, the Service Provider has the right to immediately suspend the Customer's access to the BookingsPlus Services pending an investigation regarding any aspect of the Service Provider's provision of services to the Customer (including services sold to the Customer). The Service Provider will cooperate with law enforcement authorities in the investigation of suspected criminal violations (including by disclosing the Customer's identity to law enforcement authorities, where required). Any use of the BookingsPlus Services to engage in software piracy or other violations of law will result in immediate account suspension and be immediately reported to the appropriate authorities. Where the Customer violates the system or network security, the Customer or the relevant individual or individuals may incur criminal and/or civil liability.

- 7.3 The Customer may not use the BookingsPlus Services network to attempt to circumvent user authentication or security of any host, network, or account. This includes, but is not limited to, accessing data not intended for the Customer, logging into a server or account the Customer is not expressly authorised to access, password cracking, probing the security of other networks in search of weakness, or violation of any other organisation's security policy.
- 7.4 The Customer may not attempt to interfere or deny service to any BookingsPlus Services user, host or network. This includes, but is not limited to, flooding, mail bombing, or other deliberate attempts to overload or crash a host or network.
- 7.5 The Service Provider performs periodical server backups.
- 7.6 The Service Provider hosts both dedicated and cloud servers in the UK with AWS unless the Customer has a stand-alone instance which will be specified in Schedule 1.
- 7.7 The Customer may not place third party software or applications on the servers in relation to the BookingsPlus Services without prior written acceptance from the Service Provider. This includes embedding of iframes and HTML forms.
- 7.8 The Service Provider reserves the right to refuse to post or to remove any information or materials, in whole or part, that, in the Service Provider's sole discretion, are unacceptable, undesirable, or in violation of the terms of this Contract.
- 7.9 The Service Provider reserves the right to change, suspend or discontinue, including but not limited to for maintenance and repair, any aspect of the BookingsPlus Services and content and impose limits on the BookingsPlus Services.
- 7.10 The Service Provider will use its reasonable endeavours to ensure that the BookingsPlus Services are provided continuously and that the Customer's access to the BookingsPlus Services and general access to the Website Front End is not interrupted by any event within the Service Provider's control. This includes providing a response to incidents affecting the BookingsPlus Services in accordance with Schedule 3 (**Incidents Procedure**).
- 7.11 The Service Provider will notify the Customer five (5) Working Days in advance of planned downtime, which, if reasonably practicable, will be scheduled outside Working Hours.

8 Fees and billing

- 8.1 In consideration of the Service Provider's provision of the BookingsPlus Services in accordance with the terms of this Contract, the Customer agrees to pay the Development Costs and Monthly Payment in accordance with the provisions of this Clause 8.
- 8.2 The Customer shall, on or before the Commencement Date, provide to the Service Provider the Customer's accurate, up-to-date and complete payment details in a form satisfactory to the Service Provider.
- 8.3 The Service Provider shall invoice the Customer for the Development Costs within 5 Working Days upon signing this Contract. The Customer shall pay the Development Costs within 30 days of receipt of an invoice in respect of such Development Costs.
- 8.4 Within the 5 Working Days immediately following the end of each month the Service Provider shall invoice the Customer for payment of the Monthly Payment in respect of the month just ended.

- 8.5 Where the Monthly Payment is less than the Minimum Monthly Payment, the Minimum Monthly Payment will be charged.
- 8.6 Subject to Clause 8.7 the Customer shall pay to the Service Provider each Monthly Payment within 30 days of receipt of an invoice in respect of such Monthly Payment.
- 8.7 If the Customer receives an invoice in respect of a Monthly Payment which it reasonably believes includes a sum which is not valid and properly due:
- (a) the Customer shall notify the Service Provider in writing within 5 Working Days; and
 - (b) where notification is given in accordance with Clause 8.7(a) and the Service Provider agrees (acting reasonably) that the relevant invoice(s) includes a sum which is not valid, the Service Provider shall re-issue the invoice(s) within 5 Working Days and the provisions of Clause 8.6 shall apply in respect of any such re-issued invoice(s); or
 - (c) where notification is given in accordance with Clause 8.7(a) and the Service Provider does not agree (acting reasonably) that the relevant invoice(s) includes a sum which is not valid it shall provide the Customer with written notification of the reason for its decision within 5 Working Days and subject to Clause 8.15 the Customer shall pay the original invoice(s) within 30 days of the date upon which the Customer originally received it or them.
- 8.8 If, for reasons within the Service Provider's control:
- (a) the BookingsPlus Services do not become available for the Customer's use within 3 months of the Commencement Date; or
 - (b) the Customer disagrees (acting reasonably) that the development has been completed satisfactorily
- where the Customer so requests this Contract shall immediately terminate and the Development Costs shall not be payable by the Customer.
- 8.9 The Customer agrees that, upon expiry or termination of this Contract, the Service Provider may invoice the Customer within 5 Working Days in respect of the amount of any Monthly Payment in respect of the month during which such expiry or termination occurs along with any other charges outstanding from the Customer to the Service Provider in respect of the BookingsPlus Services (**Final Invoice**). The provisions of Clause 8.6 shall apply to the Final Invoice.
- 8.10 Interest shall be payable on late payment of any charges due under this Contract at the Default Interest Rate.
- 8.11 The Customer agrees that it shall be obliged to continue to pay the Service Provider the Monthly Payment in respect of the period up to the date that termination of this Contract occurs in accordance with Clause 10.
- 8.12 The Service Provider shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Customer pursuant to this Contract. Such records shall be retained for inspection by the Customer for six (6) years from the end of the contract year to which the records relate.
- 8.13 The Service Provider shall be responsible for the processing of Customer payments and refunds.

8.14 Any payments made for bookings offered by the Customer via the BookingsPlus Services will be distributed (net of any refunds and Third Party Charges) by the Service Provider to the Customer within 10 Working Days of the end of each calendar month to such account as is notified in writing to the Service Provider in accordance with Clause 8.2 and/or Clause 22.

8.15 Where any Party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid in accordance with Clause 8.3 or 8.6 (as applicable) and the dispute as to the disputed sum shall be determined in accordance with Clause 16. Provided that the disputed sum has been disputed in good faith, interest due on any sum in dispute shall not accrue until 21 Working Days after resolution of the dispute.

9 Customer service and support

9.1 The Service Provider shall only be obliged to provide customer service or support pursuant to this Contract to the extent it falls within the Customer Services and Support Specification.

9.2 For the avoidance of doubt the Parties may agree that the Service Provider will provide to the Customer customer service and support in respect of the BookingsPlus Services outside the scope of the Customer Services and Support Specification, upon such terms and in exchange for such payment as agreed between the Parties.

10 Cancellation and termination

Termination by the Service Provider

10.1 The Service Provider may immediately terminate this Contract at any time where:

- (a) the Customer engages in any conduct or activities that the Service Provider, in its sole discretion, believes materially violates any of the terms of this Contract;
- (b) any amount due from the Customer to the Service Provider pursuant to the terms of this Contract is outstanding for more than 30 days; or
- (c) the Customer suffers an Insolvency Event.

10.2 The Service Provider may, from (but not before) the expiry of the Initial Term, in its sole discretion terminate this Contract upon 90 days' notice.

Termination by the Customer

10.3 The Customer may immediately terminate this Contract at any time where the Service Provider suffers an Insolvency Event.

10.4 The Customer may, from (but not before) the expiry of the Initial Term, in its sole discretion terminate this Contract upon 90 days' notice.

10.5 The Customer may terminate this Contract for Cause (as defined in Clause 10.6) by serving written notice on the Service Provider in accordance with Clause 10.7.

10.6 Cause in Clause 10.5 means any of the following:

- (a) Any material breach by the Service Provider of any material obligation that is not remedied, if capable of remedy, within 10 working days of being notified by the Customer of the breach;

- (b) Five or more breaches of any non-material obligation in any 12 month period of the Contract or three or more breaches of the same non-material obligation in any 12 month period of the Contract;
- (c) Any conduct on the Service Provider's part, whether or not in the course of performing services under this Contract, which is likely to cause damage to the reputation or standing of the Customer;
- (d) If there is a change of control (as defined in section 574 of the Capital Allowances Act 2001) of the Service Provider to which the Customer reasonably objects; or
- (e) Conviction of the Service Provider of a criminal offence other than an offence under road traffic legislation not resulting in imprisonment or disqualification from driving.

10.7 Any notice served pursuant to Clause 10.5 must be in writing, be served on the Service Provider at its registered address (as provided in Clause 22) and:

- (a) in relation to the breach set out in Clause 10.6(a) can be on immediate notice or such other notice period as the Customer may elect, save that such period cannot be longer than 20 Working Days but can only be served following the failure by the Service Provider to rectify the breach pursuant to the notice previously served by the Customer;
- (b) in relation to the breaches set out in Clauses 10.6(b) and 10.6(d) on 20 Working Days' notice; and
- (c) in relation to the breaches set out in Clauses 10.6(c) and 10.6(e) on immediate notice.

Consequences of termination

10.8 Upon expiry or termination of this Contract for any reason the provisions of Clause 8.9 shall apply in respect of any payment due from the Customer to the Service Provider.

10.9 The provisions of Clauses 1, 5, 6, 7.2, 7.3, 7.4, 8, 10.8 - 10.13, 12, 17 and 21 shall survive the termination for any reason of this Contract.

10.10 Upon expiry or termination of this Contract the Service Provider shall have no responsibility to notify any third party providers of services, merchandise, or information, nor any responsibility for any consequences resulting from such discontinuance or lack of notification.

10.11 Upon expiry or termination of this Contract the Service Provider shall co-operate fully with the Customer to ensure an orderly migration of the Services to the Customer or, at the Customer's request, a replacement service provider.

10.12 On expiry or termination of this Contract or when so reasonably required by the Customer before such expiry or termination, the Service Provider shall procure that:

- (a) all data and other material belonging to the Customer (and all media of any nature containing information and data belonging to the Customer) shall be delivered to the Customer forthwith; and
- (b) any data or electronic material from any computer equipment not in the possession of the Customer on which such copy is recorded shall be permanently deleted

provided that where the Service Provider is required by any law, regulation, or government or regulatory body to retain any documents or materials which it would otherwise be required to

return or destroy, it shall notify the Customer in writing of such retention, giving details of the documents or materials that it must retain.

10.13 With effect from expiry or termination of this Contract its terms shall (except as set out in Clauses 10.8 to 10.12) immediately cease, including:

- (a) the Service Provider's obligation to provide to the Customer the BookingsPlus Services and the Customer's obligation to pay the Monthly Payment in respect of any time period after the date of expiry or termination;
- (b) the Customer's licence to use the BookingsPlus Services and the rights of any third party to which the Customer has granted access to the Customer's materials through the Website Front End; and
- (c) the Customer's future access to and use of all or any portion of the BookingsPlus Services and the rights of any third party to which you have granted access to your materials through the Website Front End.

11 Logos and trademarks

11.1 BookingsPlus logos are trademarks and the Customer may only use these trademarks or logos for promotional purposes to identify itself as a customer or user of the BookingsPlus products and services. The Customer may not attempt to claim ownership of these trademarks by incorporating any of them within the Customer's names or offerings.

12 Limitation of liability

12.1 This Clause sets out the Service Provider's entire financial liability (including any liability for the acts or omissions of its employees, agents, contributors, consultants and sub-contractors) in respect of:

- (a) any breach of the terms of this Contract;
- (b) any use made by the Customer of the BookingsPlus Services; and
- (c) any representation, statement or tortious act or omission (whether negligent or otherwise) arising under or in connection with this Contract.

12.2 Subject to Clause 12.4, under no circumstances and under no legal theory (whether in contract, tort, or otherwise) shall either Party be liable to pay the other Party or any third party for any indirect, incidental, special, exemplary, consequential or punitive damages, including lost profits, lost sales or business, lost data or business interruption.

12.3 Subject to Clause 12.4, the Service Provider shall not be liable for any direct damages, costs, losses or liabilities in excess of the Service Provider's Liability Cap and (subject to Clause 12.4) this shall be the limit of the Service Provider's 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 this Contract. The Customer acknowledges this limitation is reasonable. The provisions of this Clause 12 allocate the risks under this Contract between the Parties, and the Parties have relied on these limitations in determining whether to enter into this Contract.

12.4 Nothing in this Clause 12 excludes the Service Provider's liability:

- (a) for death or personal injury caused by our negligence; or
- (b) for fraud or fraudulent misrepresentation; or
- (c) any other act or omission for which liability may not be limited under any applicable law.

12.5 Subject to Clause 12.3, the Service Provider shall indemnify and keep indemnified the Customer against any direct damages, costs, losses or liabilities whether arising in tort (including negligence), default, or breach of this Contract, to the extent that any such direct damages, costs, losses or liabilities are due to the breach of contract, negligence, wilful default or fraud of itself or of its employees or of any of its representatives or sub-contractors save to the extent that the same is directly caused by or directly arises from the negligence, breach of this Contract or applicable law by the Customer or its representatives (excluding the Service Provider).

12.6 Each Party shall use reasonable endeavours to minimise and mitigate any costs, losses or damage suffered as a consequence of a breach of this Contract or otherwise arising under or in connection with this Contract.

12.7 For the avoidance of doubt, claims made under the insurances listed in Schedule 2 are not subject to, and will not count towards, the Service Provider's Liability Cap.

13 Material displayed on the BookingsPlus website

13.1 The material displayed on the BookingsPlus website is provided without any guarantees, conditions or warranties as to its accuracy. To the extent permitted by law the Service Provider, other members of its group of companies, and third parties connected to it, hereby expressly exclude:

- (a) all conditions, warranties and other terms which might otherwise be implied by statute, common law or law of equity; and
- (b) any liability for any direct, indirect or consequential loss or damage incurred by the Customer in connection with the BookingsPlus website, any websites linked to it and any materials posted on it, including:
 - (i) loss of income or revenue;
 - (ii) loss of business;
 - (iii) loss of profits or contracts;
 - (iv) loss of anticipated savings;
 - (v) loss of data;
 - (vi) loss of goodwill; and
 - (vii) wasted management or office time

whether caused by tort (including negligence), breach of contract or otherwise, even if foreseeable.

14 Amendment / Waiver

- 14.1 No provision of this Contract shall be deemed to be waived, amended or modified by the Customer unless such waiver, amendment or modification is in writing and signed by the Service Provider. The Service Provider's failure to enforce at any time any of the provisions of this Contract, or the failure to require at any time performance by the Customer of any of the provisions of this Contract, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the Service Provider's ability to enforce each and every such provision thereafter.
- 14.2 The Service Provider may only assign or transfer this Contract, in whole or in part, if notice has been given to the Customer and the Customer has notified the Service Provider of its consent (such consent not to be unreasonably withheld).

15 Force Majeure

- 15.1 Subject to the remaining provisions of this Clause 15 neither Party to this Contract shall be liable to the other Party for any delay or non-performance of its obligations under this Contract to the extent that such non-performance is due to a Force Majeure event.
- 15.2 In the event that either Party is delayed or prevented from performing its obligations under this Contract by a Force Majeure event, such Party shall:
- (a) give notice in writing of such delay or prevention to the other Party as soon as reasonably possible, stating the commencement date and extent of such delay or prevention, the cause thereof and its estimated duration;
 - (b) use all reasonable endeavours to mitigate the effects of such delay or prevention on the performance of its obligations under this agreement; and
 - (c) resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.
- 15.3 As soon as practicable following the affected Party's notification in accordance with Clause 15.2(a), the Parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate actions to mitigate the effects of the Force Majeure event and to facilitate the continued performance of this agreement. Where the Service Provider is the affected party, it shall take and/or procure the taking of all steps to overcome or minimise the consequences of the Force Majeure event in accordance with accepted industry practice.
- 15.4 The affected party shall notify the other party as soon as practicable after the Force Majeure event ceases or no longer causes the affected party to be unable to comply with its obligations under this Contract. Following such notification, this Contract shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure event unless agreed otherwise by the Parties.

16 Dispute Resolution Procedure

- 16.1 Subject to Clause 16.7, any dispute arising out of or in connection with this Contract shall be determined in accordance with this Clause 16.
- 16.2 Either Party may call an extraordinary meeting of the Parties by service of not less than five (5) Working Days' written notice and each Party agrees to procure that an authorised representative

together with any other personnel requested to attend by either Party (if any) shall attend all extraordinary meetings called in accordance with this Clause 16.2

- 16.3 The attendees of any extraordinary meeting called in accordance with Clause 16.2 shall use their best endeavours to resolve the dispute.
- 16.4 If any dispute referred to an extraordinary meeting is not resolved at that meeting then either Party may, by service of not less than five (5) Working Days' written notice, refer the dispute to the Senior Officers of the Parties who shall cooperate in good faith to resolve the dispute as amicably as possible within ten (10) Working Days of service of such notice.
- 16.5 If the Senior Officers fail to resolve the dispute within the time period stipulated in Clause 16.4 either Party may give written notice of its intention to refer the dispute to mediation and the process set out in Clauses 16.5(a) - 16.5(c) shall be followed:
- (a) The Parties shall seek to agree the identity of the mediator within ten (10) Working Days of service of the notice referred to in Clause 16.5. If the Parties fail to reach agreement a mediator shall be appointed, at the request of the Party who gave the notice referred to in Clause 16.5, by the Centre for Effective Dispute Resolution (or such other similar body);
 - (b) The Parties agree to comply with any directions of the mediator including in respect of the exchange of information and costs; and
 - (c) Any mediation shall be completed within thirty (30) Working Days of the appointment of the mediator (or other such time as directed by the mediator) and shall be final and binding if expressed as such in a written agreement signed by the Parties.
- 16.6 The Parties shall bear their own costs of this Dispute Resolution Procedure.
- 16.7 Nothing in this Dispute Resolution Procedure shall impose any precondition on either Party or otherwise prevent or delay either Party from commencing proceedings in any court of competent jurisdiction in relation to any dispute in which that party requires either:
- (a) an order restraining the other party from doing any act or compelling the other party to act; or
 - (b) a judgment for a liquidated sum to which there is no arguable defence.

17 Confidentiality

- 17.1 Subject to Clause 17.2 the Parties shall keep confidential all matters relating to this Contract and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.
- 17.2 Clause 17.1 shall not apply to any disclosure of information:
- (a) required by any applicable law, provided that Clause 19 (*Freedom of Information*) shall apply to any disclosures required under the FOIA or the Environment Information Regulations;
 - (b) that is reasonably required by persons engaged by a Party in the performance of such Party's obligations under this Contract;

- (c) where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of Clause 17.1;
- (d) by the Customer of any document to which it is a party and which the Parties to this Contract have agreed contains no Commercially Sensitive Information;
- (e) to enable a determination to be made under Clause 16 (*Dispute Resolution Procedure*);
- (f) which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
- (g) by the Customer to any other department, office or agency of the Government; and
- (h) by the Customer relating to this Contract and in respect of which the Service Provider has given its prior written consent to disclosure.

17.3 Each Party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's confidential information comply with this Clause 17.

18 Bribery, corruption and gratuities

18.1 The Service Provider shall not:

- (a) in connection with this Contract commit a Prohibited Act and shall procure that all Service Provider's personnel shall not commit a Prohibited Act,
- (b) offer or agree to give any person working for or engaged by the Customer or any other Crown Body any gift or other consideration, which could act as an inducement or a reward for any act or failure to act connected to this Contract, or any other Contract between the Service Provider and the Customer or any Crown Body, including its award to the Service Provider and any of the rights and obligations contained within it; or
- (c) enter into this Contract if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Customer or any other Crown Body by or for the Service Provider, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Customer before execution of this Contract.

18.2 The Service Provider warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Customer, or that an agreement has been reached to that effect, in connection with the execution of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Customer before execution of this Contract.

18.3 If the Service Provider, including any Service Provider employee, sub-contractor or agent, in all cases whether or not acting with the Service Provider's knowledge:

- (a) breach Clause 18.1; or
- (b) engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK,

in relation to this Contract, the Parties shall meet to discuss and assess such breach with the aim of agreeing the appropriate course of action. If the Parties fail to agree a course of action either Party may refer the matter to the Dispute Resolution Procedure.

18.4 The Service Provider shall if requested, provide the Customer with any reasonable assistance to enable the Customer to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010.

18.5 Notwithstanding Clause 16 (*Dispute Resolution Procedure*), any dispute relating to:

- (a) the interpretation of Clause 18.1;
- (b) the amount or value of any gift, consideration or commission,

shall be determined by the Customer and the decision shall be final and conclusive.

18.6 The Service Provider shall not, whether itself or by any partner or director engaged in the provision of the Services or by any person employed by it to provide the Services, solicit or accept any gratuity, tip or any other form of money taking or reward, collection or charge for any of the Services other than charges properly approved by the Customer in accordance with the provisions of this Contract.

19 Freedom of Information

19.1 The Service Provider acknowledges that the Customer is subject to the requirements of the Freedom of Information Act (**FOIA**) and the Environmental Information Regulations and shall assist and co-operate with the Customer (at the Service Provider's expense) to enable the Customer to comply with these information disclosure requirements.

19.2 The Service Provider shall, and shall ensure that its subcontractors shall:

- (a) on receipt of a Request for Information, transfer the Request for Information to the Customer as soon as practicable and in any event within five (5) Working Days of receipt;
- (b) provide the Customer with a copy of all information in its possession or power in the form that the Customer requires within five (5) Working Days (or such other period as the Customer may specify) of the Customer requesting that information; and
- (c) provide all necessary assistance as reasonably requested by the Customer to enable the Customer to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

19.3 The Customer shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other information:

- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations; and/or
- (b) is to be disclosed in response to a Request for Information.

19.4 In no event shall the Service Provider respond directly to a Request for Information unless expressly authorised to do so by the Customer.

19.5 The Service Provider acknowledges that the Customer may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations to disclose Information:

- (a) without consulting with the Service Provider; or
- (b) following consultation with the Service Provider and having taken its views into account, provided always that where Clause 19.4 applies the Customer shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Service Provider advanced notice, or failing that, to draw the disclosure to the Service Provider's attention after any such disclosure.

19.6 The Service Provider shall ensure that all information produced in the course of this Contract or relating to this Contract is retained for disclosure and shall permit the Customer to inspect such records as requested from time to time.

19.7 The Service Provider acknowledges that any lists or schedules provided by it outlining confidential information are of indicative value only and that the Customer may nevertheless be obliged to disclose confidential information in accordance with this Clause 19.

20 Insurance

20.1 The Service Provider shall take out and maintain the insurance policies set out in Schedule 2, subject to the same being available on commercially reasonable terms.

21 General provisions

21.1 The rights provided under this Contract are granted to the Customer only and shall not without the Service Provider's prior written consent be considered granted to any subsidiary or holding company. The Customer may not, without the Service Provider's prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of the Customer's rights or obligations under this Contract.

21.2 This Contract is not intended to benefit anyone other than the Parties and, in particular, none of its terms shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

21.3 Unless specifically provided otherwise, rights arising under this Contract are cumulative and do not exclude rights provided by law.

21.4 If any provision (or part of a provision) of this Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

21.5 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the Parties.

21.6 This Contract, invoices pursuant to this Contract, and any agreed written record identifying Authorised Users constitute the entire agreement and understanding of the Parties and supersede any previous agreement between the Parties relating to the subject matter of this

Contract. Each of the Parties acknowledges and agrees that in entering into this Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently made or not) of any person (whether party to this Contract or not) other than as expressly set out in this Contract. The only remedy available to the Parties for a breach of this Contract shall be for breach of contract under the terms of this Contract.

- 21.7 This Contract shall be governed by the laws of England and Wales and the Parties submit to the exclusive jurisdiction of the Courts of England and Wales.

22 Notices

- 22.1 All notices under this Contract shall be in writing and all notices or written instructions to be given under the terms of this Contract shall be served by sending the same by first class post or by hand, leaving the same at:

(a) if to the Service Provider:

10 St Giles Square, London, WC2H 8AP

(b) if to the Customer:

[♦ Address for service of notices to the Customer]

- 22.2 Either Party may change its nominated address by prior notice to the other Party.

- 22.3 Notices given by post shall be effective upon the earlier of (i) actual receipt and (ii) five (5) Working Days after mailing. Notices delivered by hand shall be effective upon delivery.

SIGNED BY THE PARTIES

.....

Signed on behalf of the Service Provider

.....

Signed on behalf of the Customer

Schedule 1

Fees, Charges and Specifications

1 Fees and Charges

1.1 The Development Costs means:

(a) *Detail any agreed Development Costs*

1.2 For the avoidance of doubt, the costs in paragraph 1.1 total £xxx

1.3 Monthly Payment means a sliding scale of payments calculated by the aggregate all of the bookings value that the Customer has with the Service Provider in each Contract Year into designated bands 1, 2 or 3 with a sliding scale of fees being charged in relation to each band of income value as follows:

(a) Band 1: The first £300,000 of bookings value income (Band 1) in the Customer's venue(s) in a Contract Year would be charged at 10%;

(b) Band 2: The next £300,000 of bookings value income above that of the Band 1 (Band 2) in the Customer's venue(s) in a Contract Year would be charged at 6%;

(c) Band 3: The bookings value income above that of the combined Band 1 and Band 2 value (for clarity this combined value being an aggregate of £600,000 of bookings value income in any Contract Year) (Band 3) in the Customer's venue(s) in a Contract Year would be charged at 4%; and

1.4 All of the bookings values are calculated exclusive of VAT.

1.5 The Monthly Payment will be charged once per month after the Go Live Date specified in 2.1.

1.6 The Minimum Monthly Payment of [XXX] will be charged in any month that the Monthly Payment is less than this value.

1.7 Third Party Charges include but shall not be limited to:

(a) any and all charges made in respect of payments and refunds; and

(b) any and all charges made in respect of the integrated payment gateways available within the BookingsPlus Services.

2 Project Plan

2.1 The Go Live Date for this project is [XXX].

3 Website Front End

3.1 The Website Front End will include the following characteristics:

(a) pages of text and descriptions associated with the rooms and areas in the Customer's properties that are available for hire;

- (b) photographs of the Customer's properties and generic photographs suitable for a community focused website, provided that the Customer has supplied to the Service Provider photographs of its facilities for inclusion on the Website Front End;
- (c) a connection to an integrated payment gateway available within the BookingsPlus platform; and
- (d) when first provided to the Customer will be optimised for appropriate (in the Service Provider's reasonable opinion) traffic levels.

4 Administration System

4.1 The Administration System will allow the Customer's Authorised Users to:

- (a) add and manage areas of the Customer's venue(s) to hire out;
- (b) add and remove the Customer's customers;
- (c) make single and multiple bookings;
- (d) create and manage the Customer's customer invoices;
- (e) set-up direct payment systems in respect of customers making bookings at the Customer's venue;
- (f) make bookings with no cost associated with them; and
- (g) produce financial and operational reports in respect of bookings at the Customer's venue(s).

5 Clients Account Online

5.1 The Clients Online Account will allow the Customer's Authorised Users to:

- (a) view and accept the Customer's terms of hire;
- (b) view and confirm bookings made in respect of facility hire;
- (c) view (and print) invoices/credit notes and view account balances;
- (d) make payment of invoices through the Customer's chosen payment provider;
- (e) view availability, book facilities, and make payment for bookings where you have enabled the customer to do this; and
- (f) upload documents.

Schedule 2

Insurance

1 Employer's Liability

- 1.1 Limit of liability: £15,000,000 any one liability
- 1.2 Asbestos: £5,000,000 any one occurrence or series of occurrences arising out of one event
- 1.3 Terrorism: £5,000,000 any one occurrence or series of occurrences arising out of one event

2 Public Liability

- 2.1 Limit of liability: £15,000,000 any one occurrence
- 2.2 Pollution: £15,000,000 any one occurrence and in the aggregate
- 2.3 Terrorism: £5,000,000 any one occurrence and in the aggregate

3 Professional Indemnity

- 3.1 Limit of liability: £5,000,000 each and every claim, including costs and expenses

4 Cyber & Privacy

- 4.1 Limit of liability: £5,000,000 each and every claim, including costs and expenses

5 Privacy Liability

- 5.1 Limit of liability: £5,000,000 each and every claim, including costs and expenses

6 Multimedia Liability and Advertising Injury

- 6.1 Limit of liability: £5,000,000 each and every claim, including costs and expenses

7 Court attendance costs

- 7.1 Limit of liability: £50,000 sub-limited to £1,000 per day

8 Loss Mitigation

- 8.1 Limit of liability: £5,000,000 each and every claim

9 Reputation and Brand Protection

- 9.1 Limit of liability: £50,000 each and every claim

Schedule 3

Incidents Procedure

1 Incidents affecting the BookingsPlus Services

- 1.1 The Service Provider is automatically alerted to incidents affecting the provision of the BookingsPlus Services. This automatic alert system is monitored at all times by the Service Provider.
- 1.2 In the event that the Service Provider is made aware of an incident affecting the BookingsPlus Services, whether from a report by the Customer to the helpline or through the automatic incident alert system, the incident will be allocated a priority number (**Priority Number**) by the Service Provider and will be responded to in accordance with Table A.
- 1.3 The Service Provider may change the Priority Number in consideration of any change in the circumstances or following the receipt of further information.
- 1.4 Incidents affecting the BookingsPlus Services that arise as a result of hardware failure or network failure are not the responsibility of the Service Provider unless the hardware is directly provided by the Service Provider or indirectly provided by the Service Provider from a third party.
- 1.5 In Table A:
- (a) Response Target means, in circumstances where the Customer has reported an incident to the helpline, the time within which the assigned resolver of the incident will have contacted the individual who reported the incident in order to confirm the details of the problem and confirm the Priority Number of the incident. A Response Target will not be applicable in circumstances where the Service Provider has been alerted by the automatic alert system;
- (b) Resolution target means the time within which the issue will be resolved to the Customer's satisfaction.

TABLE A

Priority Number	Description	Response Target	Resolution Target
1	Major system failure where many users are unable to work because a critical business function cannot be performed, or there is a threat of data lose or threat of data leakage	1 hour	5 hours
2	Critical component is down, some users are unable to work, and no work-around exists	1 hour	8 hours
3	Critical functionality is missing, users are impacted but work continues at a lower efficiency, and a work-around exists	4 hours	12 hours
4	A minor problem exists, the problem does not degrade functionality, major functions still work	1 Working Day	5 Working Days

Schedule 4

Data Processor Agreement



Data Processor Agreement

For Transfers of Personal Data

Within the United Kingdom (Kajima as Processor)

THIS AGREEMENT is made by and between the entity signing up to the Kajima Community BookingsPlus Services ("the Data Controller") and Kajima Partnerships Limited, whose principal office is at 10 St. Giles Square, London, WC2H 8AP ("the Data Processor"). The Data Controller and Data Processor are referred to as "the Parties" to this Agreement.

1. Background

- 1.1 The Data Controller wishes to appoint the Data Processor as the provider of the Kajima Community BookingsPlus Services ("the Services"), as further specified in a separate agreement.
- 1.2 In order to perform the Services on behalf of the Data Controller, the Data Processor will require certain Personal Data to be made available to it by the Data Controller.
- 1.3 The Parties wish to enter into this Agreement in order to regulate the provision of Personal Data that the Data Processor will collect and process on behalf of the Data Controller, and otherwise ensure compliance by the Data Processor with the Data Protection Laws.

2. Definitions and interpretations

In this Agreement, the following words and phrases shall have the following meanings, unless inconsistent with the context or as otherwise specified:

- 2.1 "Data Protection Laws" means for the periods in which they are in force in the United Kingdom, the Data Protection Act 2018, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the UK GDPR and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner, in each case as amended or substituted from time to time.
- 2.2 "Data Subject" means an individual who is the subject of Personal Data and who is an identifiable natural person, that is to say one who can be identified, directly or indirectly, in particular by reference to an identifier such as (without limitation) a name, an identification number, location data, an online identifier, opinions expressed by or about him/her, movements, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.
- 2.3 "Underlying services agreement" means the agreement (comprising the Data Processor's standard terms and conditions) between the Data Controller and Data Processor setting out the terms, conditions and actions for the Services.
- 2.4 "Personal Data" means any information relating to a Data Subject;
- 2.5 "Processing of Personal Data" shall mean any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alternation, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

- 2.6 "Personal Data Breach" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed.
- 2.7 "Services" are as defined in clause 1.1.
- 2.8 "Sub-contract" and "sub-contracting" shall mean the process by which either party arranges for a third party to carry out its obligations under this Agreement.
- 2.9 "Sub-contractor" means the party or organization to whom the obligations are sub-contracted by the Data Processor or by one of its Sub-contractors; and
- 2.9 "Technical and organizational security measures" shall mean measures to protect Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access and against all other unlawful forms of processing, consistent with the requirements of the Data Protection Laws.
- 2.10 "UK GDPR" has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018

3. Consideration

- 3.1 In consideration of the Data Controller assigning the services to the Data Processor to process Personal Data on its behalf, the Data Processor shall comply with the privacy, security, confidentiality and other obligations imposed on it under this Agreement and applicable laws.
- 3.2 The parties understand and agree that the terms of this Agreement shall apply to any Personal Data entrusted to the Data Processor by or on behalf of the Data Controller in relation to the parties' underlying services agreement.

4. Obligations of the parties

- 4.1 Notwithstanding clause 1.1, the Parties each acknowledge and agree that they may need to process Personal Data in relation to each party's representatives (in their respective capacities as Data Controllers) in order to (as appropriate):
- (a) administer and provide the Services;
 - (b) request and receive the Services;
 - (c) compile, dispatch and manage the payment of invoices relating to the Services;
 - (d) manage the agreement and resolve and disputes relating to it;
 - (e) respond and/or raise general queries relating to the Services; and
 - (f) comply with their respective regulatory obligations.
- 4.2 Each Party shall process such Personal Data for the purposes set out in clause 4.1 in accordance with their respective privacy policies.
- 4.3 The Data Processor undertakes at all times:
- (a) to collect and process Personal Data in accordance with the instructions of the Data Controller and no other party as set forth herein and as communicated in writing from time to time, and to respond promptly to all inquiries by the Data Controller regarding the processing of the Personal Data. The Data Processor reserves the right to access any or all of your accounts in order to respond to your requests for technical support, conduct systems audits and quality assurance.
 - (b) to collect and process Personal Data solely for the purposes described in the parties' underlying agreement(s) or as required or permitted by law. In doing so, the Data Processor will comply with applicable regulations and will not process the data for any independent use apart from its obligations to the Data Controller.

- (c) to process Personal Data solely in the manner specified by the Data Controller and not to process such data further for any other purpose or in any other manner except where such further processing is required by applicable law, regulation, or governmental authority.
- (d) to treat all Personal Data received in connection with its underlying agreement with the Data Controller in confidence and not to disclose or transfer it to any third party without the prior permission in writing of the Data Controller or the Data Subject, except where such disclosure or transfer:
 - (i) has been expressly consented to by the Data Subject, or where any third party to whom such disclosure or transfer is to be made agrees in writing to be bound by obligations which are no less onerous than the obligations of Processor with regard to the processing of the Personal Data; or
 - (ii) is required to fulfil regulatory or legal obligations in connection with its services to the Data Controller, such as inspections by regulators or health authorities, or for auditing or quality assurance activities; or
 - (iii) is required by any applicable law, regulation, or governmental authority to provide access to or copies of the information, which case the Data Processor will, when reasonably possible, notify the Data Controller promptly in writing before complying with any such request for disclosure and shall comply with all reasonable directions of the Data Controller with respect to such disclosure or transfer.
- (e) to adopt such technical and organisational security measures as are required under the Data Protection Laws and any other applicable data protection laws, and which are aligned with industry standards for the type of Personal Data processed by the Data Processor.
- (f) to ensure that Personal Data is collected and processed in a fair and lawful manner, in accordance with the Data Protection Laws.
- (g) to ensure that Personal Data of your personnel are accurate and, where necessary, kept up-to-date and to use best efforts to ensure that Personal Data which are inaccurate or incomplete are erased or rectified.
- (h) to collect only that Personal Data that are proportionate, relevant, and appropriate for purposes of fulfilling its obligations under the underlying agreement with the Data Controller.
- (i) to ensure compliance with the data transfer methods contained in the Data Protection Laws.
- (j) to ensure that the Data Controller is notified promptly in writing of any communication received from any individual relating to that individual's rights to access, modify or correct the Personal Data and to comply with all reasonable instructions, not to be unreasonably withheld, of Data Controller in responding to such communications.
- (k) to ensure that technical and organisational measures are adopted to protect Personal Data against accidental or unlawful destruction or accidental loss or damage, alteration, unauthorized disclosure or access and against all other unauthorized or unlawful forms of processing or required by any applicable data protection law.
- (l) not to sub-contract any of its rights or obligations under this Agreement without first ensuring that the Sub-Contractor will be able to uphold the Data Protection Laws in relation to the personal data that will be entrusted to them, and without first putting in place a written agreement with the Sub-Contractor which imposes obligations that are at least as onerous as those imposed on the Data Processor under this Agreement.

- (m) to the extent practicable to inform the Data Controller in writing within two (2) business days of becoming aware of any accidental or unlawful destruction or accidental loss or damage, alteration, unauthorized disclosure or access to the Personal Data entrusted to the Processor or any of its Sub-Contractors. The Data Processor agrees to cooperate fully with the Data Controller in the handling of any incidents that require reporting to the data protection regulators and/or affected individuals, and to fulfil its legal obligations in relation to the situation. The Data Processor also agrees to ascertain as soon as possible the cause of the breach, and confirms that it will take appropriate remediation steps commensurate with the findings in order to minimize the risk of another breach.
 - (n) to train its employees/associates responsible for processing Personal Data described in this Agreement.
 - (o) to provide the Data Controller promptly a list of all Sub-Contractors entrusted with any of the personal data entrusted to the Processor by the Controller, as well as a copy of the written agreement in place between the Processor and those Sub-Contractors.
 - (p) within a reasonable timeframe, to return and/ or delete the Personal Data (at the choice of the Data Controller) upon termination of the underlying services agreement unless as required by law.
- 4.4 The Data Processor agrees that Data Controller may inspect, with reasonable notice during business hours, its processing of Personal Data, and that the Data Processor will furnish the Data Controller with the materials necessary for the Data Controller to confirm that the Data Processor has complied with the obligations set forth in this Agreement.
- 4.5 Subject to the Service Provider's Liability Cap (as defined in the underlying agreement), the Data Processor shall indemnify and hold harmless the Data Controller and its affiliates and their respective employees, directors, officers and agents against any and all losses resulting from any breach of this Agreement by Data Processor or any of its Sub-Contractors. The Data Processor also agrees to cooperate fully with Data Controller in relation to any claims, complaints, grievances, lawsuits, inspections, enforcement matters or requests for information from any oversight agency in relation to this Agreement or the Parties' underlying agreement.
- 4.6 The Data Processor represents and warrants that nothing in any applicable data protection legislation (or any other applicable laws or regulations) prevents it from fulfilling its obligations under this Agreement and undertakes and agrees that, in the event of a change in any such laws that is likely to have a material adverse effect on the Data Processor's compliance with this Agreement or in the event the Data Processor otherwise cannot comply with this Agreement for whatever reason(s), the Data Processor shall notify the Data Controller within fifteen (15) days in writing, giving the reasons why.
- 4.7 The Data Controller warrants that, in supplying Personal Data to the Data Processor, it has itself complied with Data Protection Laws. The Data Controller shall indemnify and hold harmless the Data Processor and its affiliates and their respective employees, directors, officers and agents against any and all losses resulting from any breach of this warranty by the Data Controller.
- 4.8 The data protection obligations contained in this Agreement shall be governed by the laws of England and any dispute arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the English courts.
- 4.9 Nothing in this Agreement shall prevent either party from complying with any legal obligation imposed by a regulator or court.
- 4.10 To the extent that this Agreement contradicts any applicable law or regulation, compliance with the law or regulation shall prevail over this Agreement.
- 4.11 To the extent that this Agreement conflicts with the Parties' underlying services agreement in relation to matters involving data protection, security and confidentiality, the terms of this Agreement shall prevail.