

# Diversity Travel Terms & Conditions

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## DIVERSITY TRAVEL LIMITED: TERMS AND CONDITIONS

(These "Terms and Conditions")

### 1. Definitions

In this Agreement:

1.1 the following terms shall have the following meanings unless the context otherwise requires:

"Agreement": these Terms and Conditions together with the Documentation and any document referred to in these Terms and Conditions or the Documentation;

"Booking": the booking that you place with us using the Service for the purchase of Provider Services, subject to this Agreement and the relevant Provider Terms;

"Booking Confirmation": the document we provide to our clients containing specific information relating to the particular services supplied or to be arranged to be supplied by us, and the relevant third-party provider, to those clients;

"Breach of Duty": the breach of any: (i) obligation arising from the express or implied terms of a contract to take reasonable care or exercise reasonable skill in the performance of the contract; or (ii) common law duty to take reasonable care or exercise reasonable skill (but not any stricter duty);

"Business Day": any day other than: (i) a Saturday; (ii) a Sunday; or (iii) a day when the clearing banks in the City of London are not physically open for business;

"Charges": the amounts payable by you to us in respect of the purchase of the Provider Services that are the subject of any Booking, as set out in the Booking Confirmation and the Documentation;

"Commencement Date": has the meaning give to it in Clause 2.1;

"Confidential Information": any information in any form or medium obtained by or on behalf of either Party from or on behalf of the other Party in relation to this Agreement which is expressly marked as confidential or which a reasonable person would consider to be confidential, whether disclosed or obtained before, on or after the Commencement Date, together with any reproductions of such information or any part of it;

"Client", "you" or "your": the user of the Service and recipient of Provider Services under this Agreement, as stipulated in the Documentation;

"Documentation": the relevant ticket or voucher for the Provider Services that are the subject of your Booking, together with such supporting documentation as we may provide to you from time to time;

"Intellectual Property Rights": copyright and related rights, trade marks and service marks, trade names and domain names, rights under licences, rights in get-up, rights to goodwill or to sue for passing off or unfair competition, patents, rights to inventions, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

"Issue": our issuance to you of the Documentation;

"Liability": liability in or for breach of contract, Breach of Duty, torts (including negligence and intentional torts), deliberate breach (including deliberate personal repudiatory breach), misrepresentation, restitution or any other cause of action whatsoever relating to or arising under or in connection with this

Agreement, including liability expressly provided for under this Agreement or arising by reason of the invalidity or unenforceability of any term of this Agreement (and, for the purposes of this definition, all references to "this Agreement" shall be deemed to include any collateral contract);

"Party": us or you, and "Parties" means both of us and you;

"Portal": our portal for our clients to book travel, accommodation or other services to be provided to those clients by third-party providers, accessible via [www.diversitytravel.com](http://www.diversitytravel.com);

"Provider": a third-party supplier of travel, accommodation or other services, with whom you are able to enter into a contract for provision of such services by submitting a booking through the Service;

"Provider Services": the travel, accommodation or other services provided by third-party providers in respect of which our clients are able to submit bookings using the Service;

"Provider Terms": the terms and conditions of the relevant Provider for the Provider Services, in respect of which you place a Booking;

"Service": the service provided by us for you to book travel, accommodation or other services with third party providers using the Portal and the Telephone Service;

"Telephone Service": the telephone helpline for our clients to book travel, accommodation or other services to be provided to those clients by third-party providers;

"Users": those of your employees and independent contractors who you authorise to access the Service under this Agreement;

12 references to "Clauses" are to clauses of these Terms and Conditions;

13 the headings are inserted for convenience only and shall not affect the construction or interpretation of this Agreement;

14 a "person" includes a natural person, corporate or unincorporated

body (whether or not having separate legal personality);

15 a reference to a Party includes its personal representatives, successors or permitted assigns;

16 words imparting the singular shall include the plural and vice versa. Words imparting a gender shall include the other gender and the neutral and references to persons shall include an individual, company, corporation, firm, partnership, trust, association, government or local authority department or other authority or body (whether corporate or unincorporated);

17 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

18 any phrase introduced by the terms "including", "include", "in particular" or any similar expression, shall be construed as illustrative, shall not limit the sense of the words preceding or following those terms, and shall be deemed to be followed by the words "without limitation" unless the context requires otherwise; and

19 a reference to "writing" or "written" includes in electronic form and similar means of communication (except under Clause 11).

### 12. Visa Services

12.1 Diversity Travel does not provide visa procurement services but may, by arrangement, invoice you for visa procurement services provided by a third party.

122 Diversity Travel cannot be held liable for the services provided by any third party, its employees or systems.

123 Diversity Travel recommends you do not confirm travel plans and tickets or commit to travel costs until any visas required for your travel have been issued.

## 2. Agreement

21 This Agreement applies to your use of the Service.

22 A Booking constitutes an offer by you to purchase the relevant Provider Services in accordance with these Terms and Conditions. A Booking shall only be deemed to be accepted by us at Issue, at which point and on which date this Agreement shall come into existence ("Commencement Date"). You acknowledge that any Booking Confirmation that we may issue from time to time is merely a confirmation that we will attempt to book the relevant Provider Services, but we cannot guarantee availability of such Provider Services, and we shall not be considered contractually bound until Issue.

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Save as expressly provided in this Agreement, this Agreement (and any document referred to in it) shall operate to the entire exclusion of any other agreement, understanding or arrangement of any kind between the Parties and in any way relating to the subject matter of this Agreement, to the exclusion of any representations not expressly stated in this Agreement, except for any fraudulent misrepresentations or any misrepresentation as to a fundamental matter. You acknowledge that you have not accepted these Terms and Conditions based on any representation that is not expressly incorporated into these Terms and Conditions.

23 Subject to any Booking (which shall be subject to the Provider Terms and this Agreement), this Agreement constitutes the whole agreement and understanding of the Parties as to the subject matter of this Agreement and there are no provisions, terms, conditions or obligations, whether oral or written, express or implied, other than those contained or referred to in this Agreement.

24 You acknowledge that the Provider Terms apply to any Booking that you place using the Service, in addition to this Agreement.

25 In the event of a conflict between these Terms and Conditions and the Documentation, then the Documentation shall prevail over these Terms and Conditions.

## 3. Service

31 We warrant that:

31.1 we shall use our reasonable skill and care in providing the Service;

31.2 we have all necessary consents, rights and permission to enter into, and perform our obligations under, this Agreement; and

31.3 we shall comply with all applicable laws, statutes, regulations and bye-laws in relation to the exercise of our rights and performance of our obligations under this Agreement.

32 We shall use our reasonable endeavours to perform our obligations under this Agreement within any timescales set out in this Agreement. Except as specifically stipulated in this Agreement, we shall not be responsible for providing or achieving any particular results or outcomes or within a particular time.

33 We are not responsible for any deliverables or services that we are not expressly stipulated to provide in this Agreement.

34 We do not warrant that the Service will be uninterrupted, errorfree

or secure from unauthorised access, or that it will meet your individual requirements. Whilst we use our reasonable endeavours to make the Service available, we shall not have any Liability (subject to Clause 9.2) if for any reason the Service is unavailable for any time or for any period. We make no warranty that your access to the Service will be uninterrupted, timely or error-free.

35 We reserve the right, at any time, to carry out repairs, maintenance or introduce new facilities and functions in respect of all or any part of the Service.

36 You acknowledge that we may record calls you make to the Telephone Service, for training and other internal management purposes.

37 Except as expressly stipulated in this Agreement:

37.1 we shall not be responsible for providing or achieving any particular results or outcomes or within a particular time; and

37.2 we exclude all conditions, warranties, terms and obligations, whether express or implied by statute, common law or otherwise, to the fullest extent permitted by law in respect of the Service.

#### 4. Your obligations

41 In order to place a Booking through the Service, you must provide to such information as we may require from time to time. You must ensure that all information you provide to us is complete and accurate.

42 You must:

421 report any faults or suspected faults with or in the Service to us immediately upon discovery;

422 comply with our reasonable instructions and requests in respect of the Service or any Booking;

423 have all necessary rights, permissions and consents to enter into, and perform your obligations under, this Agreement;

424 comply with all applicable laws, statutes, regulations and by-laws in relation to the exercise of your rights and performance of your obligations under this Agreement; and

425 ensure that the terms of the Booking, and any specification or instructions you provide to us for the Booking, are complete and accurate.

43 You must not in any way use the Service, or submit to us or the Service, anything which in any respect:

431 is in breach of any law, statute, regulation or byelaw of any applicable jurisdiction;

432 is fraudulent, criminal or unlawful;

433 is inaccurate or out-of-date;

434 is in contravention of any applicable law, nor allow or assist any third party in doing so; or

435 impersonates any other person or body or misrepresents a relationship with any person or body.

44 It is your responsibility to ensure that the Service is sufficient and

suitable for your purposes and meets your individual requirements. It is your responsibility to ensure that your use of the Service is in your best interests, and you bear sole responsibility and Liability (subject to Clause 9.2) for the consequences of your use of the Service.

45 It is your responsibility to ensure that you provide us with the information required to enable us to properly make the Service available, and to perform our obligations under this Agreement. We shall not be responsible or have any Liability (subject to Clause 9.2) for any failure to make the Service available, provide the Service, or to perform our obligations under this Agreement, to the extent caused by your failure to properly ensure the provision of the relevant information to us.

46 Access to the Service may be suspended or withdrawn to or from

you or all Users temporarily or permanently at any time without notice. We may also impose restrictions on the length and manner of usage of any part of the Service or access for any reason. If we impose restrictions on you, you must not attempt to use the Service under any other name or user.

47 Whilst we endeavour to ensure that information and materials on or provided through the Service (including information about Provider Services) are correct, no warranty or representation, express or implied, is given that they are complete, accurate, up-to-date,

fit for a particular purpose and, to the extent permitted by law and we shall not have any Liability (subject to Clause 9.2) for any errors or omissions.

48 It is your responsibility to ensure that:

481 any decision or implementation made by you and your employees, agents and other contractors as a result of any advice, recommendation or course of action proposed in the provision of the Service by us is made in your best interests; and

482 the process of making such decision or implementation by you and your employees, agents and other contractors is made in compliance with your relevant risk strategy;

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and you bear absolute responsibility and Liability for the consequences of any such decision or implementation. You acknowledge that we provide the Service and advice in order that the Provider Services are the most appropriate to your requirements, at our discretion and based on the instructions you provide to us.

49 You acknowledge that you are responsible for:

491 putting in place appropriate insurance in respect of any Provider Services, as appropriate;

492 ensuring that you have a valid passport and/or visa for any travel you intend to take under any Booking; and

493 checking any health requirements for the destinations relevant to your Booking and have received the relevant inoculations.

Subject to Clause 9.2, we will not have any Liability for any failure by you to have the necessary and appropriate documents, and to take any necessary precautionary actions, for your receipt of any Provider Services or otherwise make any trip using any Provider Services.

#### 5. Provider Services

51 When you inform us of your intention to submit a Booking to us:

511 we will make available to you such of the relevant Provider Terms as are available to us in respect of each Provider that will be providing Provider Services for that Booking (including standard airline booking terms at <http://www.iatatravelcentre.com/e-ticketnotice/England/English.htm>

512 from time to time, we may be able to make available to you Provider Terms in full in advance; and

513 we will provide to you any cancellation and amendment information that is available to us from the Provider in respect of that Booking.

In submitting any Booking to us, you acknowledge that a full copy of the relevant Provider Terms may not be available until Issue or afterwards, but that you agree to accept and comply with those Provider Terms as appropriate. We shall not have any Liability (subject to Clause 9.2) in respect of any Provider Terms, including any failure by you or the relevant Provider to comply with the relevant Provider Terms or to honour the terms of any Booking.

52 You will receive no representations or warranties in respect of the

Provider Services except those contained in the relevant Provider Terms.

53 For the avoidance of doubt, we accept Liability in accordance with

Clause 9 in respect of the Service only. Your access to, and the availability of, Provider Services, and your presence in or on any transport or premises, or receipt of any Provider Services, is subject to the relevant Provider Terms.

54 You shall indemnify us against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all

interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by us arising out of or in connection with:

541 any breach, negligent performance or non-performance by you or the Provider of any Provider Terms or the Provider Services;

542 any amendment, cancellation, or failure by you to arrive at the appropriate place and time for receipt, of the Provider Services; and/or

543 any claim made against us by any third party arising out of the Provider Services in respect of which you have submitted to us a Booking.

This indemnity shall apply whether or not we have been negligent or at fault.

55 You acknowledge that, in confirming a Booking, there is no guarantee of availability for the Provider Services in question. In the event of non-availability, whether before or after you have submitted your Booking, we will offer you alternatives, or you reserve the right to cancel and obtain a refund for the Booking you have made. If you request an alternative that is more expensive than the original Booking, you will pay to us the difference; if the alternative is cheaper, you have the right to obtain a credit.

56 You acknowledge that we have no operational control over Provider Services, including cancellations and schedule changes, which may occur at short notice. It is the relevant Provider's responsibility to advise us of any such changes, and we shall pass on such information to you promptly should we receive it, but we shall have no Liability (subject to Clause 9.2) for the actions or omissions of any Provider, or in respect of the performance, negligent performance, or failure in performance, of the Provider Services.

57 You acknowledge that any change you wish to make to any Booking, or any cancellation of any Booking you submit, following Issue, may be subject to:

57.1 an administration fee payable to us for each change, per ticket to whom the change relates;

57.2 the discretion of the relevant Provider;

57.3 the relevant Provider Terms (which may apply time limits on changes or cancellations); and

and may be subject to additional fees charged by the relevant Provider; there is no guarantee that the Provider will be able to accommodate any such change. In the event that any cancellation or refund of a Booking requested by you requires input or consent from the relevant Provider, you must pay the relevant invoice for that Booking in accordance with this Agreement as if you had not requested the cancellation, and we shall credit your account with any refund issued on our receipt of such amount from the Provider.

58 You agree that any of your employees or workers accessing the Service on your behalf will be considered as having appropriate authorisation to use the Service and submit Bookings to us.

59 When your Booking includes any air travel that is "ATOL Protected", we will send you a Booking Confirmation including details of protection given to you under our "Air Travel Organiser's Licence". If we experience an event falling within the scope of Clause 10.2.3, the purpose of "ATOL Protected" is that the Civil Aviation Authority will return you (and/or any passenger travelling under your auspices) to your initial location of departure, and ensure that you receive a refund of any money you

have paid to us in advance for that Booking. Please visit [www.atol.org.uk](http://www.atol.org.uk) for more information. You acknowledge that not all Provider Services we make available are protected by ATOL, and you should confirm with us what protection, if any, applies to your Booking before placing it with us.

510 You acknowledge that we may pass your travel details to Air Help (and other similar organisations) in order for you to remain informed as to whether you may be entitled to flight delay/cancellation compensation if and when delays and/or cancellations arise in respect of Provider Services.

6. Payment

61 Access to the Service is currently free of charge. You will only pay

for the Bookings you submit using the Service.

62 You must pay the Charges to us at such times and in such instalments as we may direct from time to time. Unless set out otherwise in this Agreement, we may issue invoices to you for the Charges at such intervals as we may, at our absolute discretion, consider appropriate.

63 You must pay us by the agreed method. No payment shall be considered paid until we have received it in cleared funds in full.

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64 Payment must be in the currency in force in England or such other

currency as agreed.

65 All prices listed on or through the Service for Provider Services will

display:

65.1 VAT or other sales, import or export duties or taxes (if applicable) which shall be payable in addition at the same time as payment of any sums due; and

65.2 any other booking or transaction fees that apply to your Booking.

66 You must pay all amounts due under this Agreement in full without any set-off, counterclaim, deduction or withholding except as required by law. We may, without limiting our other rights or remedies, set off any amount owing to us by you against any amount payable by us to you.

67 If you are late in paying any part of any monies due to us under this Agreement and such payment remains outstanding for seven days following us providing notice to you of such outstanding payment, we may (without prejudice to any other right or remedy available to us whether under this Agreement or by any statute, regulation or bye-law) do any or all of the following:

67.1 charge interest and other costs on the overdue amount due but unpaid at the annual rate of interest set under Section 6 of the Late Payment of Commercial Debts (Interest) Act 1998 from time to time from the due date until payment (after as well as before judgment), such interest to run from day to day and to be compounded monthly; and

67.2 recover our costs and expenses and charges (including legal and debt collection fees and costs) in collecting the late payment.

67.3 suspend the payment of refunds due on your account

68 In the event that the relevant Provider Terms require you to make

any payments in accordance with a specific payment structure (such as up-front, or on a deposit basis), you acknowledge that we will not be able to Issue until you have complied with such Provider Terms. Such payments will only be refundable if permitted by the Provider Terms.

69 You may make an application for a credit facility with us, using the application process that we make available. We will assess your application and may seek references from third parties, including credit reference agencies. We will inform you of our decision in writing including any special conditions we may require you to accept. You cannot make any Bookings using a credit facility until we have agreed in writing to your credit facility and you have accepted in writing any special conditions we require. We reserve the right to decline any credit facility application, or cancel any credit facility, at any time at our absolute discretion.

#### 7. Data Protection

7.1 In this Clause 7, the following terms shall have the following meanings:

“Data Controller”: has the meaning given to it by Data Protection Laws;

“Data Processor”: has the meaning given to it by Data Protection Laws;

“Data Subject”: has the meaning given to it by Data Protection Laws;

“Data Protection Laws”: in relation to any Personal Data which is Processed in the performance of this Agreement,; the Data Protection Act 1998, EU Data Protection Directive 95 / 46 / EC, the General Data Protection Regulation (EU 2016/679) (“GDPR”), the Investigatory Powers Act 2016, Telecommunications (Lawful Business Practice), the Privacy and Electronic Communications Directive 2002 / 58 / EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003 / 2426), in each case together with all laws implementing or supplementing the same and any other applicable or equivalent data protection or privacy laws, and all other applicable law, regulations and codes of conduct relating to the processing of personal data and privacy, including the guidance and codes of practice issued by a relevant Supervisory Authority;

“Personal Data”: has the meaning given to it by Data Protection Laws, and relates only to personal data, or any part of such personal data, of which you are the Data Controller and in relation to which we are the Data Processor and providing services under this Agreement;

“Personal Data Breach”: has the meaning given to it by Data Protection Laws;

“Process/Processing”: has the meaning given to it by Data Protection Laws;

“Supervisory Authority”: means (a) an independent public authority which is established by a Member State pursuant to Article 51 GDPR; and (b) any similar regulatory authority responsible for the enforcement of Data Protection Laws;

“Special Categories of Personal Data”: those categories of data listed in Article 9(1) GDPR;

7.2 The Parties acknowledge that, for the purposes of Data Protection

Laws, there may be instances where:

7.2.1 you are the Data Controller and we are the Data Processor of any Personal Data.

To the extent that we and you are Data Controllers, we shall each comply with Data Protection Laws as a Data Controller. To the extent that Clause 7.2.2 applies and we are a Data Processor, and you are a Data Controller, the remainder of this Clause 7 shall apply.

7.3 Each Party confirms that it holds, and during the term of this Agreement will maintain, all registrations and notifications

required in terms of the Data Protection Laws which are appropriate to its performance of its obligations under this Agreement.

7.4 Each Party confirms that, in the performance of this Agreement, it will comply with Data Protection Laws.

7.5 We will:

7.5.1 Process Personal Data only on documented instructions from you, unless required to do so by Data Protection Laws or any other applicable law to which we are subject; in such a case, we shall inform you of that legal requirement before Processing, unless that law prohibits us to so inform you;

7.5.2 ensure that persons authorised to Process the Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

7.5.3 take all measures required pursuant to Article 32 of the GDPR in respect of security of Processing;

7.5.4 ensure that any subcontractor we commission in respect of this Agreement complies with the provisions of this Clause 7 as if it was a party to this Agreement;

7.5.5 taking into account the nature of the Processing, assist you by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of your obligation to respond to requests for exercising the Data Subject’s rights laid down in Data Protection Laws, to the extent that such requests relate to this Agreement and our obligations under it;

7.5.6 assist you in ensuring compliance with your obligations pursuant to Articles 32 to 36 of the GDPR taking into account the nature of Processing and the information available to us;

7.5.7 at your option, delete or return all the Personal Data to you after termination of this Agreement or otherwise on your request, and delete existing copies unless applicable law requires our ongoing storage of the Personal Data;

7.5.8 make available to you all information necessary to demonstrate our compliance with this Clause 7.5, and allow for and contribute to audits, including inspections, conducted by you or another auditor mandated by you; and

7.5.9 inform you as soon as is reasonably practicable if, in our opinion, an instruction from you infringes or, if complied with, might cause the infringement of, Data Protection Laws.

7.6 Each Party will notify the other Party as soon as is reasonably practicable if it becomes aware of a Personal Data Breach relating to either Party’s obligations under this Agreement.

7.7 You shall undertake appropriate data protection impact assessments to ensure that Processing complies with Data Protection Laws. We will provide you with reasonable assistance, where necessary and upon your request, in carrying out any data protection impact assessment and undertaking any necessary prior consultation of the Supervisory Authority.

7.8 It is your responsibility to ensure that Personal Data is dealt with in a way that is compliant with Article 1(1) of the GDPR.

7.9 It is your responsibility to ensure that:

7.9.1 you are able to justify the Processing in accordance with Article 6(1) of the GDPR (including, where applicable,

obtaining any and all consents of Data Subjects required in order to commence the Processing), and that you have recorded or documented this in accordance with the record keeping requirements of the GDPR;

7.9.2 where Personal Data falls within the Special Categories of Personal Data, Article 9(2) applies to that Personal Data before Processing takes place; and

7.9.3 where Article 9(2) of the GDPR does not apply to any Personal Data falling within the Special Categories of Personal Data, no such data will be sent to us.

7.10 In the event that we:

7.10.1 comply with your instructions in respect of Processing, we shall not have any Liability (subject to Subject to Clause 9.2) for any damage caused by Processing that Personal Data, or for any consequences in the event that such Processing otherwise infringes Data Protection Laws, to the extent that such damage or consequences result from our compliance with such instructions; and/or

7.10.2 refuse to comply with your instructions in respect of Processing due to concerns that compliance will cause a breach of Data Protection Laws, we shall not have any Liability (subject to Subject to Clause 9.2) for any failure to follow such instructions.

7.11 Each Party agrees to indemnify, and keep indemnified and defend

at its own expense, the other Party, against all costs, claims, damages or expenses incurred by the other Party or for which the other Party may become liable, due to any failure by the first Party or its employees or agents to comply with this Clause 7.

7.12 For the purposes of this Agreement, the following applies to Processing:

What

Personal Data

is being

Processed?

- User email address
- Name as it appears on their passport
- Position / Job Title
- Date of birth
- Telephone numbers – landline and mobile
- Email address
- Nationality
- Passport number and details
- Any unexpired visas held

Emergency contact numbers Why is the Personal Data being Processed?

We process personal information for travellers that are the subject of a Booking, and the person(s) placing the Booking with us, to enable us to provide the Booking Services to you.

This includes:

Transportation booking and booking management services including flights, rail, ferries and other  
Booking accommodation and

accommodation booking management including hotels, serviced apartments and other Risk management and duty of care  
Visa application assistance and processing

Management information processing on behalf of the client

We process the data manually and automatically. The processing includes actions such as collection, recording, organisation, storage, alteration (on your request only), retrieval, restriction, erasure or destruction. Data is only processed by limited number of staff. We only process data on behalf of you and under your instruction, or due to other regulations requiring us to do so. Data may be processed in one of the 4 main travel systems (GDS, Dolphin, IQ, MiBank) we operate. All data stored by us is stored in a secure database which is located within the UK.

For how long will the Personal Data be Processed?

For the duration of this Agreement unless required by applicable law.

8. Confidentiality

8.1 Each Party undertakes that it shall not, at any time, disclose to any

person any confidential information concerning the business, affairs, customers, clients or suppliers of the other Party, except that each Party may disclose such information:

8.1.1 to its employees, officers, representatives, suppliers (Including Providers) or advisers who need to know such information for the purposes of carrying out that Party's obligations under this Agreement. Each Party shall procure that its employees, officers, representatives, suppliers (including Providers) or advisers to whom it discloses the other Party's confidential information comply with this Clause 8; and

8.1.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

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8.2 Neither Party shall use the other Party's confidential information for any purpose other than to perform its obligations under this Agreement.

8.3 The provisions of this Clause 8 shall continue to apply after termination or expiry of this Agreement.

8.4 You acknowledge that, in processing Bookings and sharing data with Providers, we may transfer and/or store personal data outside of the European Economic Area (or, if different, the UK), and you consent to us transferring and storing personal data in this way.

9. Limitation of Liability

9.1 This Clause 9 prevails over all of this Agreement and sets forth our

entire Liability, and your sole and exclusive remedies, in respect of:

91.1 performance, non-performance, purported performance, delay in performance or mis-performance of this Agreement or any goods, services or deliverables in connection with this Agreement; or

91.2 otherwise in relation to this Agreement or entering into this Agreement.

92 Neither Party excludes or limits its Liability for:

92.1 its fraud; or

92.2 death or personal injury caused by its Breach of Duty; or

92.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982; or

92.4 any other Liability which cannot be excluded or limited by applicable law.

93 Subject to Clause 9.2, we do not accept and hereby exclude any Liability for Breach of Duty other than any Liability arising pursuant to the terms of this Agreement.

94 Subject to Clause 9.2, we shall not have any Liability in respect of any:

94.1 indirect or consequential losses, damages, costs or expenses;

94.2 loss of actual or anticipated profits;

94.3 loss of contracts;

94.4 loss of use of money;

94.5 loss of anticipated savings;

94.6 loss of revenue;

94.7 loss of goodwill;

94.8 loss of reputation;

94.9 loss of business;

94.10 ex gratia payments;

94.11 loss of operation time;

94.12 loss of opportunity;

94.13 loss caused by the diminution in value of any asset; or

94.14 loss of, damage to, or corruption of, data;

whether or not such losses were reasonably foreseeable or we or our agents or contractors had been advised of the possibility of such losses being incurred. For the avoidance of doubt, Clauses 9.4.2 to 9.4.14 (inclusive) of this Clause 9.4 apply whether such losses are direct, indirect, consequential or otherwise.

95 Subject to Clause 9.2, our total aggregate Liability arising out of or

in connection with all claims in aggregate (including warranty claims and losses relating to the breach of warranty) shall be limited to 110% of the Charges payable by you for the relevant Booking.

96 The limitation of Liability under Clause 9.5 has effect in relation both to any Liability expressly provided for under this Agreement and to any Liability arising by reason of the invalidity or unenforceability of any term of this Agreement.

97 You acknowledge and accept that we only provide the Service to

you on the express condition that we will not be responsible for, nor shall we have any Liability (subject to Clause 9.2) directly or indirectly for any act or omission of you, or your employees, agents or subcontractors, or any third party.

98 Subject to Clause 9.2, we shall not have any Liability for any failure

or delay by any Provider to provide or perform any Provider

Services, nor for any other act or omission of any Provider.

10. Termination

10.1 This Agreement shall commence on the date on which this Agreement is entered into and, unless terminated earlier in accordance with the termination provisions under this Agreement, shall continue in full force and effect until the latest of:

10.1.1 the conclusion of payment of all sums due under this Agreement; or

10.1.2 the commencement of the provision of the Provider Services to you by the Provider.

10.2 Without prejudice to its rights and remedies at law or under this Agreement, either Party may terminate this Agreement immediately by notice in writing to the other Party if the other Party:

10.2.1 fails to pay any amount due under this Agreement on the due date for payment and such amount remains in default not less than seven days after the other Party being notified to make such payment;

10.2.2 is in material breach of any of its obligations under this Agreement, and, where such material breach is capable of remedy, the other Party fails to remedy such breach within a period of 10 Business Days of being notified of such breach by the Party;

10.2.3 gives notice to any of its creditors that it has suspended or is about to suspend payment or if it shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, or an order is made or a resolution is passed for the winding-up of the other Party or an administration order is made or an administrator is appointed to manage the affairs, business and property of the other Party or a receiver and/or manager or administrative receiver is appointed in respect of all or any of the other Party's assets or undertaking or circumstances arise which entitle the court or a creditor to appoint a receiver and/or manager or administrative receiver or administrator or which entitle the court to make a winding-up or bankruptcy order or the other Party takes or suffers any similar or analogous action in consequence of debt in any jurisdiction; and/or

10.2.4 ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.

10.3 Termination of this Agreement shall be without prejudice to any accrued rights or remedies of either Party.

10.4 Termination or expiry of this Agreement shall not affect the coming into force, or continuance in force, of any provision which is expressly or by implication intended to come into or continue in force on or after such termination or expiry.

10.5 On termination or expiry of this Agreement for any reason:

10.5.1 we shall cease to provide to you access to the Service under this Agreement;

10.5.2 you must pay to us all amounts owing to us under this Agreement, whether invoiced or not;

10.5.3 you will remain responsible under any Provider Terms or other agreement entered by you in respect of Provider Services or any Provider; and

10.5.4 termination or expiry shall not affect any Issue that took place prior to termination or expiry in respect of Provider Services to be provided after the date of termination or

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expiry, which shall remain in full force and effect and the provisions of the relevant Provider Terms shall continue to

apply to such Bookings (and, in particular, you will be responsible for any outstanding payment to us in respect of such Bookings in accordance with this Agreement).

#### 11. Force majeure

Neither Party shall be in breach of this Agreement nor, subject to Clause 9.2, have any Liability for delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected Party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 60 days, the Party not affected may terminate this agreement by giving immediate written notice to the affected Party.

#### 12. Notices

<sup>121</sup> Any notice given to either Party under or in connection with this Agreement shall be in writing, addressed to the relevant Party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that Party may have specified to the other Party in writing, and shall be delivered personally, sent by pre-paid first class post, recorded delivery or commercial courier.

<sup>122</sup> A notice shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 12.1; if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting; or, if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

<sup>123</sup> The provisions of this Clause 11 shall not apply to the service of any proceedings or other documents in any legal action.

#### 13. Assignment

You must not assign, transfer, charge or otherwise encumber, create any trust over, or deal in any manner with, this Agreement or any right, benefit or interest under it, nor transfer, novate or sub-contract any of your obligations under it, without our prior written consent (such consent not to be unreasonably withheld or delayed).

#### 14. Severance

<sup>141</sup> If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

<sup>142</sup> If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

#### 15. Waiver

<sup>151</sup> A waiver of any right or remedy under this Agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

<sup>152</sup> The rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law

#### 16. Third party rights

A person who is not a Party shall not have any rights under or in connection with this Agreement.

#### 17. No partnership

Nothing in this Agreement shall constitute a partnership or employment or agency relationship between the Parties.

#### 18. Governing law and jurisdiction

<sup>181</sup> This Agreement 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 laws of England.

<sup>182</sup> Each Party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement, or its subject matter or formation.