

SUB-AGENCY AGREEMENT

The Travel Junction

BETWEEN:

- (1) **Flight Centre Travel Group Limited T/A The Travel Junction – Connecting You (Australian company no: 003 377 188) whose registered office is at 275 Grey Street, Brisbane, Queensland 4101, Australia ("Agent"), and**
 - (2) The registered company name submitted with online registration form (hereinafter "**Sub-Agent**").
- WHEREAS:**

- (A) Agent acts as an intermediary in the provision of travel services and as a booking agent for various travel operators/organizers and final consumers for the contracting of different travel services provided by travel suppliers. Travel operators/organizers and final consumers may appoint Agent as their travel booking agent and request Agent to handle, deal and conclude the booking with the travel service provider (accommodation establishments, transfer service provider, etc.) on their behalf.
- (B) Sub-Agent carries on business as a travel agent or in its capacity as a travel agent aggregator of services provided by various operators / organisers who provide services to final customers.
- (C) Agent desires to appoint Sub-Agent as its sub-agent for intermediary services and sale and promotion of travel services intermediated by Agent for Product Suppliers upon the terms hereinafter appearing.
- (E) By Agent's appointment of the Sub Agent as its sub-agent, both Agent and Sub-Agent shall act as agents of the Product Supplier. Instructions given by Agent to Sub-Agent in the context of Accommodation are given on behalf of the Product Supplier.
- (E) The following Conditions will govern any reservation made through the XML interface and Sub-Agent accepts that the terms and conditions of this Agreement shall apply to each and every transaction.

Both parties mutually recognise sufficient legal power to agree upon and oblige themselves to act accordingly by mutual agreement.

AGREED TERMS:

1. Definitions and interpretation in this Agreement

1.1 Unless the context otherwise requires:

Affiliates

means:

(a) in the case of Agent (without limitation) a related body corporate or subsidiary (as defined in the *Corporations Act 2001* (Cth) of Flight Centre Travel Group Limited, any of their franchisees, any of their related bodies corporate or subsidiaries, a related body corporate or subsidiary of FC USA Inc, its parent company or ultimate holding company and any of their related bodies corporate or subsidiaries; and

(b) in the case of Sub Agent, means related bodies corporate (as defined in the *Corporations Act 2001* (Cth)).

Agent Site

means any website on which Agent makes available Product content an example of which, as at the Commencement Date, is located at the URL www.flightcentre.com.au.

Agent's Terms and Conditions

means Agent's booking terms and conditions governing the

provision of the travel services arranged by Agent to customers, a copy of which is available at <https://www.thetraveljunction.com.au/booking-terms-conditions> (and which is updated from time to time) and which Sub-Agent shall provide to customers at the time of Booking.

Agreement	means this Agreement including the Schedules attached.
Applicable Law	means any applicable law that is enacted, made, issued or granted by any government of a country or government agency, board or court and any international treaty obligations in each case as amended, modified or supplemented from time to time and with which Agent, Sub-Agent and any of their Affiliates are required to comply.
Booking	means an order by a Customer, made by Sub-Agent and Agent, for Product between the Customer and the Product Supplier.
Booking Agent	means a person or organization that makes reservations for Product on behalf of the Customer.
Booking Conditions	means the booking conditions in respect of the Product (as amended from time to time) of the relevant Product Supplier as made available by Agent to Sub-Agent as part of this Agreement and also, included on Agent's Site.
Booking Confirmation	means in respect of a Booking, an e-mail confirmation generated by Agent using the Booking information provided to Agent by Sub-Agent.
Company Licensed Content	means the Product Supplier's listings and details that Agent provides to Sub-Agent, including, without limitation, all text, data, images, materials and other content for such listings, and any updates thereto provided to Sub-Agent by Agent and related to the Product. This content is provided through the XML Interface.
Commission	means the amount received from Customers and retained by Sub-Agent as consideration for the supply of travel agent and intermediary services to Customer in relation to a Qualifying Booking and is equal to the amount by which the Total Transaction Value exceeds the Nett Rate.
Confidential Information	of a party means any of that party's secret or confidential commercial, financial, marketing, technical, data, Intellectual Property Rights or other information (including, without limitation, information in or relating to Agent or Sub-Agent's suppliers or customers), know-how, trade secrets and other information in any form or medium whether disclosed orally or in writing before or after the date of this Agreement (and "confidential" means that the information, either in its entirety or in the precise configuration or assembly of its components, is not publicly available).
Customer	means a person, firm or company who books Product arranged by Agent through Sub-Agent under the conditions stated in this Agreement and Agent's Terms and Conditions.
Force Majeure	means any event outside the reasonable control of either party affecting its ability to perform any of its obligations (other than payment) under this Agreement including, but not limited to, Act of God, fire, flood, lightning, war, revolution, act of terrorism, riot or civil commotion but excluding strikes, lock-

outs or other industrial action, of the affected party's own employees.

GST	has the meaning given in the GST Act.
GST Act	means the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Commonwealth of Australia) as amended, or any replacement or other relevant legislation and regulations.
GST Law	has the meaning given in the GST Act.
Indirect Tax	means GST, any other goods or services tax, consumption tax, value added tax or any tax of a similar nature arising under the laws of Australia or another country and Indirect Taxes has a corresponding meaning.
Indirect Tax Law	means any law relating to an Indirect Tax in an applicable jurisdiction.
Insolvency Event	means the happening of one or more of the following events in relation to a Party: <ul style="list-style-type: none">a) except for the purpose of a solvent reconstruction or amalgamation:<ul style="list-style-type: none">i. an order is made that it be wound up or that a controller be appointed to it or any of its assets; orii. a resolution that it be wound up is passed or proposed;b) a liquidator, provisional liquidator, controller or any similar official is appointed to, or takes possession or control of, all or any of its assets or undertaking;c) any action is taken by a corporate regulator with a view to its deregistration or its dissolution, or an application is made to a corporate regulator that any such action be taken;d) it is insolvent within the meaning of section 95A of the Corporations Act, as disclosed in its accounts or otherwise, states that it is unable to pay its debts or it is presumed to be insolvent under any applicable law;e) as a result of the operation of section 459FJ of the Corporations Act, it is taken to have failed to comply with a statutory demand;f) it stops or suspends or threatens to stop or suspend the conduct of all or a substantial part of its business;g) any event or circumstance set out in section 461(a), (h) or (k) of the Corporations Act occurs in relation to it;h) anything having a substantially similar effect to any of the events specified in paragraphs (a) to (g)) inclusive happens to it under the law of any jurisdiction;
Intellectual Property Right	means any patent, copyright, design right, registered design, database right, trademark, service mark, know-how, utility model, unregistered design or, where relevant, any application for any such right, know-how, trade or business name, domain name, logo or other similar right or obligation whether registrable or not or other industrial or intellectual property right subsisting in any territory or jurisdiction in the world.
Nett Rate	means the rate provided by Agent to Sub-Agent for the Product and which Agent is entitled to receive from Sub-Agent in accordance with clause 4.5 for a Qualifying Booking.

Product	means accommodation, rooms, facilities, goods, ground operator services (including without limitation sightseeing tours, shuttle transfers and limousine and taxi services), theme park vouchers, tickets and bookings and all other services provided for Customers by the Product Supplier.
Product Supplier	means the person, firm or company that provides Product to to Agent under a product supply agreement.
Qualifying Booking	means a Booking made by Sub-Agent for a Customer which has been arranged and confirmed by Agent and has not been subject to a cancellation.
Services	means the representative services provided by Sub-Agent and Agent and set out in this Agreement which are subject to this Agreement and Agent's Terms and Conditions.
Sub-Agent Site	means any website on which Sub-Agent makes available its services to Customers.
Tax Invoice	means a document that satisfies the requirements under the GST Law or those administratively approved.
Total Transaction Value	means the total revenue received from the Customer by Sub-Agent in respect of a Qualifying Booking, excluding cancellations and cancellation fees but including Indirect Taxes and the Commission to be retained by Sub-Agent before remitting payment to Agent in accordance with this Agreement. Once the Commission is deducted the remaining amount shall equal to the Nett Rate provided by Agent and shall be paid by Sub-Agent to Agent.
Trademarks	means any and all trademarks, trade names, service marks, logos, URLs or identifying slogans of a party to this Agreement, whether or not registered.
XML Interface	means Agent's database of Product and other services and its links to those Products' central reservation systems for availability and rates that are accessed via Agent's software. For the avoidance of doubt, upon making any business transaction via the XML interface site, Sub-Agent accepts that these Terms and Conditions and Agent's Terms and Conditions apply to each and every Booking or transaction.

- 1.2 Unless otherwise specified, words importing the singular include the plural and words importing any gender include every gender and words importing persons include bodies' corporate and unincorporated bodies and in each case *vice versa*.
- 1.3 The headings to Clauses are inserted for convenience only and shall not affect the interpretation or construction of this Agreement.
- 1.4 The words and phrases "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible.
- 1.5 References to any statute or statutory provision shall include (i) any subordinate legislation made under it, (ii) any provision which it has modified or re-enacted (whether with or without modification), and (iii) any provision which subsequently supersedes it or re-enacts it (whether with or without modification).

2 Appointment and Duration

- 2.1 This Agreement shall come into force on the date of signature by the last Party and will continue in full force and effect for the period of one (1) YEAR (the "**Initial Term**") unless and

until terminated in accordance with its provisions and unless either Party serves at least three (3) MONTHS' prior written notice on the other. At the expiry of the Initial Term, this Agreement shall continue automatically for subsequent periods of one (1) year unless terminated by either party serving at least three (3) MONTHS' prior written notice on the other Party before the expiry of the then current term. For the avoidance of doubt, Agent acknowledges that nothing in this Agreement obliges Sub-Agent to sell all or any of the Product made available for sale via the XML Interface and is under no obligation to pay Agent for unsold Product. Agent is liable for and must honour all Bookings Sub-Agent makes on behalf of Customers in accordance with this Agreement and upon presentation of a voucher or an e-mail advising of confirmation of the Booking(s).

- 2.2 Agent appoints Sub-Agent (on the terms set out in this Agreement) as its sub-agent for the provision of Services and the sale and promotion of the Products and Sub-Agent agrees to act as agent of the Product Supplier in the promotion and sale of the Product and other services made available on the XML Interface. Through Sub-Agent's appointment under this clause, Sub-Agent becomes agent for the Product Supplier.
- 2.3 Sub-Agent hereby commits to follow all reasonable instructions given by Agent and to conclude all Bookings in accordance this Agreement and Agent's Terms and Conditions and to comply with any applicable laws while performing its agency duties.
- 2.4 All vouchers produced by Sub-Agent in relation to Bookings shall be in a form approved by Agent. All such vouchers must be both i) paid in full by the Customer and ii) paid in full by Sub-Agent to Agent in accordance with this Agreement, before the vouchers are binding and legally enforceable on Agent. Vouchers issued in breach of the obligations in this clause by Sub-Agent shall not bind Agent.

3 Marks and Content

- 3.1 Each Party acknowledges and agrees for all purposes that all Intellectual Property Rights associated with the other Party or the other Party's services, products, literature, promotional materials or otherwise, whether or not registered, constitute the other Party's exclusive property.
- 3.2 Unless specifically provided for herein (or with express consent), neither Party will adopt or otherwise use any trademark, trade name, service mark, logo, or symbol that is similar to, or likely to be confused with, any of the other Party's marks.
- 3.3 Neither Party shall acquire any interest or rights whatsoever under this Agreement in any Intellectual Property Rights belonging to the other Party.

4 Rates and Conditions

- 4.1 Agent will provide Sub-Agent with availability and Nett Rates for the Product via Agent's XML Interface or such other means as may be agreed from time to time.
- 4.2 Nett Rates will be confirmed at the time of booking. Confirmed Nett Rates will override any previously quoted rates.
- 4.3 The Nett Rate provided by Agent includes all Indirect Taxes, except any tourist/stay tax, which will be payable by the final consumer at the airport/hotel; therefore, the final price paid by the Customer (Total Transaction Value) shall include all indirect taxes. Sub-Agent shall pay Agent the Nett Rate shown through the XML Interface for the service in question in accordance with the terms set out in Schedule I.
- 4.4 Agent agrees that Sub-Agent may determine the final Total Transaction Value of the Product and may retain or absorb the difference between the final Total Transaction Value and the Nett Rate (with the retained amount being the Commission of the Sub Agent in acting for the Customer) made available by Agent through the XML Interface.
- 4.5 The Nett Rates offered to Sub-Agent are confidential and may not be disclosed to any third party except as expressly authorised under this Agreement.
- 4.6 Agent will allow Sub-Agent to sell under the terms of this Agreement the Products made

available on the XML Interface to any third party worldwide.

- 4.7 As stated in Clause 4.5, Nett Rates quoted on the XML Interface are nett prices including all indirect taxes, except tourist/stay taxes. Any increase in tax will be added to the prices offered in this Agreement. The price quote for each of the travel services are as follows:
- Hotels and other accommodation establishments (including Groups): Nett Rates are quoted per person per night or per unit per night.
 - Transfers and excursions: Nett Rates are quoted per person per service.
 - Tickets: Nett Rates are quoted per show or event.
- 4.8 Sub-Agent shall invoice according to the Total Transaction Value at the time of online confirmation of reservation. The Parties agree that, unless otherwise agreed, Sub Agent will be the only party that issues an invoice to the Customer for the Total Transaction Value. Any invoice issued to a Customer shall be a Tax Invoice unless the Sub Agent is not GST registered or the Customer is outside of Australia.
- 4.9 The Nett Rate includes all services, products and fees agreed upon the XML Interface.
- Hotels and other accommodation establishments (including Groups): Service as specified in the reservation confirmation, with the exception of those accommodation establishments in which the inclusion of other services is specifically indicated. In most hotels the earliest check-in time is after 14:00 hours, and the latest check-out time on date of departure is 12:00 hours.
 - Transfers and excursions: In most cities, these are held not as a complementary and/or additional service to accommodation, but as an independent service.
- 4.10 Sub-Agent shall be responsible for advising Customers that they (in connection with Bookings) reconfirm their flights directly with airline and/or other services and that they provide advance notice to receiving agents or hotels at destination of any changes in flights and/or flight times in the event that there has been a modification of the reserved flight(s).
- 4.11 Sub-Agent shall be responsible for ensuring that any flight times given to Agent are correct to the best of its knowledge, and where other services are required, these shall be organised based on the data provided by Sub-Agent .
- 4.12 Sub-Agent must ensure that Product provided by Agent in accordance with clause 4.1 is not distributed through the channels listed in Schedule II. In the event Sub-Agent is in breach of this clause (i) Agent will have the right to terminate this agreement immediately; and (ii) Sub-Agent shall indemnify Agent against any liabilities arising from said breach.
- 4.13 The Nett Rate does not include any service not specified in the Booking. Any kind of duty or tax is also excluded, being the responsibility of Customer making the reservation. In particular, for accommodation services: any extra services are not included such as telephone calls, insurance, laundry service, minibar, parking, etc. which shall be paid directly by the final consumer.

5 Services

- 5.1 Sub-Agent will ensure that Agent's Terms and Conditions are brought to the attention of, and agreed with, Customers, intermediaries, and all other interested parties.
- 5.2 Sub-Agent shall use reasonable endeavours to promote the Product and Sub-Agent must look after Agent's interests and act dutifully and in good faith.
- 5.3 Sub-Agent shall, when promoting the Product, carry out, with the reasonable care and skill to be expected of a travel agent, its role and responsibilities including those specific marketing and promotional activities that shall be agreed in writing by the parties.
- 5.4 Agent shall deploy best endeavours to ensure that Product Suppliers provide accurate information about Products to the XML Interface. Given however that the information is provided by Product Suppliers (over whom Agent has no control), Agent cannot guarantee that the information provided is free from inaccuracies and/or typographical errors. If Agent learns that any information provided via the XML Interface is inaccurate, Agent will take reasonable steps with the relevant Product Supplier to correct the information.

6 Booking procedures

- 6.1 The following terms and conditions for the Services and Agent's Terms and Conditions shall apply to every enquiry made to Sub-Agent by a Customer in respect of Product or other travel services and to every Booking or transaction made by a Customer for the purchase of Product or other travel services unless varied by mutual written agreement between Agent and Sub-Agent.
- 6.2 On the making of an enquiry to Sub-Agent about any Product or other travel services, Sub-Agent shall take reasonable steps to ensure that such enquiry is accurately answered and that any information provided is accurately given. If there is any enquiry about the answer to which Sub-Agent is in doubt, Sub-Agent shall contact Agent and take reasonable steps to ensure that all relevant information given by Agent or by the relevant Product Supplier or service provider is transmitted accurately to the Customer (or enquirer).
- 6.3 Sub-Agent will not process any Booking where the Customer seeking to book is under eighteen years of age or any other Booking which is not otherwise processed strictly following the terms of this Agreement and Agent's Terms and Conditions.
- 6.4 Sub-Agent shall take reasonable steps to ensure that any special requests made by Customers in respect of a Booking are forthwith relayed by Sub-Agent to Agent for Agent to pass onto the relevant Product Supplier. Should Sub-Agent confirm a special request to the Customer without receiving prior Agent confirmation, Sub-Agent will be liable for any inconvenience, loss or damage caused to the Customer arising from such confirmation.
- 6.5 Sub-Agent shall take reasonable steps to ensure that any information given by Customers to Sub-Agent which takes Customers' personal situations out of the bounds of normal expectation - for example, because of Customers' physical or mental condition is forthwith relayed to Agent for passing onto the relevant Product Supplier so as to give such Product Supplier the option of deciding whether or not to provide the Product. Until such confirmation is received from Product Supplier (via Agent) Sub Agent shall not make any Booking for the Customer involved.
- 6.6 Forthwith after taking a Booking, Sub-Agent will transfer the Booking into XML Interface, ensuring that such information is complete and accurate. Sub-Agent shall send or make available to the Customer the Booking Confirmation forthwith upon the same being provided by Agent to Sub-Agent.
- 6.7 Sub-Agent is responsible for reminding the Customer to obtain all mandatory travel documentation required at destination, such as visas, ID's, passport, medical documents, etc. and Agent shall not be liable for any circumstances or expenses incurred due to lack of documentation or non-compliance with such requirements.
- 6.8 This Agreement is solely for the provision of Product on an individual basis and not belonging to a Travel Package. Should Sub-Agent sell any Product within a broader Travel Package, Sub-Agent does so at its own risk as a tour operator, shall not represent Agent in relation to such holiday packages and shall indemnify Agent in connection with any liability, loss or damage that may arise as a consequence of such activity. In these such circumstances, whilst Agent will be acting as booking agent for the Product Supplier and shall send any request for Accommodation from Sub-Agent to the Product Supplier (provided they are otherwise in accordance with the terms of this Agreement), Agent will have no further involvement in the Product being sold. Sub-Agent undertakes to comply with all legal obligations which are binding upon it in relation to such products, including (without limitation) where applicable, the requirements of the European Package Travel Directive 90/314 EEC including requirements relating to the delivery of all the appropriate information to the Customer, requesting their signature and approval on the package travel conditions when necessary.
- 6.9 Holding Room blocks through the XML Interface by Sub-Agent is prohibited under this Agreement. The use of XML Interface is limited to Free Independent Traveller/Tourist (FIT) bookings and as such Agent's database inventory is protected against any other unauthorized use. Any Group reservations must therefore be directed to the groups section of the XML Interface, and as such are subject to the terms and conditions of group reservations.

- 6.10 The blocking of multiple rooms with unconfirmed names, ensuing name changes or cancellation within forty-five (45) days of arrival is prohibited, due to database inventory restraints.
- 6.11 Should any such blocks be detected, Agent reserves the right to:
- a) deny and cancel said bookings;
 - b) change to a Group booking, leading to a possible increase in rate and alternative payment terms; and
 - c) charge an administrative fee for handling the block and subsequent changes.

7 Changes to confirmed bookings

If any confirmed booking cannot be honoured Agent will follow the procedures and protocols set out in *The Travel Junction Sub Agent Manual* issued by Agent from time to time.

8 Payment

- 8.1 Sub-Agent will pay Agent for Qualifying Bookings made under this Agreement in accordance with Schedule I.
- 8.2 All monies paid to Sub-Agent by Customers directly or indirectly will be the property of Sub-Agent and is a debt due by Sub-Agent to Agent (contingent on the Booking being used/availed and subject to Sub-Agent's right to set off against such monies any and all money Agent owes it pursuant to this agreement) and Agent acknowledges and agrees that such monies will not be held by Sub-Agent in trust for Agent. Sub-Agent is at all times permitted to deduct from remittances received from Customers the applicable Commission, refunds and other amounts to which it is entitled under this Agreement. Sub-Agent will remit payment to Agent only after the Product or services to which the money relates have been used and an invoice/remittance advice has been issued by Agent to Sub-Agent in accordance with Schedule I of this Agreement.
- 8.3 Any fees, charges or other costs charged by Agent's bank or financial institution in relation to Sub-Agent's payment of monies owed to Agent is solely Agent's responsibility and Sub-Agent has no liability for any such fees, charges or costs.
- 8.4 Bookings, cancellations and amendments to Bookings will be advised to Agent by email. An email is taken to be received by Agent if it can be traced to its mail server.
- 8.5 Agent agrees that if a cancellation fee applies: (a) it will send Sub-Agent an invoice for such cancellation fee within 30 days of the original anticipated Customer arrival date and after such date if requested by the Customer; and (b) if required by law, Agent will refund any amounts held as a cancellation fee, deposit or otherwise to the customer.

9 Data Privacy and Security

In relation to matters of data privacy and data security, the Parties agree to comply with the Data Privacy Addendum set out in Schedule III.

10 Goods and Services Tax

- 10.1 Terms used in this clause 9, unless otherwise defined, have the meanings given in the GST Act.
- 10.2 Any amount payable or provided under or in connection with this agreement is exclusive of GST unless otherwise specifically stated. If GST becomes payable on any supply made between Agent and Sub-Agent under or in connection with this agreement (not including the Services which are provided to the Customer), then:
- a) an additional amount (the Additional Amount) will be payable by the party providing amount or payment for that supply (the Recipient), equal to the amount of GST payable on that supply as calculated by the party making the supply (the Supplier) in accordance with the GST law and payable at the same time and in the same manner as the consideration for that supply; and

- b) the Recipient need not pay the Additional Amount until such time that the Supplier gives to the Recipient a Tax Invoice (or equivalent documentation which complies with the GST law) in respect of that supply.
- 10.3 For the avoidance of doubt, the parties acknowledge and agree that any Commission received by the Sub-Agent will not constitute consideration for a supply made by the Sub-Agent to the Agent for the provision of Services.
- 10.4 If for any reason, the GST payable by the Supplier in respect of a supply it makes under this Agreement varies from the Additional Amount it receives from the Recipient under clause 9.1(a) in respect of that supply (an Adjustment Event), the Supplier will provide a refund or credit to or will be entitled to receive the amount of this variation from the Recipient (as appropriate). Where an Adjustment Event occurs in relation to a supply, the Supplier will issue an adjustment note (or equivalent document which complies with the GST law) to the Recipient in respect of that supply within 14 days after becoming aware of that Adjustment Event occurring.
- 10.5 Notwithstanding any other provision of this agreement, any amount payable for a supply made under, in connection with, or in relation to this agreement, which is calculated by reference to a cost, expense or other amount paid or incurred by a party will be reduced by an amount equal to any input tax credits which that party is entitled to in respect of that cost, expense or other amount.
- 10.6 A reference to GST payable by a Supplier includes any corresponding GST payable by the representative member of any GST group of which that party is a member, and a reference to an input tax credit entitlement of a party includes any corresponding input tax credit entitlement of the representative member of any GST group of which that party is a member.

11 Amendments and cancellations by Customers

Amendments to a Booking

- 11.1 Sub-Agent, upon receipt of notification from the Customer of an amendment desired by the Customer to a Booking, shall take reasonable steps to:
 - (a) contact Agent to ascertain the possibility of such amendment;
 - (b) collect from the Customer the amendment charge (as per the amendments charges shown by Sub-Agent upon booking request) in the event that the amendment is possible; and
 - (c) forward details of the desired amendment to Agent.
- 11.2 If a Customer wishes to change any aspect of a Booking after Agent has sent the Booking Confirmation to Sub-Agent, the following will apply:
 - (a) Sub-Agent will inform the Customer that the Product Supplier has no obligation to make any change;
 - (b) any change must be made through Sub-Agent who must confirm the change to the Customer by e-mail or letter. If the Product Supplier or Agent is able to make the change, there may be additional charges from the Product Supplier, depending upon their Booking conditions and the nature of the amendment, that must be paid. Any administration charges will be paid to Agent in accordance with the timescales referred in this Agreement; and
 - (c) if the Customer wishes to change the number of people booked, the price for the Product will be recalculated for the new party size; if, for example, the party is reduced in number, this may mean that accommodation is under-occupied and each of the remainder of the Customer's party may have to pay more and the additional cost will be paid to Agent in accordance with the timescales referred to in this Agreement.
- 11.3 Modifications to extend the reserved period of a Booking shall be subject to availability; in the event of an extension, the price shall be modified accordingly.

Cancellation of a Booking

- 11.4 Sub-Agent, upon receipt of notification from the Customer of cancellation of a Booking, shall take reasonable steps to:

- (a) ensure that such notification is in writing from the Customer, and
 - (b) advise the Customer that cancellation charges will apply, and
 - (c) collect from the Customer the appropriate cancellation charge. Sub-Agent shall be responsible for the collection of this cancellation fee, therefore in any case Sub-Agent shall pay Agent these cancellation fees irrespective of whether the final consumer, intermediary or the remaining interested parties have paid the referred fees/charges to Sub-Agent.
- 11.5 In the event of cancellation of a Booking, the Customer shall have the right to be returned all amounts paid with deduction of the amounts, if any, which may have accrued in terms of cancellation charges.
- 11.6 In particular for Product services, generally, cancellations made at least forty-eight (48) hours before Customer arrival shall not generate charges. This notwithstanding the aforementioned period may vary in each particular case and shall be indicated at the time of the booking request through the XML Interface. At the time of confirmation of the reservation the cancellation charges which may ensue shall vary according to destination, dates and Product establishment.
- 11.7 If for exceptional reasons the cancellation is not made via the XML Interface, it must be sent in writing to Agent detailing the destination and reservation number. Agent shall send acknowledgement of receipt and information on the cancellation charges, if any, which may be applicable. Sub-Agent shall be responsible for obtaining the confirmation and/or acknowledgement of receipt of the cancellation of the reservation by Agent. Any charges for cancellations made directly by the Customer with Product Supplier in relation to Bookings made by that Customer through Sub-Agent which are charged by the Product Supplier to Agent shall be paid, in turn, by Sub-Agent to Agent.
- 11.8 Claims for reimbursement by a final consumer leaving Product (where it is accommodation) before the reserved departure date, must be addressed to Agent within twenty (20) days of the effective date of departure, together with written confirmation from the Product Supplier of time and date of departure.
- 11.9 During peak occupation season (in relation to Product that is accommodation) the Product Supplier may charge the full amount of the original reservation, in which case reimbursement to the final consumer shall not apply.
- 11.10 Reservations made via the XML Interface may be cancelled by request of either party with no penalty whatsoever in the event of Force Majeure.
- 11.11 In the event of abnormal behaviour or vandalism by Customers, Agent reserves the right to automatically cancel a Customer's Booking with the Customer having no right to any compensation whatsoever, subject to law.

No shows

- 11.12 "No show" charges vary by Product Supplier from the cost of a one night stay to the full amount of the reservation. In the event of a "no show" Agent will advise Sub-Agent of the applicable charges based upon the policy of the Product Supplier.
- 11.13 No show by the Customer without prior warning shall be considered a cancellation.
- 11.14 No reimbursement to the Customer shall be made in the event of a 'no show' without prior consultation with, and express authorisation from Agent, who shall inform Sub-Agent, and Sub-Agent shall inform the consumer of charges payable, which may range from the cost of one night to 100% of the amount of the reservation.

Children

- 11.15 Special conditions for children are agreed upon with each Product Supplier and are not based on any one criteria; therefore, and given that each establishment/supplier applies its own special conditions or discounts, Sub-Agent shall enquire about this point when making the reservation.

- 11.16 Accommodation services: Any discounts or special conditions must be understood as applicable only when children share a room with 2 adults.
- 11.17 COTS (UK) /CRIBS (US) – In the event that this service is required, it shall be indicated when making the Booking, as some accommodation establishments have a limited availability of such items. This extra service shall be paid by the final consumer directly at the establishment if required.

12 Complaints

- 12.1 Sub-Agent shall advise Agent of all complaints received relating to the inadequacy or non-provision of the Product or any other service or facility provided or agreed to be provided by the Product Supplier and Agent shall procure that the Product Supplier will do its utmost to give all assistance requested by Sub-Agent including but not limited to, providing documents and detailed written statements.
- 12.2 Each Party will cooperate with the other party to resolve any claim that may be presented by the Customer.

13 Obligations of Agent

- 13.1 Agent acts as a booking agent and shall seek availability from Product Suppliers to fulfil Customer requests (as communicated by Sub-Agent) and once such availability has been confirmed by the Product Supplier, proceed to confirm the Booking as a Qualifying Booking.
- 13.2 Agent will encourage Product Suppliers to maintain insurance cover with a reputable company or institution in relation to their operations.
- 13.3 Agent will use its reasonable efforts to ensure that:
- a) its Product Suppliers will perform and/or supply all Product with all due skill, care and diligence and in a proper, workmanlike, responsive and flexible manner, conscientiously and will ensure that all personnel provided or engaged by its providers in connection with provision of the Product will be appropriately qualified, experienced and capable of competently performing the work or jobs for which they are provided or engaged;
 - b) the Product Supplier's property / premises and all accommodation, contents, facilities are safe, maintained and are of a proper standard and that all supplier's property / premises and all accommodation, contents, facilities and all services (both indoors and outdoors) are and will remain of a good and clean standard, in full working order and will be safe for human occupation and use; and
 - c) the Product and services materially comply with the descriptions as represented on the XML Interface.
- 13.4 Agent shall use reasonable efforts to ensure that the Product Supplier (as soon as is reasonably feasible) provides information about the following matters:
- (a) any withdrawal of or alteration to the Product (or any facilities or services that constitute the Product) or any other matter which may materially alter any information previously given to Sub-Agent in relation to the Product;
 - (b) any building, maintenance work or other activity in connection with the Product or its surroundings such as may adversely affect the Customer's material enjoyment of the Product (but only in the case Agent is notified by the Product Supplier);
 - (c) any local tax described as "stay tax" or "tourist tax" (eco-tax) which is not included in price and which must be paid directly at the establishment or/and the airport by the Customer (which Sub-Agent must ensure that Customer is advised of at the time of making a booking for a Product); and
 - (d) the categorisations relating to the Products that are provided by Product Suppliers.
- 13.5 Agent will provide a 24-hour emergency number to Sub-Agent for the use of Sub-Agent only. Any incidents that arise in the immediate period through which the Customer consumes the

Product shall be resolved by Sub-Agent, who is responsible for the relationship with the Customer.

13.6 Customer claim handling: Agent will provide a named contact for dealing with Customer Complaints and claims for Sub-Agent's reference only. Details of the named contact shall not be passed to the final consumer/Customer under any circumstances.

13.7 Agent support: Agent will provide dedicated email addresses and telephone lines to assist Sub-Agent in handling amendments, service and resort issues for Customers.

14 Warranties

14.1 Each party warrants to the other party that:

- (a) it has full power and authority to enter into and perform this Agreement, and
- (b) it shall not, at any time, do anything which will harm the reputation of the other party or cause a derogation of the other party's brand, and
- (c) it shall not in the course of performing the actions contemplated by this Agreement perform any illegal act, and
- (d) it shall obtain and duly comply with all approvals, consents, licenses, permits, certificates, registrations or other authorisations necessary for it to enter this Agreement and perform its obligations under this Agreement.

14.2 Agent further represents, warrants and undertakes to Sub-Agent that it will exercise due care and skill in its selection of experienced, competent and reputable Product Suppliers.

15 Liability

15.1 To the extent permitted by law, Sub Agent indemnifies Agent (as well as its Affiliates, directors, officers, agents, employees and contractors) against any claim, demand, action, liability, loss (direct and indirect, including loss of profits and consequential losses), proceedings and all fines, penalties, expenses or costs (including legal and other professional advisor's fees) of any kind and however arising out of or in connection with:

- a. Sub-Agent's (or any of Sub Agent's Affiliates') breach of this Agreement;
- b. any act or omission (including, without limitation, negligence) by Sub-Agent's (or its Affiliates'):
 - (i) staff (whether or not employed by Sub Agent or its Affiliates); or
 - (ii) agents, representatives, suppliers, or contractors,

which cause or contribute to any loss of, damage to or theft of property or any loss of life, personal injury or loss of enjoyment of a Customer and however arising out of or in connection with its performance under this Agreement (whether or not the consequences of such acts or omissions were foreseeable at the date of entering this Agreement);

- c. the quality of the Services; and
- d. any information Sub-Agent (or Sub-Agent's Affiliates) provides to Agent through the XML Interface breaching the intellectual property rights of any third party.

15.2 Agent limits its entire liability (howsoever arising) under the terms of this Agreement (or in connection with it) to Sub Agent (and or its Affiliates) to a maximum of \$1,000. Agent shall in no circumstances be liable on any basis beyond this maximum limit. Agent:

- a. acts as booking agent and as an independent intermediary in the contracting of Product and other travel services between the Product Supplier and the Customer, and thus disclaims all liability (subject to law) and shall not be held liable for death, injury, illness, damage, loss, accident, theft, delays or any other irregularity which may arise, whether directly or indirectly, from the supply of Product by the Product Suppliers; and

- b. to the maximum extent permitted by law, Agent disclaims all implied warranties with regard to the information, services and materials contained in the XML Interface and all such information, services and materials are provided on an “as is” basis and “as available” without any warranty of any kind.

16 Intellectual Property Rights

- 16.1 Sub-Agent retains all Intellectual Property Rights in all content on Sub-Agent Sites and its Trademarks and other Intellectual Property Rights and nothing in this Agreement shall be taken to grant any rights to Agent or the Product Supplier in respect of such Intellectual Property Rights and Trademarks.
- 16.2 Agent retains all Intellectual Property Rights in its Trademarks and content on Agent Site and nothing in this Agreement shall be taken to grant any rights to Sub-Agent in respect of such Intellectual Property Rights.
- 16.3 Sub-Agent acknowledges and agrees that any element and Intellectual Property Rights pertaining thereto (including without limitation all copyrights, patents, trademarks, service marks and trade secrets) in the XML Interface (including without limitation its terms and conditions, rules, policies and operating procedures, and Agent Confidential Information), received or acceded are the exclusive property of Agent or Product Suppliers.
- 16.4 Sub-Agent acknowledges and agrees that, except hereby stated, it shall not acquire any right or interest in the information or data to which it is provided access under or in connection with this Agreement and that Agent shall remain the sole owner of such information or data including, but not limited to, all patent, copyright, trademark, trade secret, trade name, contract, industrial design, and other property rights pertaining thereto, anywhere in the world.
- 16.5 All trademarks, copyright, database rights and other intellectual property rights in the materials on the XML Interface (as well as the organisation and layout of the XML Interface) together with the underlying software code are owned by Agent (or its suppliers). Sub-Agent must not (and must ensure that no user engaged by it does not) copy, modify, alter, publish, broadcast, distribute, sell or transfer any material in the XML Interface or the underlying software code whether in whole or in part without Agent prior written permission.
- 16.6 Agent grants to Sub-Agent under this Agreement a non-exclusive, royalty-free, non-transferable license to see and use all the elements provided and/or included in the XML Interface for the purposes of performing its obligations under this Agreement. The duration of this license shall be equal to the duration of this Agreement.
- 16.7 Sub-Agent shall not copy, reproduce, modify, transmit, sell, lease, market nor disclose to third parties the contents (and/or any of its elements) provided/displayed by Agent on the XML Interface except as authorised by this Agreement.
- 16.8 Sub-Agent grants to Agent a non-exclusive, royalty-free, non-transferable license to use Sub-Agent Confidential Information and materials that are the subject of an Intellectual Property Right held by Sub-Agent for the purposes of performing its obligations under this Agreement. The duration of this license shall be equal to the duration of this Agreement.

17 Non-assignment

- 17.1 Subject to clause 17.2, neither Party may assign (whether absolutely or by way of security and whether in whole or in part), transfer, mortgage, charge or otherwise dispose in any manner whatsoever of the benefit of this Agreement or sub-contract or delegate its performance under this Agreement (each of the above a “dealing”) without the prior written consent of the other Party, such consent not to be unreasonably withheld, and any purported dealing in contravention of this clause shall be ineffective.
- 17.2 Notwithstanding the foregoing, Agent may assign this Agreement or any of its rights or obligations under this Agreement without such consent to any Affiliate save that prior written notification of such assignment shall be provided to Sub-Agent.

18 Confidentiality

- 18.1 Except as expressly provided in this Agreement, each Party agrees and undertakes that during the term of this Agreement and thereafter it shall treat as and keep strictly confidential the terms of this Agreement and any Confidential Information (including, without limitation Product pricing information and other information relating to a Party's products, operations, processes, plans or intentions, know-how, design rights, trade secrets and information of commercial value and any information relating to a Party's customers or suppliers) which may become known to that Party from the other Party and will not at any time disclose such information to any person or use such information for any purpose other than for the purposes of this Agreement provided always that the recipient may, to the extent necessary, disclose such information and/or allow its use by:
- (a) its professional advisers where necessary for the proper performance of their professional duties provided always that those persons are similarly bound to maintain the confidentiality of all such information in accordance with the provisions of this Agreement; or
 - (b) its Affiliates, employees, agents and contractors with a need to know such information provided always that those persons are similarly bound to maintain the confidentiality of all such information in accordance with the provisions of this Agreement.
- 18.2 The provisions of this clause does not apply to information which:
- (a) is in the public domain other than by default of the receiving party;
 - (b) is obtained by the receiving party from a bona fide third party with no apparent restraint on its free right to disclose such information;
 - (c) is required to be disclosed by applicable laws; or
 - (d) the parties have expressly agreed may be disclosed (subject to any terms governing such disclosure).
- 18.3 Agent's Product pricing information appearing in the XML Interface is strictly confidential and therefore Sub-Agent shall not disclose such information to any Product Supplier for any purpose (unless in accordance with the terms of this Agreement) particularly where the purpose of such disclosure is to assist Sub-Agent to negotiate its own new rates directly with Product Suppliers. In the event Sub-Agent is in breach of this clause, Sub-Agent shall indemnify Agent for any Loss that it suffers and Agent will notify the Product Supplier of the unlawful use of the information by Sub-Agent.

19 Termination

- 19.1 Without prejudice to any rights to which it may be entitled, either Party may give notice in writing to the other terminating this Agreement with immediate effect if:
- (a) the other Party commits any material breach of any of the terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of that Party being notified of the breach; or
 - (b) if the other Party suffers an Insolvency Event.
- 19.2 Agent may otherwise terminate the Agreement at any time, without cause, on the giving of 30 (thirty) days written notice to Sub-Agent.
- 19.3 The termination of this Agreement is without prejudice to any obligation of either Party intended (either by express reference or impliedly) to continue after termination. Any Bookings made through the XML Interface and any monies paid or payable prior to termination of this Agreement will be dealt with in accordance with the terms of this Agreement following termination until all such Bookings have otherwise been attended to.

20 Consequences of Termination

- 20.1 Termination of this Agreement, however caused, shall be without prejudice to any rights or liabilities accrued at the date of termination.

- 20.2 On termination of this Agreement Sub-Agent's appoint as Agent's sub-agent will be revoked and Sub-Agent shall cease to promote, market, advertise or sell the Product as the Agent's sub-agent and or as the Product Supplier's agent.
- 20.3 On termination of this Agreement Sub-Agent shall also immediately cease to describe itself as a sub-agent of Agent (and/or as agent of the Product Supplier) and cease to use and produce any document representing the agencies.
- 20.4 As soon as reasonably possible, on termination of this Agreement Agent and all Product Suppliers shall immediately cease to use all trademarks, trade names and brand names and intellectual property of Sub-Agent.

21 Force Majeure

No Party shall be liable to the other for any loss, damage, cost or expenses which may be suffered by the other Party as a result of any failure to perform its obligations under this Agreement as a result of Force Majeure event provided each Party notifies the other Party immediately of any such Force Majeure event and takes reasonable steps to minimise the impact of the Force Majeure event upon their obligations under this Agreement.

22 Party Websites

- 22.1 Neither Party shall, in any way, copy or resemble the Look and Feel (as defined below) of the other Party's website, except in the case of an agreed white label design, nor shall either Party create an impression that it is a part of the other Party's site or approved or sponsored by the other Party without prior written approval of the other Party. Neither Party shall disparage the other Party, its Affiliates or its site in any way. As used herein, "Look and Feel" means the distinctive and particular elements of graphics, design, organization, layout, presentation, user interface, navigation, trade dress, colours and stylistic convention (including the digital implementations thereof) within a World Wide Web site, and the total appearance and impression substantially formed by the combination, coordination and interaction of such elements, and any derivative works.
- 22.2 Sub-Agent agrees and acknowledges that Sub-Agent is solely responsible for the content, development and operation of the Sub-Agent Site. Agent has no responsibility for issues relating to the operation of the Sub-Agent Site and Sub-Agent accepts all liability and responsibility for such issues including without limit the accuracy, legality, trading permissions, licenses and decency of the information contained therein and Agent and all of Agent's Affiliates, customers and clients shall not be in any way responsible for or in any way liable thereon.

23 Changes to Agent's XML Interface

- 23.1 Agent may make improvements or changes to the information, elements, data, services, and other materials on its XML Interface at any time without notice.
- 23.2 Agent may suspend access to the XML Interface because of maintenance works, security reasons or force majeure, with no obligation to reimburse or compensate Sub-Agent for the time for which access has been suspended.

24 Enforceability

If any, provision of this Agreement, shall be found by any court or administrative body of competent jurisdiction, to be invalid or unenforceable, it shall be deemed deleted and the invalidity or un-enforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or un-enforceability shall remain in full force and effect. The Parties hereby agree to attempt to substitute for any invalid or unenforceable provision, a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objective of the invalid or unenforceable provision.

25 Survival

All provisions of this Agreement which are expressly or impliedly intended to survive

termination or expiry of this Agreement (including, but not limited to, the confidentiality provisions) shall remain in full force and effect notwithstanding such termination or expiry.

26 Waiver

The waiver by either Party of any breach or failure to enforce any of the terms and conditions of this Agreement at any time shall not in any way affect, limit, or waive such Party's right thereafter to enforce and compel strict compliance with each and every term and condition of this Agreement.

27 Anti-Bribery and Corruption

Each Party shall comply, and shall ensure that each of its employees, officers, directors, contractors and agents complies, with all applicable laws, regulations, codes and sanctions, including but not limited to anti-bribery and corruption, foreign corrupt practices and anti-terrorism laws and specifically the Criminal Code Act 1995 (Australia), the Bribery Act 2010 (United Kingdom) and the Foreign Corrupt Practices Act 1977 (United States of America). Neither party shall engage in any course of conduct that would cause the other party to be in violation of the laws of any jurisdiction, including, without limitation, the laws, regulations, codes and sanctions referred to in this clause. Each party shall ensure that it has in place and maintains policies and procedures adequate to prevent bribery and corruption, foreign corrupt practices and terrorism and to ensure compliance with the applicable laws, regulations, codes and sanctions referred to in this clause. Each party shall, and shall ensure that each of its employees, officers, directors, contractors and agents shall, uphold the highest standards of business ethics and conduct, and undertake not to give or receive any advantage that could be perceived as payment or receipt of a bribe, not to make facilitation payments and not to bribe a foreign public official.

28 Accession

Agent agrees that any one or more of the Sub-Agent Affiliate entities listed in Schedule IV (if any) may, from time to time and through written agreement, accede to this Agreement. Any entity acceding to this Agreement will be bound by all obligations and will have the benefit of all rights set out in this Agreement other than those which this Agreement expressly provides apply only to Sub-Agent and not an Affiliate of Sub-Agent. Otherwise, all references to Sub-Agent in this Agreement will include any acceding Affiliate of Sub-Agent, who Agent acknowledges and agrees will also, upon accession, become Agent's sub-agent and have authority to deal with Customers in the sale of Product via the XML Interface on the terms set out in this Agreement.

For the avoidance of doubt, the parties agree that: (a) monies owed under this Agreement will be payable only by Sub-Agent and not its Affiliates even if they have acceded to this Agreement under this clause (and a subsequent written agreement); and (b) all debts due and payable to Agent by Sub-Agent's Affiliates will be paid by Sub-Agent.

29 Variation

Agent may vary the Agent Terms and Conditions at any time and such variations shall be effective immediately upon posting of the modified terms and conditions on the XML Interface. The expression "variation" includes any variation, modification, supplement, deletion or replacement, howsoever effected.

30 Service of notices

All communications and notices given under this Agreement shall be in writing, and delivered to the address stated herein (or such other address as may be notified in writing from time to time by the relevant party to the other party) by personal delivery, notarial service, facsimile, mail or electronic mail, or by any other means, as long as there is at all times evidence of receipt by the addressee.

A) The notices to Sub-Agent should be sent to:

For the attention of: **Registered business name submitted in the online form**

Address: **Registered business address submitted in the online form**

B) The notices to Agent shall be sent to:

For the attention of: General Counsel, Flight Centre Travel Group Limited
Address: 275 Grey Street, Brisbane, QLD 4101, Australia

31 Entire Agreement

Each of the parties to this Agreement confirms that this Agreement represents the entire understanding, and constitutes the whole agreement between the parties relating to the subject matter hereof and supersedes any and all prior agreements or understandings, written or oral, between the parties with respect thereto and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at law or by custom, usage or course of dealing.

In case of a discrepancy between the Agent's Terms and Conditions (referred to herein) and any other contract signed by the parties in relation to the Product, the Agent's Terms and Conditions (and this Agreement more broadly) shall apply unless expressly it is stated otherwise.

32 Third party rights

Unless expressly provided in this Agreement, no term of this Agreement is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.

33 Counterparts

This Agreement may be executed in any number of counterparts and by the parties to it on separate counterparts, each of which when so executed and delivered shall constitute an original, but all of which taken together shall constitute one document.

34 Insurance

Both parties will maintain appropriate insurance cover akin to that maintained by reputable entities operating similar businesses which shall at a minimum comprise:

- (a) public liability insurance of AUD\$20 million
- (b) cyber liability insurance of AUD \$10 million.

35 Disputes

The parties agree to work together with in good faith to resolve any disputes arising under this Agreement. For the avoidance of doubt, only Agent (and not its Affiliates) will participate in dispute resolution under this clause.

36 Governing Law

This Agreement and any dispute arising under or relating to or in connection with this Agreement is governed by the laws of Queensland, Australia and the parties submit to the exclusive jurisdiction of the courts of Queensland, Australia.

AUTHORISATION AND AGREEMENT OF TERMS AND CONDITIONS

By submitting the online registration form you agree that you have read and accept to bound by these terms and conditions and that you are the authorised representative & signatory of the registered business name submitted in the online registration form. This agreement will take effect from the date the online registration form is submitted.

SCHEDULE I PAYMENT TERMS

1. Payment terms

- 1.1. Where Agent has extended a Credit Limit under clause 5 of this Schedule, on the 30th day of each month, Sub-Agent must pay for the Bookings it has made that departed in the preceding month (for example bookings departed from the 1st to the 30th of June would be due for payment on 30 July). All Bookings that are payable will be itemised in a statement that Agent will issue to Sub-Agent at the end of each month (**Flight Centre Statement**).
- 1.2. If Credit Limit is not extended to Sub-Agent, Sub-Agent must pay for all Bookings on a cash basis no later than seven (7) days from the date that Agent notifies Sub-Agent that the relevant Booking has been confirmed with the Product Supplier (**Confirmation Date**). If the period between the Confirmation Date and the date that the Booking commences is less than seven (7) days, Sub-Agent must make payment to Agent on the Confirmation Date.
- 1.3. Agent will issue invoices to Sub-Agent in connection with Bookings that are payable in accordance with the terms of this Schedule.
- 1.4. All payments made by Sub-Agent under or in connection with this Agreement should be in AUD and with regard to the following particulars:
 - 1.4.1. the beneficiary: Agent;
 - 1.4.2. the payor: the Sub-Agent;
 - 1.4.3. name of the bank: Westpac Banking Corporation, Westpac Place, Floor 1, 275 Kent Street, Sydney NSW 2000, account number: 000668299, swift code: WPACAU2F, bank code: WBC, branch code: 034-807; and
 - 1.4.4. payment confirmation should be sent to accountsreceivable@thetraveljunction.com.au
- 1.5. If Sub-Agent does not make payment of invoices issued under this Schedule in accordance with the terms of this Schedule and the relevant invoice, Agent reserves the right at all times to cancel any relevant Booking.

2. Application of payments on account

- 2.1. When making payments, Sub-Agent should detail to Agent in writing the Bookings to which a payment relates within fifteen (15) days of making said payment.
- 2.2. If Agent does not receive the detail in the timeframe set out in the previous paragraph, Agent will send a proposal to Sub-Agent in order to apply the relevant payment to the oldest outstanding invoice. If within a week, Agent does not receive a confirmation from the Sub-Agent, it will be understood that the Sub-Agent is in agreement with Agent's proposal, and the application will be made.

3. Invoicing and Remittance of Invoices

- 3.1. Invoices issued by Agent will include an Agent Reference Number.
- 3.2. Sub-Agent will receive invoices from Agent at a frequency that Agent will nominate. Invoices will be dated the date on which a Customer checks into their Booking and will be emailed to the Sub-Agent.
- 3.3. If there is a delay in the receipt of Agent's invoices, Sub-Agent will advise Agent immediately.

4. Invoice discrepancies

- 4.1. Sub-Agent should not withhold payment for invoices unless there is a genuine discrepancy in relation to the invoice. In that case, the balance of the invoice (i.e. the non-disputed portion) should be paid whilst the Agent and Sub-Agent follow the process set out below. Both parties must work in a timely fashion to resolve the discrepancy.
- 4.2. Disputed invoices will be treated in isolation and will not (subject to clause 5.4 of this Schedule) affect any other Bookings or the Sub-Agent's ability to make Bookings.

- 4.3. The Sub-Agent must set out in a written notice to the Agent the basis upon which it disputes an invoice within forty five (45) days of receipt (**Written Notice**). The Written Notice must include at least the following:
 - 4.3.1.the Agent's reference number and Sub-Agent's booking number;
 - 4.3.2.a detailed explanation as to why the Sub-Agent believes the invoice to be inaccurate;
 - 4.3.3.passenger names relevant for the Booking;
 - 4.3.4.original amount billed by Sub-Agent to Customer in relation to relevant Booking; and
 - 4.3.5.original amount paid by Customer to Sub-Agent in relation to Booking.
- 4.4. Agent must provide its response to the Written Notice within forty five (45) days of receipt confirming whether it will vary the invoice in question or otherwise explaining why the invoice is correct. If:
 - 4.4.1.Agent is of the view that the invoice in question is correct, it will explain in writing the basis for the conclusion to Sub-Agent who will then in turn, within thirty (30) days of receiving the written notice, pay the invoice in full; or
 - 4.4.2.Agent is of the view that the invoice in question was not correct, it will re-issue the relevant invoice in corrected form, post which Sub-Agent will pay the revised invoice within thirty (30) days of receipt.
- 4.5. For the avoidance of doubt, Sub-Agent is always responsible for any and all claims filed by Customers in relation to their Bookings such that on no basis is the Sub-Agent permitted to withhold funds payable to Agent in relation to an invoice should a Customer raise a claim in relation to their Booking.

5. Line of Credit

- 5.1. Agent may grant to the Sub-Agent a line of credit totalling **\$** AUD (Credit Limit)** in connection with Bookings made by Sub-Agent under the terms of this Agreement.
- 5.2. The Credit Limit may not be used by Sub-Agent in connection with any group Booking being a Booking relating to ten (10) or more accommodation rooms (**Group Booking**). Group Bookings must be paid in advance in accordance with clause 1.2 of this Schedule.
- 5.3. Agent reserves the right at any time to require that the Sub-Agent provides a bank guarantee in favour of Agent so as to secure the Credit Limit. If the Sub-Agent fails to provide a bank guarantee as requested, Agent may:
 - 5.3.1.immediately cancel the existing Credit Limit in which case all amounts covered under it will become immediately due and payable; and/or
 - 5.3.2.cancel all pending Bookings that have not otherwise been paid in full by Sub-Agent to Agent.
- 5.4. Should the Credit Limit be exceeded, the Sub-Agent will either:
 - 5.4.1.immediately make a payment to Agent to cover the excess over the stated Credit Limit, or
 - 5.4.2.Agent will sever Sub-Agent's access to the XML Interface, until the total debt that Sub-Agent owes to Agent under this Agreement is not more than the Credit Limit.
- 5.5. Agent otherwise reserves absolutely the right to (at any time and for any reason) modify, suspend or cancel (on the provision of written notice) the Credit Limit including upon receipt of:
 - 5.5.1.negative information regarding the Sub-Agent;
 - 5.5.2.confirmation that the Sub-Agent has defaulted in relation to its payment obligations

under this Agreement or more broadly in relation to its other obligations under this Agreement; or

5.5.3. confirmation that an Insolvency Event has occurred or is likely to occur in relation to the Sub-Agent.

5.6. If Agent cancels a Credit Limit under clause 5.5, Sub-Agent will revert to paying for Bookings on a cash basis as set out in this Schedule. Moreover, where a Credit Limit is cancelled Agent will be entitled to cancel any reservations that have not been paid in full at the date of cancellation and Sub-Agent will not be entitled to claim any compensation. It will be the obligation of the Sub-Agent to inform and find satisfactory solutions for customers, with Flight Centre being in no way liable in this regard.

SCHEDULE II

- **BOOKING HOLDINGS** trading as **BOOKING.COM**, **AGODA.COM**, **PRICELINE.COM**, **KAYAK.COM**, and any of its other subsidiaries
- **CTRIP.com International, LTD** and any of its subsidiaries
- **TRAVEL REPUBLIC Limited** and any of its subsidiaries
- **GROUP MIKI HOLDINGS LIMITED** and any of its subsidiaries
- **DOCLER HOLDING** trading as **ELVOLINE** and any of its subsidiaries
- **TRULY HOLDINGS Ltd**, parent company of **TRULY TRAVEL LTD** trading as **ALPHA ROOMS** and any of its subsidiaries
- **GLOBAL TRAVEL INTERNATIONAL** trading as **HOTEL POWER** and any of its subsidiaries
- **LEASIDE SERVICE PTY LTD** trading as **ZEN HOTELS** and any of its subsidiaries
- **TRAVEL UP GROUP PLC** trading as **TRAVELUP.CON** and any of its subsidiaries
- **HOTELBEDS GROUP** trading as **HOTELBEDS.COM**, **BEDSONLINE.COM**, **GTA**, **TOURICO**, **HOTELOPIA** and any of its other subsidiaries.

SCHEDULE III
Data Privacy Addendum

1. Definitions

The terms defined in this Data Privacy Addendum shall be read as having the meanings set forth in (i) this Data Privacy Addendum and (ii) elsewhere in the Agreement. If a term is defined both in this Data Privacy Addendum and elsewhere in the Agreement then, for purposes of this Data Privacy Addendum, the definition in this Data Privacy Addendum shall prevail.

- 1.1 "**Applicable Privacy Laws**" means all applicable data protection and privacy laws applicable to the Processing of Personal Information by Sub-Agent and Agent, including, when and where applicable, (a) the GDPR; (b) the UK Data Protection Act 2018; (c) the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC), (d) the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426); (e) U.S. state and federal data protection laws, rules, or regulations including without limitation the California Consumer Protection Act of 2018 ("CCPA"); (f) the Personal Information Protection and Electronic Documents Act ("PIPEDA") and Canadian Anti-Spam Law ("CASL"), (g) the Australian *Privacy Act (1988)* and New Zealand *Privacy Act (1993)* and (h) similar laws enacted anywhere in the world addressing the protection or the use, transmission, or other processing of Personal Information, each as amended, modified, and/or supplemented by the guidance or regulatory decisions of any relevant supervisory authority or other data protection regulatory authority ("**Regulator**").
- 1.2 "**Controller**" means the natural or legal person, public authority, agency or other body that, alone or jointly with others, determines the purposes and means of the Processing of Customer Data.
- 1.3 "**Customer Data**" means any and all Personal Information disclosed, transferred, shared, sent, or otherwise made available or accessible between the Parties or to a third party by the Parties for the purposes of this Agreement.
- 1.4 "**Data Subject**" means any natural person about whom Personal Information relates.
- 1.5 "**Data Subject Request**" means any request by a Data Subject in respect of Personal Information Processed by a Controller in the making of a Booking or otherwise in connection with the Agreement.
- 1.6 "**GDPR**" means the EU General Data Protection Regulation EU 2016/679, as implemented into national law and as amended, extended, re-enacted or applied by or under any other statute, law or enactment.
- 1.7 "**PCI-DSS**" or "**Payment Card Industry Data Security Standard**" means the standard by that name developed and maintained by the Payment Card Industry Security Standards Council, which must be adhered to by all organisations which store, process or transmit cardholder data.
- 1.8 "**Personal Information Breach**" means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Information in a Party's possession or control. Personal Information Breaches include, but are not limited to: (i) unauthorised access, disclosure, loss, download, theft, blocking, encryption or deletion by malware or other unauthorised action in relation to Personal Information by unauthorised third parties; (ii) operational incidents which have an impact on the Processing of Personal Information; or (iii) any breach of this Data Privacy Addendum or Applicable Privacy Laws by a Party, employees or agents, to the extent that such breach affects the integrity and security of Customer Data or materially adversely impacts a Party's obligations under this Data Privacy Addendum.
- 1.9 "**Personal Information**" means any information relating to an identified or identifiable natural person as that term (or similar variants, such as "personal data") are defined in Applicable Privacy Laws.
- 1.10 "**Processing**" means any operation or set of operations performed on Personal Information or on sets of Personal Information, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, access, consultation, use, acquisition, transfer, hosting (via server, web, cloud, or otherwise), disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure, or destruction. Any activity defined as processing by or otherwise subject to the requirements of Applicable Privacy Laws shall

fall within this definition. "Processed", "Process" and any other variations of "Processing" shall also be defined as set out above.

1.11 "**Privacy and Information Security Requirements**" means:

- i. all Applicable Privacy Laws, data security breach notification laws, laws imposing minimum data security requirements, laws requiring the secure disposal of records containing certain Personal Information, and all other similar international, federal, state, provincial, and local requirements which are applicable to either Party;
- ii. the Payment Card Industry Data Security Standard; and
- iii. any applicable provisions of the Parties' written information security requirements, policies or procedures which the Parties have mutually agreed are applicable to this Agreement.

1.12 "**Processor**" means the natural or legal person, public authority, agency or other body which Processes Personal Information on behalf of the Controller.

1.13 "**Supervisory Authority**" means any data protection authority or other governmental, regulatory, administrative, judicial, or other agency or similar body that has authority to implement, enforce, and/or oversee compliance with Applicable Privacy Laws.

1.14 "**Vendor**" means a Product Supplier.

In this Data Privacy Addendum, references to any Applicable Privacy Laws and to terms defined therein shall be replaced with or incorporate (as the case may be) references to any Applicable Privacy Laws replacing, amending, extending, re-enacting, or consolidating such Applicable Privacy Laws and the equivalent terms defined in such Applicable Privacy Laws once in force and applicable.

2. **Parties as Controllers and compliance with Applicable Privacy Laws.** The parties acknowledge that, in order to provide the Booking, Sub-Agent and Agent must necessarily process Customer Data as a Controller (for GDPR purposes). For the purposes of the GDPR, each party shall act as a separate and independent Controller (and not as a joint Controller) in relation to all Customer Data it Processes under and/or in connection with this Agreement and the Booking. Each party shall otherwise comply with all Applicable Privacy Laws in respect of its Processing of Customer Data and shall ensure that it has a lawful basis for all such Processing, where applicable.

Without limiting the foregoing, each party shall refrain from "selling" (as defined by the CCPA at Cal. Civ. Code § 1798.140(t), as it may be amended) or transferring Client Data other than in compliance with the Applicable Privacy Laws.

3. **Information provided to Data Subjects.** Prior to sharing any Customer Data with Agent, Sub-Agent shall provide all notifications required by Applicable Privacy Laws to the relevant Data Subject in each case with respect to the sharing of Customer Data with Agent.
4. **Cooperation and assistance.** Each party shall provide the other party with such reasonable cooperation, assistance and information to the other to assist that other party with its compliance with Applicable Privacy Laws, to the extent that such compliance obligations arise in relation to a party's performance of its obligations under this Agreement.
5. **Notifications.** Each party shall promptly notify the other (to the extent permitted by law) in writing providing reasonable detail of any third party complaint, audit, investigation or enquiry (whether by a Supervisory Authority, Data Subject or otherwise) establishing, alleging or enquiring as to possible non-compliance with any Applicable Privacy Laws in connection with Customer Data maintained by or for such party, and the parties will co-operate reasonably with each other in respect thereof.
6. **Personal Information Breaches.** The parties are aware that Applicable Privacy Laws may impose a duty on a party to inform a Supervisory Authority and the Data Subject in the event of Personal Information Breach affecting Customer Data. In addition to complying with its notification requirements under Applicable Privacy Laws, each party shall promptly notify the other party of any technical, organisational or other incidents (including incidents at Processors) which have resulted in a Personal Information Breach in the sense of Art. 33 par. 1 GDPR affecting Customer Data. Any such notification of a Personal Information Breach must be comprehensive and include any information required under Art. 33 par. 3 GDPR and/or required by Applicable Privacy Laws, as and to the extent such information is available.

In the event of a Personal Information Breach, the party in respect of whom the breach has occurred shall promptly take any measures required and appropriate under Applicable Privacy Laws and technical standards to restore the confidentiality, integrity and availability of Customer Data and to mitigate the risk of harm and/or any detrimental consequences for the Data Subjects affected or potentially affected by the Personal Information Breach.

7. **Data Subject Requests.** Each party will provide the other party with reasonable assistance in complying with any Data Subject Request.
8. **Security.** In compliance with the Privacy and Information Security Requirements and Applicable Privacy Laws, each party shall implement appropriate technical and organisational security measures (including maintaining any security controls) to ensure a level of security for Personal Information in such party's possession or control that is appropriate to the risk presented by the Processing, taking into account the state of the art, the costs of implementation and the nature, scope, context and purpose of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of Data Subjects. In assessing the appropriate level of security account shall be taken in particular of the risks that are presented by Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Information transmitted, stored or otherwise Processed.
9. **Requirements as to personnel.** Both parties shall ensure that all personnel involved in the Processing of Customer Data are properly qualified and trained and have committed themselves to keep Customer Data confidential or are under an appropriate statutory obligation of confidentiality in accordance with Applicable Privacy Laws.
10. **Appointment of data privacy personnel.** Where required, each party will appoint authorised data privacy and security contact personnel.
11. **Appointment of Processors.** If a party engages a third-party Processor to process Customer Data for the purpose performing its obligations under this Agreement, the relevant party shall agree to written terms with the Processor that: (i) require the Processor only to process the Customer Data for the purpose of delivering the Booking; (ii) require the Processor to implement appropriate technical and organisational security measures to protect the Customer Data against a Personal Information Breach; and (iii) otherwise comply with the requirements of Applicable Privacy Laws.

Notwithstanding the above, the parties acknowledge that the Product Suppliers to whom Customer Data will be disclosed in order to make a Booking are independent Controllers under Applicable Privacy Laws, and not Processors.

12. **Customer Data Transfers:** Neither party may transfer Customer Data outside of the country in which it is provided, save for the following:
 - A. where strictly necessary for the performance of a party's obligations under this Agreement, provided that the transfer is otherwise in compliance with Applicable Privacy Laws and Privacy Information Security Requirements; and
 - B. a party may transfer and Process Customer Data from the European Economic Area (and the United Kingdom) to another party, in other jurisdictions where: (i) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of a Customer (for example, to book travel or accommodation through a Vendor in a non-European country) or where the transfer is required by Applicable Law; or (ii) the relevant party effecting the transfer has done all such acts and things as are necessary to ensure that any Customer Data transferred outside of the European Economic Area (and the United Kingdom) will remain adequately protected in accordance with the requirements of Applicable Privacy Laws.

The parties acknowledge that:

- C. as at the Commencement Date, the parties agree to the Standard Contractual Clauses set out in Schedule IV;
- D. otherwise, a transferring party:
 1. may ensure such adequate protection by executing the European Commission's Standard Contractual Clauses, to the extent that such clauses are not captured in Schedule IV (or such other clauses as may be approved from time to time with regard to transfers of Personal Information out of the United Kingdom) and/or

2. for transfers to the United States of America, by transferring Client Data to an organisation that has certified its compliance to the EU-US and/or Swiss-US Privacy Shield.
13. **Data retention.** The parties acknowledge that, as a general rule, Personal Information may not be kept indefinitely or longer than necessary for the intended Processing. Customer Data may only be retained for so long as is necessary to satisfy all applicable lawful bases for Processing set out in Art.6 GDPR, where applicable, and otherwise for such period as required by Applicable Privacy Laws, and always provided that the parties shall ensure that such retained Personal Information is (i) kept confidential and protected against unauthorised access, disclosure or use and (ii) only Processed as necessary for the purpose specified in the Applicable Privacy Laws permitting its storage and other Processing and for no other purpose.
14. **Agent's right to audit.** Sub-Agent shall keep or cause to be kept such information as is reasonably necessary to demonstrate compliance with its obligations under this Data Privacy Addendum and shall, upon reasonable notice during the term of the Agreement, make available to the Agent information necessary to demonstrate compliance with its obligations under this Data Privacy Addendum where such information is not subject to confidentiality restrictions owed to third parties. Without limitation, Sub-Agent shall on request:
 - a) complete a PCI DSS Attestation of Compliance, in the form required by the Payment Card Industry Security Standards Council from time to time, on an annual basis, and provide Agent with a copy both annually and otherwise on request; and
 - b) promptly provide Agent with copies of any recent ISO 27002 reviews, SOC type 2 audits, SSAE 16 type II and Report on Compliance or Self-Assessment Questionnaire), as Agent may reasonably request from time to time.
15. **Survival.** The undertakings in this Data Privacy Addendum shall remain in force even after termination or expiration of the Agreement.

SCHEDULE IV

Standard Contractual Clauses

Standard contractual clauses for the transfer of personal data from the Community to third countries (controller to controller transfers)

Data Transfer Agreement

Between

Sub-Agent MTA – Mobile Travel Agent

(hereinafter **the data exporter**)

and

Agent The Travel Junction

(hereinafter **data importer**)

each a **party**; together **the parties**.

DEFINITIONS

For the purposes of the clauses:

(a) “personal data”, “special categories of data/sensitive data”, “process/processing”, “controller”, “processor”, “data subject” and “supervisory authority/authority” shall have the same meaning as in Directive 95/46/EC of 24 October 1995 (whereby **“the authority”** shall mean the competent data protection authority in the territory in which the data exporter is established);

(b) “the data exporter” shall mean the controller who transfers the personal data;

(c) “the data importer” shall mean the controller who agrees to receive from the data exporter personal data for further processing in accordance with the terms of these clauses and who is not subject to a third country's system ensuring adequate protection;

(d) “clauses” shall mean these contractual clauses, which are a free-standing document that does not incorporate commercial business terms established by the parties under separate commercial arrangements.

The details of the transfer (as well as the personal data covered) are specified in *Annex B*, which forms an integral part of the clauses.

2. OBLIGATIONS OF THE DATA EXPORTER

The data exporter warrants and undertakes that:

(a) The personal data have been collected, processed and transferred in accordance with the laws applicable to the data exporter.

(b) It has used reasonable efforts to determine that the data importer is able to satisfy its legal obligations under these clauses.

(c) It will provide the data importer, when so requested, with copies of relevant data protection laws or references to them (where relevant, and not including legal advice) of the country in which the data exporter is established.

(d) It will respond to enquiries from data subjects and the authority concerning processing of the personal data by the data importer, unless the parties have agreed that the data importer will so respond, in which case the data exporter will still respond to the extent reasonably possible and with

the information reasonably available to it if the data importer is unwilling or unable to respond. Responses will be made within a reasonable time.

(e) It will make available, upon request, a copy of the clauses to data subjects who are third party beneficiaries under *Clause 4*, unless the clauses contain confidential information, in which case it may remove such information. Where information is removed, the data exporter shall inform data subjects in writing of the reason for removal and of their right to draw the removal to the attention of the authority. However, the data exporter shall abide by a decision of the authority regarding access to the full text of the clauses by data subjects, as long as data subjects have agreed to respect the confidentiality of the confidential information removed. The data exporter shall also provide a copy of the clauses to the authority where required.

3. OBLIGATIONS OF THE DATA IMPORTER

The data importer warrants and undertakes that:

(a) It will have in place appropriate technical and organisational measures to protect the personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, and which provide a level of security appropriate to the risk represented by the processing and the nature of the data to be protected.

(b) It will have in place procedures so that any third party it authorises to have access to the personal data, including processors, will respect and maintain the confidentiality and security of the personal data. Any person acting under the authority of the data importer, including a data processor, shall be obligated to process the personal data only on instructions from the data importer. This provision does not apply to persons authorised or required by law or regulation to have access to the personal data.

(c) It has no reason to believe, at the time of entering into these clauses, in the existence of any local laws that would have a substantial adverse effect on the guarantees provided for under these clauses, and it will inform the data exporter (which will pass such notification on to the authority where required) if it becomes aware of any such laws.

(d) It will process the personal data for purposes described in *Annex B*, and has the legal authority to give the warranties and fulfil the undertakings set out in these clauses.

(e) It will identify to the data exporter a contact point within its organisation authorised to respond to enquiries concerning processing of the personal data, and will cooperate in good faith with the data exporter, the data subject and the authority concerning all such enquiries within a reasonable time. In case of legal dissolution of the data exporter, or if the parties have so agreed, the data importer will assume responsibility for compliance with the provisions of *Clause 2(e)*.

(f) At the request of the data exporter, it will provide the data exporter with evidence of financial resources sufficient to fulfil its responsibilities under *Clause 4* (which may include insurance coverage).

(g) Upon reasonable request of the data exporter, it will submit its data processing facilities, data files and documentation needed for processing to reviewing, auditing and/or certifying by the data exporter (or any independent or impartial inspection agents or auditors, selected by the data exporter and not reasonably objected to by the data importer) to ascertain compliance with the warranties and undertakings in these clauses, with reasonable notice and during regular business hours. The request will be subject to any necessary consent or approval from a regulatory or supervisory authority within the country of the data importer, which consent or approval the data importer will attempt to obtain in a timely fashion.

(h) It will process the personal data, at its option, in accordance with the data processing principles set forth in *Annex A*.

(i) It will not disclose or transfer the personal data to a third party data controller located outside the European Economic Area (EEA) unless it notifies the data exporter about the transfer and:

- (i)** the third party data controller processes the personal data in accordance with a Commission decision finding that a third country provides adequate protection, or
- (ii)** the third party data controller becomes a signatory to these clauses or another data transfer agreement approved by a competent authority in the EU, or

- (iii) data subjects have been given the opportunity to object, after having been informed of the purposes of the transfer, the categories of recipients and the fact that the countries to which data is exported may have different data protection standards, or
- (iv) with regard to onward transfers of sensitive data, data subjects have given their unambiguous consent to the onward transfer

4.LIABILITY AND THIRD PARTY RIGHTS

(a) Each party shall be liable to the other parties for damages it causes by any breach of these clauses. Liability as between the parties is limited to actual damage suffered. Punitive damages (i.e. damages intended to punish a party for its outrageous conduct) are specifically excluded. Each party shall be liable to data subjects for damages it causes by any breach of third party rights under these clauses. This does not affect the liability of the data exporter under its data protection law.

(b) The parties agree that a data subject shall have the right to enforce as a third party beneficiary this clause and clauses *Clause 2(b), Clause 2(d), Clause 2(e), Clause 3(a), Clause 3(c), Clause 3(d), Clause 3(e), Clause 3(h), Clause 3(i), Clause 4(a), Clause 6, Clause 7(d) and Clause 8* against the data importer or the data exporter, for their respective breach of their contractual obligations, with regard to his personal data, and accept jurisdiction for this purpose in the data exporter's country of establishment. In cases involving allegations of breach by the data importer, the data subject must first request the data exporter to take appropriate action to enforce his rights against the data importer; if the data exporter does not take such action within a reasonable period (which under normal circumstances would be one month), the data subject may then enforce his rights against the data importer directly. A data subject is entitled to proceed directly against a data exporter that has failed to use reasonable efforts to determine that the data importer is able to satisfy its legal obligations under these clauses (the data exporter shall have the burden to prove that it took reasonable efforts).

5.LAW APPLICABLE TO THE CLAUSES

These clauses shall be governed by the law of the country in which the data exporter is established, with the exception of the laws and regulations relating to processing of the personal data by the data importer under *Clause 3(h)* which shall apply only if so selected by the data importer under that clause.

6.RESOLUTION OF DISPUTES WITH DATA SUBJECTS OR THE AUTHORITY

(a) In the event of a dispute or claim brought by a data subject or the authority concerning the processing of the personal data against either or both of the parties, the parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.

(b) The parties agree to respond to any generally available non-binding mediation procedure initiated by a data subject or by the authority. If they do participate in the proceedings, the parties may elect to do so remotely (such as by telephone or other electronic means). The parties also agree to consider participating in any other arbitration, mediation or other dispute resolution proceedings developed for data protection disputes.

(c) Each party shall abide by a decision of a competent court of the data exporter's country of establishment or of the authority which is final and against which no further appeal is possible.

7.TERMINATION

(a) In the event that the data importer is in breach of its obligations under these clauses, then the data exporter may temporarily suspend the transfer of personal data to the data importer until the breach is repaired or the contract is terminated.

(b) In the event that:

- (i) the transfer of personal data to the data importer has been temporarily suspended by the data exporter for longer than one month pursuant to *Clause 7(a)*;
- (ii) compliance by the data importer with these clauses would put it in breach of its legal or regulatory obligations in the country of import;
- (iii) the data importer is in substantial or persistent breach of any warranties or undertakings given by it under these clauses;

- (iv) a final decision against which no further appeal is possible of a competent court of the data exporter's country of establishment or of the authority rules that there has been a breach of the clauses by the data importer or the data exporter; or
- (v) a petition is presented for the administration or winding up of the data importer, whether in its personal or business capacity, which petition is not dismissed within the applicable period for such dismissal under Applicable Law; a winding up order is made; a receiver is appointed over any of its assets; a trustee in bankruptcy is appointed, if the data importer is an individual; a company voluntary arrangement is commenced by it; or any equivalent event in any jurisdiction occurs

then the data exporter, without prejudice to any other rights which it may have against the data importer, shall be entitled to terminate these clauses, in which case the authority shall be informed where required. In cases covered by *Clause 7(b)(i)*, *Clause 7(b)(ii)*, or *Clause 7(b)(iv)* above the data importer may also terminate these clauses.

(c) Either party may terminate these clauses if

- (i) any Commission positive adequacy decision under Article 25(6) of Directive 95/46/EC (or any superseding text) is issued in relation to the country (or a sector thereof) to which the data is transferred and processed by the data importer, or
- (ii) Directive 95/46/EC (or any superseding text) becomes directly applicable in such country.

(d) The parties agree that the termination of these clauses at any time, in any circumstances and for whatever reason (except for termination under *Clause 7(c)*) does not exempt them from the obligations and/or conditions under the clauses as regards the processing of the personal data transferred.

8.VARIATION OF THESE CLAUSES

The parties may not modify these clauses except to update any information in *Annex B*, in which case they will inform the authority where required. This does not preclude the parties from adding additional commercial clauses where required.

9.DESCRPTION OF THE TRANSFER

The details of the transfer and of the personal data are specified in *Annex B*. The parties agree that *Annex B* may contain confidential business information which they will not disclose to third parties, except as required by law or in response to a competent regulatory or government agency, or as required under *Clause 2(e)*. The parties may execute additional annexes to cover additional transfers, which will be submitted to the authority where required. *Annex B* may, in the alternative, be drafted to cover multiple transfers.

Dated:.....

.....

.....

FOR DATA EXPORTER

FOR DATA IMPORTER

.....

.....

ANNEX A
DATA PROCESSING PRINCIPLES

1. Purpose limitation: Personal data may be processed and subsequently used or further communicated only for purposes described in *Annex B* or subsequently authorised by the data subject.

2. Data quality and proportionality: Personal data must be accurate and, where necessary, kept up to date. The personal data must be adequate, relevant and not excessive in relation to the purposes for which they are transferred and further processed.

3. Transparency: Data subjects must be provided with information necessary to ensure fair processing (such as information about the purposes of processing and about the transfer), unless such information has already been given by the data exporter.

4. Security and confidentiality: Technical and organisational security measures must be taken by the data controller that are appropriate to the risks, such as against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, presented by the processing. Any person acting under the authority of the data controller, including a processor, must not process the data except on instructions from the data controller.

5. Rights of access, rectification, deletion and objection: As provided in Article 12 of Directive 95/46/EC, data subjects must, whether directly or via a third party, be provided with the personal information about them that an organisation holds, except for requests which are manifestly abusive, based on unreasonable intervals or their number or repetitive or systematic nature, or for which access need not be granted under the law of the country of the data exporter. Provided that the authority has given its prior approval, access need also not be granted when doing so would be likely to seriously harm the interests of the data importer or other organisations dealing with the data importer and such interests are not overridden by the interests for fundamental rights and freedoms of the data subject. The sources of the personal data need not be identified when this is not possible by reasonable efforts, or where the rights of persons other than the individual would be violated. Data subjects must be able to have the personal information about them rectified, amended, or deleted where it is inaccurate or processed against these principles. If there are compelling grounds to doubt the legitimacy of the request, the organisation may require further justifications before proceeding to rectification, amendment or deletion. Notification of any rectification, amendment or deletion to third parties to whom the data have been disclosed need not be made when this involves a disproportionate effort. A data subject must also be able to object to the processing of the personal data relating to him if there are compelling legitimate grounds relating to his particular situation. The burden of proof for any refusal rests on the data importer, and the data subject may always challenge a refusal before the authority.

6. Sensitive data: The data importer shall take such additional measures (e.g. relating to security) as are necessary to protect such sensitive data in accordance with its obligations under *Clause 3*.

7. Data used for marketing purposes: Where data are processed for the purposes of direct marketing, effective procedures should exist allowing the data subject at any time to "opt-out" from having his data used for such purposes.

8. Automated decisions: For purposes hereof "automated decision" shall mean a decision by the data exporter or the data importer which produces legal effects concerning a data subject or significantly affects a data subject and which is based solely on automated processing of personal data intended to evaluate certain personal aspects relating to him, such as his performance at work, creditworthiness, reliability, conduct, etc. The data importer shall not make any automated decisions concerning data subjects, except when:

- (a) (i) such decisions are made by the data importer in entering into or performing a contract with the data subject; and
- (ii) (the data subject is given an opportunity to discuss the results of a relevant automated decision with a representative of the parties making such decision or otherwise to make representations to that parties;

or

- (b) where otherwise provided by the law of the data exporter.

ANNEX B

DESCRIPTION OF THE TRANSFER

(To be completed by the parties)

Data Subjects

End Users / Customers of Sub-Agent who are the subject of Bookings made by Sub-Agent.

Purposes of the transfer

The transfer is made for the following agreed purposes:

- a) supporting or facilitating the making of Bookings for Customers with Product Suppliers as contemplated by this Agreement including, without limitation, the amendment, exchange or cancellation of Bookings;
- b) performing actions or complying with obligations that are ancillary to the above including, without limitation:
 - I. sharing Customer Personal Information amongst the Sub-Agent and Agent and then in turn with Product Suppliers as necessary to meet such obligations and make Bookings;
 - II. managing invoicing and settlement processes and liaising with Product Suppliers and as between the Sub-Agent and Agent in relation to Bookings;
 - III. assisting Sub-Agent as necessary to resolve End-User issues or complaints arising as a result of any Product Supplier changes including, without limitation, cancellations, scheduling changes or failure to deliver services contemplated by this Agreement.
 - IV. complying with applicable Data Protection Laws including, without limitation, directly communicating with and responding to Customers in relation to data access requests, data erasure requests or other requests received directly from Customers attempting to exercise their rights under Data Protection Laws; and
 - V. complying with other applicable laws.

Categories of data

Such personal data as required to complete a Booking including, without limitation, name, contact details, date of birth, address history, country of residence.

Recipients

- a) employees, contractors or other third parties engaged by the Sub-Agent or Agent to perform obligations in connection with this Agreement;
- b) Product Suppliers; and
- c) any other third party to whom the Product Supplier is required to transfer Customer Personal Information to in order to effect the Booking.

Sensitive or Special categories of data (if appropriate)

The personal data transferred concerns the following special categories of data (please specify):

- a) Information about Customers with disabilities, serious health conditions and or religious specific preferences or requirements may be transferred, to the extent that this information is relevant in order to complete a Booking.

**SCHEDULE V
ACCESSION LIST**

[to be populated where appropriate]