

# Terms & Conditions for the supply of Goods and Services to Away Resorts Limited

## 1. Interpretation

### 1.1 Definitions:

**AR Materials:** all materials, equipment and tools, drawings, specifications and data supplied by Away Resorts to the Supplier.

**Away Resorts Limited:** a company incorporated and registered in England and Wales with company number 06458827, whose registered office is at 200 Maylands Avenue, Hemel Hempstead, Hertfordshire, HP2 7TG.

**Business Day:** a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

**Charges:** the charges payable by Away Resorts for the supply of the Goods and Services by the Supplier, as set out in the Purchase Order.

**Contract:** has the meaning given in clause 2.

**control:** has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

**Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time, including without limitation the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) (**DPA 2018**), and the Privacy and Electronic Communications 2003 (SI 2003/2426) as amended.

**Deliverables:** all documents, products and materials developed by the Supplier or its agents, subcontractors and personnel as part of or in relation to the Services in any form, including without limitation computer programs, data, reports and specifications (including drafts), including any Deliverables set out in the Purchase Order.

**Delivery Date:** the date specified for delivery of the Goods and/or Services, as set out in the Purchase Order, or as otherwise specified by Away Resorts.

**Delivery Location:** the address for delivery of the Goods.

**Goods:** the goods (or any part of them) as detailed in the Purchase Order.

**Intellectual Property Rights:** patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

**Purchase Order:** Away Resorts standard purchase order, or other form of order placed by Away Resorts with the Supplier for the supply of the Services.

**Services:** the services, including without limitation any Deliverables, to be provided by the Supplier pursuant to the Contract, as described in the Purchase Order.

**Supplier:** the person or entity whose name appears as the addressee in the relevant Away Resorts purchase order or Order.

**Specification:** the specification (if any) for the Goods or Services, including any related plans and drawings, that are agreed in writing between Away Resorts and the Supplier.

**UK GDPR:** has the meaning given to it in section 3(10) of the DPA 2018.

**VAT:** value added tax or any equivalent tax chargeable in the UK or elsewhere.

**Term:** the duration of the Contract, as stated in the Purchase Order.

### Interpretation:

(a) A reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted from time to time and shall include all subordinate legislation.

(b) Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

(c) A reference to **writing** or **written** includes email.

(d) All headings and titles are inserted for convenience only, and are to be ignored in the interpretation of the Contract.

## 2. Commencement and term

These Terms and Conditions, together with the relevant Purchase Order, constitute the contract between the parties for the supply of the Goods and/or Services ("**Contract**").

## 3. Supply of Goods and Services

**3.1** The Supplier shall supply the Goods and Services to Away Resorts in accordance with the terms of the Contract. The terms of the Contract shall apply to the exclusion of any terms and conditions of the Supplier which may be contained or referred to in a delivery note, order acknowledgement, quotation or other document issued by the Supplier.

**3.2** On receipt of a Purchase Order, the Supplier will be deemed to have accepted the Purchase Order on the terms of this Contract. Unless otherwise agreed in writing by Away Resorts, the Purchase Order or this Contract shall not imply any commitment by Away Resorts to contract exclusively with the Supplier.

**3.3** The Supplier shall meet, and time is of the essence as to, any performance or delivery dates specified in the Purchase Order.

**3.4** In supplying the Goods and Services, the Supplier hereby warrants and undertakes that it shall:

(a) perform the Services with the highest level of care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;

(b) ensure that the Goods (i) correspond with their description and any applicable Specification; (ii) are of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by Away Resorts expressly or by implication, and in this respect Away Resorts relies on the Supplier's skill and judgement; (iii) are free from defects in design, material and workmanship; (iv) comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods;

(c) co-operate with Away Resorts in all matters relating to the Goods and Services, and comply with all instructions of Away Resorts;

(d) only use personnel who are suitably skilled and experienced to perform the tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled;

(e) ensure that it obtains and maintains all consents, licences and permissions (statutory, regulatory, contractual or otherwise) it may require and which are necessary to enable it to comply with its obligations under the Contract;

(f) ensure that the Goods, Services and any Deliverables shall conform in all respects with any descriptions set out in the Purchase Order and shall be fit for any purpose that Away Resorts expressly or impliedly makes known to the Supplier;

(g) provide all equipment, tools, vehicles and other items required to provide the Goods and Services;

(h) ensure that the Goods, the Deliverables, and all goods, materials, standards and techniques used in providing the Services are of the best quality and are free from defects in workmanship, installation and design;

(i) comply with:

(i) all applicable laws, statutes, regulations and codes from time to time in force; and

(ii) any mandatory policies of Away Resorts that are notified to the Supplier (including the Away Resorts contractor Code of Practice referred to in clause 10.7 below).

(j) observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of Away Resorts' premises;

(k) hold all AR Materials in safe custody and, at its own risk, maintain AR Materials in good condition until returned to Away Resorts, and not dispose of or use AR Materials other than in accordance with Away Resorts' written instructions or authorisation;

(l) not do or omit to do anything which may cause Away Resorts to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business;

(m) notify Away Resorts in writing immediately upon the occurrence of a change of control of the Supplier; and

(n) provide such accurate and appropriate data to Away Resorts as Away Resorts in its sole discretion determines necessary to enable it to evaluate the Supplier's adherence to any service level agreement agreed between the parties.

3.5 The Supplier shall permit Away Resorts and/or its authorised representative(s) to visit its premises or any other location which is in any way associated with the Contract to ensure that the Supplier is discharging its obligations under the Contract to Away Resorts' satisfaction.

3.6 Away Resorts has the right to inspect and test the Goods at any time before delivery. If, following such inspection or testing, Away Resorts considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.4, or any other terms of the Contract, Away Resorts shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance. Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and Away Resorts shall have the right to conduct further inspections and/or tests after the Supplier has carried out its remedial actions.

3.7 The Supplier shall ensure that:

(a) the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition and be stored for a reasonable period of time before being used or installed by Away Resorts;

(b) each delivery of Goods is accompanied by a delivery note which shows the Purchase Order number, the type and quantity of Goods, special storage instructions (if any) and, if the relevant Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

(c) if the Supplier requires Away Resorts to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.

3.8 The Supplier shall deliver the Goods specified in each Purchase Order: (a) on or before the relevant Delivery Date; (b) at the Delivery Location; and (c) during Away Resorts' normal business hours, or as instructed by Away Resorts. Delivery of Goods is completed on the completion of unloading of those Goods at the Delivery Location.

3.9 If the Supplier delivers more or less than the quantity of Goods ordered, and Away Resorts accepts the delivery, a pro rata adjustment

shall be made to the invoice for the Goods. If the Supplier: (a) delivers less than 95% of the quantity of Goods ordered, Away Resorts may reject the Goods; (b) delivers more than 105% of the quantity of Goods ordered, Away Resorts may at its discretion reject the Goods or the excess Goods.

3.10 If Away Resorts rejects any Goods they are returnable at the Supplier's risk and expense. If the Supplier fails to collect rejected Goods within a reasonable period after notification of the rejection, Away Resorts may charge the Supplier storage costs and sell or dispose of the rejected Goods. Away Resorts will account to the Supplier for the proceeds of sale (if any) after deducting the purchase price paid for the Goods, storage costs and its reasonable costs and expenses in connection with the sale.

3.11 The Supplier shall not deliver Goods in instalments without Away Resorts' prior written consent. Where it is agreed that Orders may be delivered in instalments, such instalments shall be invoiced separately. However, failure by the Supplier to deliver any one instalment on time or at all, or any defect in an instalment, shall entitle Away Resorts to the remedies set out in clause 5.

3.12 The Supplier will ensure that all parts and tools associated with the Goods supplied to Away Resorts will be available from the Supplier for a period of at least five (5) years after purchase to enable the successful maintenance of those Goods by Away Resorts.

#### **4. Away Resorts' obligations**

4.1 Away Resorts shall:

(a) provide such access to its premises and data, and such office accommodation and other facilities as may reasonably be requested by the Supplier and agreed with Away Resorts in writing in advance, for the purposes of providing the Services; and

(b) provide such necessary information for the provision of the Services as the Supplier may reasonably request.

#### **5. Remedies**

5.1 If the Goods and/or Services are not supplied in accordance with, or the Supplier fails to comply with, any terms of the Contract, Away Resorts may (without prejudice to any other right or remedy):

(a) terminate the Contract;

(b) reject the Goods or Services (in whole or in part) and require the Supplier, without charge to Away Resorts, to carry out such additional work as is necessary to correct the Supplier's failure;

(c) refuse to accept any further Goods or Services;

(d) recover from the Supplier any costs incurred by Away Resorts in obtaining substitute goods or services from a third party; and/or

(e) claim damages for any other costs, loss or expenses incurred by Away Resorts which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

5.2 The terms of clause 5.1 above shall apply to any replacement Goods or Services supplied by the Supplier.

5.3 Away Resorts' rights and remedies under the Contract are in addition to its rights and remedies implied by statute and common law.

5.4 A signature on a delivery note shall not constitute acceptance of the Goods in terms of either quality, quantity or conformance to Specification or Contract, but shall simply be an acknowledgement of a delivery being made by the Supplier.

#### **6. Title to Deliverables and AR Materials**

6.1 Title and risk in the Goods shall pass to Away Resorts on completion of delivery to the Delivery Location, unless payment or part payment has been made prior to delivery in which event the property in any materials, components or Goods purchased or allocated by the Supplier for the purpose of the Contract shall immediately vest in Away Resorts.

6.2 Title to any Deliverables that are goods or in any physical media on which Deliverables are stored and title to any goods or materials transferred to Away Resorts as part of the Services shall pass to Away

Resorts on the earlier of their delivery to Away Resorts or payment of the Charges for them. The Supplier transfers the Deliverables and all such goods and materials to Away Resorts free from all liens, charges and encumbrances.

**6.3** All AR Materials are the exclusive property of Away Resorts.

## **7. Data protection**

**7.1** Each Party shall at all times comply with the Data Protection Legislation where applicable.

**7.2** To the extent that the Supplier processes personal data (as defined in the Data Protection Legislation) of Away Resorts employees or customers in connection with the supply of the Services, the Supplier shall:

(a) process such personal data solely to the extent necessary for the performance of the Services and/or on the written instructions of Away Resorts;

(b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;

(c) ensure that all personnel who have access to and/or process such personal data are obliged to keep the personal data confidential;

(d) not transfer any personal data outside of the United Kingdom or the European Economic Area without obtaining Away Resorts' prior written consent;

(e) not appoint any third party sub-processors of such personal data without prior consent from Away Resorts (which shall not be unreasonably withheld or delayed) and provided that the Supplier shall enter into a written agreement with each sub-processor incorporating terms which are substantially similar to those set out in this clause 7;

(f) assist Away Resorts in responding to any request from a Data Subject (as defined in the Data Protection Legislation) to exercise his/her data subject rights and in ensuring compliance with Away Resorts' obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

(g) notify Away Resorts immediately on becoming aware of a personal data breach (as defined in the Data Protection Legislation);

(h) at the request of Away Resorts, delete or return such personal data and copies thereof to Away Resorts on termination of the Contract; and

(i) maintain complete and accurate records and information to demonstrate its compliance with this clause 7 and allow for audits by Away Resorts or Away Resorts' designated auditor.

## **8. Intellectual property**

**8.1** In relation to AR Materials, Away Resorts and its licensors shall retain ownership of all Intellectual Property Rights in AR Materials, and Away Resorts grants to the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to use AR Materials for the Term for the sole purpose of providing the Goods and/or Services to Away Resorts.

**8.2** In relation to the Deliverables:

(a) the Supplier assigns to Away Resorts, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the Deliverables;

(b) the Supplier shall obtain waivers of all moral rights in the Deliverables to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction; and

(c) the Supplier shall, promptly at Away Resorts' request, do (or procure to be done) all such further acts and things and the execution of all such other documents as Away Resorts may from time to time require for the purpose of securing for Away Resorts all right, title and interest in and to the Intellectual Property Rights assigned to Away Resorts in accordance with clause 8.2.

## **9. Charges and payment**

**9.1** In consideration for the provision of the Goods and/or Services, Away Resorts shall pay the Supplier the Charges in accordance with this clause 9. No increase in the Charges may be made without the prior written agreement of Away Resorts. Unless otherwise agreed in writing, all Charges are inclusive of the costs of packaging and/or packing cases, insurance and carriage, excise duties, import levies, landing charges, delivery charges, on-site commissioning, insurance, warranties and other charges of whatever nature.

**9.2** All amounts payable by Away Resorts exclude amounts in respect of value added tax (VAT) which Away Resorts shall additionally be liable to pay to the Supplier at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.

**9.3** The Supplier shall submit invoices for the Charges (plus VAT if applicable) to Away Resorts at the address for invoices stated in the Purchase Order. Each invoice shall contain the Away Resorts Purchase Order Number stated in the Purchase Order and a full description of the Goods and/or Services supplied, together with any supporting information reasonably required by Away Resorts.

**9.4** Unless otherwise agreed in writing and subject to the Supplier's compliance with the invoicing requirements set out in clause 9.3 above, Away Resorts shall pay correctly rendered invoices within 90 days of receipt, to a bank account nominated in writing by the Supplier.

**9.5** If a Party fails to make any payment due to the other under the Contract by the due date for payment, then the defaulting Party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 2% a year above the Bank of England's base rate from time to time, but at 2% a year for any period when that base rate is below 0%.

**9.6** Away Resorts may at any time, without notice to the Supplier, set off any liability of the Supplier to Away Resorts under the Contract against any liability of Away Resorts to the Supplier.

## **10. Health, Safety & Environment**

**10.1** Without limiting the generality of clause 3.4 above, the Supplier shall comply with all applicable health and safety and environmental legislation, regulations and codes of practice, including but not limited to the Health and Safety at Work Act 1974 and the Environmental Protection Act 1990, and any and all regulations made thereunder and any re-enactment thereof, in the supply of the Services.

**10.2** Where the Supplier intends to supply or use (in the provision of the Services) any product which may or does contain a substance which is hazardous to health within the meaning of Regulation 2(1) of the Control of Substances Hazardous to Health Regulations 1987 (the "**Regulations**"), or any amendments thereto, the Supplier shall supply full details of such product and such substances both to the address from which the Order originated and to the address(es) at which the Services are to be supplied.

**10.3** Such details shall be in writing and shall be supplied in sufficient time to enable Away Resorts to establish any necessary or appropriate procedures for the safe and lawful use of the Services and so as not to halt or delay any part of the work to be performed by Away Resorts in respect of the Services. In supplying such details, the Supplier shall include in relation to both the product and the substance, without limitation, details of the method statements, risk assessment and COSHH reports and/or assessment monitoring which has been carried out and any material related to information or training.

**10.4** The Supplier shall promptly, but no later than 7 days after receipt of a written request, any other supporting documentation or information requested by Away Resorts and which relates to the Services.

**10.5** In respect of the Services, the Supplier will maintain and observe quality control and supplier quality assurance standards in accordance with the requirements of Away Resorts, its customs, relevant British Standards and statutory and regulatory bodies.

**10.6** The Supplier will maintain detailed quality control and manufacturing records for a period of at least 6 years from the date of supply of the Services.

**10.7** The Supplier shall comply with all reasonable requests of Away Resorts in relation to the health and safety and, in particular, will comply with the supplier Code of Practice issued by Away Resorts and duly incorporated by reference into the Contract. It shall be the Supplier's responsibility to acquaint itself with its responsibility as detailed in this Code.

## **11. Liability & Indemnities**

**11.1** Without prejudice to any other right or remedy which Away Resorts may have, the Supplier shall indemnify Away Resorts against all liabilities, costs, expenses, damages and losses (including legal and other professional costs and expenses) suffered or incurred by Away Resorts arising out of or in connection with:

(a) any claim made against Away Resorts for actual or alleged infringement of a third party's Intellectual Property Rights arising out of or in connection with the supply or use of the Goods, Services and/or Deliverables;

(b) any claim made against Away Resorts by a third party, including any claim for death, personal injury or damage to property, arising out of or in connection with the supply of the Goods or Services;

(c) any liability under the Consumer Protection Act 1987;

(d) breach of any warranty given by the Supplier in relation to the Goods and/or Services; and/or

(e) any act or omission of the Supplier or its employees, agents or subcontractors in connection with the supply of the Goods and/or Services, including breach of any term of the Contract.

**11.2** Without prejudice to the generality of clause 11.1, Away Resorts shall in no circumstances be liable for and the Supplier shall indemnify and keep Away Resorts indemnified in full from and against all claims for loss of or damage to property owned, hired or used by the Supplier, or any of its subcontractors, agents or employees, including (without limitation) any plant, vehicles, equipment, tools, temporary buildings and like items.

## **12. Insurance**

During the Term of the Contract and for a period of six years thereafter, the Supplier shall maintain in force, with a reputable insurance company, sufficient insurance to cover any potential liabilities that may arise under or in connection with the Contract, and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of such insurance. Without limiting the generality of the foregoing, such insurance cover shall include public liability insurance and product liability insurance, each with a limit of at least five million pounds (£5,000,000) cover for each and every claim and in the aggregate for each twelve (12) month period of the Term, unless otherwise agreed between the parties in writing.

## **13. Termination**

**13.1** Away Resorts shall be entitled to cancel any Purchase Order in whole or in part by giving notice to the Supplier at any time prior to delivery of the Goods and/or completion of the Services, in which event Away Resorts shall pay to the Supplier fair and reasonable compensation for work in progress at the time of cancellation, but such compensation shall not include loss of anticipated profits or any other form of consequential or indirect loss.

**13.2** Away Resorts shall be entitled to terminate the Contract at any time by giving not less than three (3) months' written notice to the Supplier.

**13.3** Without affecting any other right or remedy available to it, Away Resorts may terminate the Contract with immediate effect by giving written notice to the Supplier if:

(a) there is a change of control of the Supplier; or

(b) the Supplier's financial position deteriorates to such an extent that in Away Resorts' reasonable opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

**13.4** Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

(a) the other party commits a material breach of any term of the Contract and such breach is either incapable of remedy or has not been remedied within 14 days of that party being notified in writing to do so;

(b) the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

(c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

**13.5** Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

**13.6** Termination or expiry of the Contract shall not affect any of the parties' rights, remedies, obligations or liabilities that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

## **14. Exit arrangements**

**14.1** On termination of the Contract for whatever reason:

(a) the Supplier shall immediately deliver to Away Resorts all Deliverables whether or not then complete, and return all AR Materials. If the Supplier fails to do so, then Away Resorts may enter the Supplier's premises and take possession of them. Until they have been delivered or returned, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract; and

(b) the Supplier shall, if so requested by Away Resorts, provide all assistance reasonably required by Away Resorts to facilitate the smooth transition of the Services to Away Resorts or any replacement supplier appointed by it.

**14.2** The Supplier shall indemnify and keep Away Resorts indemnified from and against any costs, claims, demands or other liabilities incurred or payable by Away Resorts under or as a consequence of the application of the Transfer of Employment (Protection of Undertakings) Regulations 2006 to the Services, or the termination or expiry of the Contract.

## **15. General**

**15.1 Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. If the period of delay or non-performance continues for a continuous period

of three months, the party not affected may terminate the Contract by giving 30 days' written notice to the affected party.

#### **15.2 Assignment & Subcontracting.**

(a) The Supplier may not assign or subcontract any or all of its rights or obligations under the Contract without the prior written consent of Away Resorts. If Away Resorts consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all acts and omissions of its subcontractors as if they were its own.

(b) Away Resorts shall be entitled to assign any of its rights or obligations under the Contract without the prior written consent of the Supplier.

#### **15.3 Confidentiality.**

(a) Each party undertakes that it shall not at any time during the Term, and for a period of five years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by clause 15.3(b). For the purposes of this clause, **group** means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.

(b) Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out the party's obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 15.3 (and, if requested to do so by Away Resorts, shall procure that any such party enters into a written confidentiality undertaking on terms acceptable to Away Resorts); and

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

(c) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

(d) The provisions of this clause 15.3 shall not apply to any information which is in, or comes into, the public domain otherwise than by breach of any of the provisions of the Contract, or which was independently developed by the receiving party without reference to the disclosing party's information, or which was in the receiving party's lawful possession prior to disclosure and had not been obtained directly or indirectly from the disclosing party.

(e) The Supplier shall not mention Away Resorts' name in any publicity material or other similar communications to third parties without Away Resorts' prior written consent.

#### **15.4 Anti-Bribery & Corruption; Modern Slavery**

The Supplier shall:

(a) comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including the Bribery Act 2010 (the "**Bribery Act**");

(b) have and maintain in place its own anti-bribery and anti-corruption policies and procedures, including adequate procedures under the Bribery Act, and enforce them where appropriate;

(c) ensure that all persons associated with the Supplier or other persons who are performing the Contract comply with this clause 15.4; and

(d) take all practical steps to ensure that its business and its supply chains are free of slavery and human trafficking as described and defined in the Modern Slavery Act 2015.

For the purposes of this clause 15.4, the meaning of adequate procedures and whether a person is associated with another person shall be determined in accordance with section 7(2) and 8 of the Bribery Act. Any subcontractor of the Supplier shall be treated as a person associated with the Supplier.

**15.5 Entire agreement.** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each Party acknowledges and agrees that it has not been induced to enter into the Contract by a statement or promise which is not contained in the Contract.

**15.6 Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

#### **15.7 Cumulative Rights & Waiver.**

(a) Unless specifically stated otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

(b) A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

(c) A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

**15.8 Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 15.8 shall not affect the validity and enforceability of the rest of the Contract.

#### **15.9 Notices.**

(a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).

(b) Any notice shall be deemed to have been received:

(i) if delivered by hand, at the time the notice is left at the proper address; or

(ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting

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

(d) A notice given under the Contract is not valid if sent by email only.

#### **15.10 Third party rights; Relationship of Parties**

(a) The parties to the Contract do not intend that any term of the Contract should be enforceable, by virtue of the Contracts (Rights of Third Parties) Act 1999, by any person who is not a party to the Contract or a permitted assignee.

(b) Nothing in the Contract, and no action taken by the Parties under the Contract, shall constitute a partnership, joint venture or agency relationship between the Parties.

#### **15.11 Governing law & Jurisdiction.**

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with, the law of England and Wales. Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract.