

These are the terms and conditions upon which Amber Road may provide travel booking and related services for the Client and assist the Client to procure travel services. These terms and conditions apply to the provision of all such services by Amber Road except where a separate written agreement signed on the behalf of Amber Road and the Client for the provision of any such services exists in which case, the terms and conditions of such written agreement shall control and take precedence in the event of any inconsistency or contradiction with any of the following terms and conditions.

1. Definitions and Interpretation

1.1 In these Conditions, the following words have the following meanings:

- (a) **Bill Back Service** means, if Amber Road has agreed to provide such service for the Client, the Service provided by Amber Road under which certain expenses incurred by the Client's individual travellers with specified Service Providers who have agreed to support the provision of the Bill Back Service (such as the entire hotel bill or meal costs) can be invoiced by the Service Provider in question to Amber Road for Amber Road to then raise a payment request for such amount to the Client under the relevant Contract as opposed to that Service Provider requiring the Client's individual traveller to settle such expenses direct with the Service Provider at the time they are incurred.
- (b) **Booking** means an individual contract entered into between Amber Road on the behalf of the Client as the Client's agent and a Service Provider for the provision of any accommodation or travel related service for the Client.
- (c) **Charges** mean the charges of Amber Road for the provision of the Services as detailed in Clause 7.7.
- (d) **Client** means the entity who submits a Service Request to Amber Road.
- (e) **Conditions** means these terms and conditions as the same may be amended from time to time in accordance with Clause 2.4 and/or 12.4.
- (f) **Confidential Information** means all information relating to a party's (and/or relating to a party's service providers or sub-contractor's) business products and services (including operations, plans, market opportunities, customers, know-how (including designs, processes of production and technology), trade secrets and software) and/or any personal data disclosed to the other party whether in writing, orally or by any other medium and includes any information which is marked or designated as confidential or proprietary or should be reasonably understood by the receiving party to be confidential. Confidential Information excludes though any such information to the extent that is in the public domain other than as a result of any breach of these Conditions by a party and/or any such information to the extent that a party is required to disclose the same by any court or competent authority (provided that if reasonably possible prior to any disclosure of a party's Confidential Information to any court or competent authority, the receiving party shall provide the disclosing party with prior written notice so that the disclosing party is afforded an opportunity to contest the disclosure or to seek an appropriate protective order).
- (g) **Cost** means the charges levied by a Service Provider in respect of each Booking together with any applicable charge applied by Amber Road.
- (h) **Amber Road** means Travel By Amber Road Limited (Company Number 1775854) whose registered office is at 7th Floor, 111 Piccadilly, Manchester, M1 2HY.
- (i) **Amber Road Property** means all right, title and interest in and to: each Online Service (including all site set-ups and configurations); any anonymous data which may be generated as a result of the Client's use of any Online Service (being data that has been de-identified by the removal of all personally identifiable information so that it does not identify any company or individual as being the source of or having any association with that data); Amber Road's Confidential Information; any logos, names, trade-marks or other branding applied to any Online Service; any software, hardware, technology, documentation and information provided by or on the behalf of Amber Road in connection with any Online Service; all ideas, know-how and techniques that may be developed, conceived or invented by Amber Road and/or any of its service-providers or sub-contractors during the performance of any Online Services; together with all worldwide patent, copyright, trade secret and other intellectual property rights in and to the foregoing.
- (j) **Contract** means a contract between the Client and Amber Road for the provision of Services made subject to these Conditions which has come into force following the acceptance of a Service Request in accordance with Clause 2.2.
- (k) **Data Feed** means a feed of electronic data pertaining to the Client and/or its users obtained from a third party which is required to be imported into any Online Service to enable the provision of that Online Service.
- (l) **Data Release Authorisation** means written authorisation in a form acceptable to Amber Road provided by the Client to enable any supplier to the Client (or other relevant third party) to release data and provide a Data Feed to Amber Road and/or any of its service providers and/or sub-contractors.
- (m) **Force Majeure** means any circumstance beyond the reasonable control of Amber Road, its service providers and/or sub-contractors including any act of God, war, riot, civil commotion, terrorism, explosion, abnormal, extreme, adverse or unusual weather conditions, ash clouds, loss of utilities, fire, flood, strike, lock out or industrial dispute and/or governmental or regulatory authority action.
- (n) **Group** means in relation to either 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. Holding company or a subsidiary is as defined in section 1159 of the Companies Act 2006 (as amended or replaced from time to time).

- (o) **Online Service** means any online booking facility for the Services made available by Amber Road from time to time for access by the Client which currently include the online booking facilities made available by Amber Road under its "MyStay", "Amber Road Sherpa", "PLANNET" and "Amber Road Mariner" brands together with any other supporting services which Amber Road has agreed in writing to provide for the Client which are delivered or made available to the Client online or by other remote means (including via SMS).
- (p) **Risk Messaging Service** means a web-based Online Service that enables the Client to identify and confirm the location of all of its employees that are assigned to that service via the settings available for that service.
- (q) **Service Provider** means any third party service provider with whom Amber Road enters into any Booking on the behalf of the Client as the Client's agent.
- (r) **Service Request** means any request made by the Client for the provision of any Services. Such request may be made by the Client orally, in writing (including via email) and/or via the Online Service but in any case the Client's Service Request shall exclude any terms and conditions which the Client may purport to apply (including any such terms and conditions as may be set out or referred to on any standard form documents utilised by the Client).
- (s) **Services** means a travel and accommodation booking service provided by Amber Road pursuant to which, Amber Road will identify Service Providers able to meet the Client's travel requirements specified to Amber Road by the Client from time to time and arrange Bookings with those Service Providers on the behalf of the Client acting as the Client's agent. Such service includes a facility for the Client to book hotels, airline travel, train travel, hire car bookings, meeting/conference bookings and visa/passport application management. As part of such services Amber Road may also agree in writing to provide or make available certain other supporting services to the Client to assist with the administration and support of the Client's corporate travel and accommodation requirements (such as the Risk Messaging Services). The Bill Back Service is only included if Amber Road has specifically agreed in writing to provide that Bill Back Service. In all circumstances the Services exclude Amber Road advising on or arranging any insurance (which it is the sole responsibility of the Client to arrange at its discretion).
- (t) **Working Day** means any day which is not a Saturday, Sunday or bank or other public holiday in England and Wales.

2. Acceptance of these Conditions and Service Requests

- 2.1 These Conditions apply to each Contract and to the provision of any Services by Amber Road generally to the exclusion of any other terms that the Client seeks to impose or incorporate. By issuing each Service Request the Client shall be deemed to irrevocably and unconditionally agree that these Conditions shall apply to the exclusion of any other terms.
- 2.2 Each Service Request constitutes an offer by the Client to purchase the Services in question in accordance with these Conditions. Any Service Request shall be deemed accepted by Amber Road on the earlier of: (a) Amber Road confirming that it is willing to provide the Services; or (b) Amber Road commencing provision of the Services.
- 2.3 Amber Road shall be under no obligation to accept any Service Request and may decline to accept any Service Request without liability or need to give reason.
- 2.4 Amber Road may amend these Conditions at any-time on notice (which notice may be provided by Amber Road via the Online Service or otherwise via any website operated by Amber Road) and the applicable Conditions incorporated into each Contract will be those in force at the time the Client's Service Request is accepted in accordance with Clause 2.2. For the avoidance of doubt, Amber Road shall not have the right to apply any such amendments with retrospective effect to previously accepted Service Requests and if the Client does not wish to accept any such amendments then it shall promptly notify Amber Road in writing and shall not make any further Service Requests unless and until an acceptable amendment has been agreed between the parties in writing.

3. Online Services

- 3.1 If Amber Road makes any Online Service available for access by the Client then Amber Road grants to the Client only a limited, non-exclusive and non-transferable licence to access and use that Online Service only for the purposes of making use of the Services (but not further or otherwise and in particular, such licence excludes any right for the Client to make use of any Online Service other than for its own internal business purposes). Amber Road shall be entitled to suspend or revoke such licence without liability at any-time and for any reason without the need to give the Client notice.
- 3.2 The Client shall maintain in strict confidence (and shall ensure that its employees maintain in strict confidence) any user names, access codes or other authorisations which may be provided or allocated to it by Amber Road and/or via any Online Service together with any associated passwords.
- 3.3 The Client shall be liable for all use of any Online Service which is carried out under user names, access codes or other authorisations which may be provided or allocated to the Client by Amber Road and/or via any Online Service (including any Bookings made using such access). The Client shall immediately inform Amber Road of any actual or suspected loss, theft, publication or disclosure of any user names, access codes, other authorisations or passwords

for any Online Service and/or of any actual or suspected unauthorised access to or use of the Online Service using the same of which the Client becomes aware.

3.4 The Client shall not (and shall ensure that its employees shall not):

- (a) access, use, sell, distribute, sub-licence, broadcast or commercially exploit any Amber Road Property and/or data made available via or as a result of the use of any Online Service including access or use of any such data or Amber Road Property on a service bureau basis or for any purposes outside of the scope of the Client's authorised use of the Online Services (such as for any third parties on a rental or sharing basis);
- (b) copy, modify or prepare derivative works based on any Amber Road Property and/or data made available via or as a result of the use of any Online Service;
- (c) reverse engineer, decompile, disassemble or attempt to derive source code from any Amber Road Property;
- (d) remove, obscure or alter any intellectual property right or confidentiality notices or legends appearing in or on any aspect of any Amber Road Property;
- (e) initiate any interaction with any Online Service other than via human interface and in particular, the Client shall not use any automated tools, bots or other similar programmes or devices to interact with any Online Service; and/or
- (f) use or attempt to use any Online Service for any illegal or unlawful purpose and/or for the purposes of publishing, introducing or otherwise distributing data or materials which are offensive, obscene, defamatory, libellous, unlawful or in breach any intellectual property rights belonging to any third party.

3.5 Amber Road does not guarantee that Online Services will be continually available for access and Amber Road may suspend access to Online Services from time to time to carry out maintenance and upgrade work; in the event of any actual or suspected security breach; and/or in the event of any other emergency.

3.6 Amber Road shall endeavour to resolve within a reasonable period any problems or issues concerning any Online Services which are raised with it by the Client however, Amber Road does not guarantee that it will be able to resolve any such problems or issues and/or that it will do so within any particular time period. The Client shall report all such problems or issues to Amber Road and shall not report any such problem or issue direct to any third party service provider or sub-contractor who may be responsible for providing any Online Service on the behalf of Amber Road.

3.7 Where any Online Service is provided on the behalf of Amber Road by any third party service provider or sub-contractor then Amber Road's obligation to provide such Online Service shall be conditional upon the agreement of that service provider or sub-contractor to provide the Online Service in question to the Client and Amber Road shall promptly inform the Client should any such service provider or sub-contractor decline to provide any Online Service to the Client.

3.8 Online Services do not include the provision of any back-up, disaster recovery or business continuity services and if any Client data is stored or hosted by Amber Road in connection with any Online Service, the Client shall back-up such Client data itself at frequencies which are appropriate to enable it to recover such Client data with minimal impact on its business and operations.

3.9 The Client shall also accept and abide by any end-user licence/terms and conditions published on any Online Service from time to time.

4. Bookings

4.1 When issuing any Service Request for Amber Road to make any Booking on the Client's behalf, the Client shall provide all information requested by Amber Road to complete that Booking and shall ensure that all such information is complete and accurate. The Client acknowledges that if any error is contained within any information provided by the Client for any Booking or should the Client subsequently wish to make any changes to such information, dependent on the terms and conditions of the applicable Service Provider, it may not be possible to correct that error or change that information after the Booking is completed or an additional charge may be levied by the Service Provider to correct that error or make a change for which the Client will be liable.

4.2 Each Booking is made by Amber Road as agent acting on the behalf of the Client and accordingly, the Client acknowledges that each contract for a Booking is between the Client and the applicable Service Provider and will be subject to the applicable Service Provider's terms and conditions which the Client undertakes to comply with. Amber Road shall not be a party to any such contract nor have any liability under any such contract and in particular, the Client acknowledges that Amber Road does not guarantee the performance of any Service Provider. Where the Bill Back Service is provided by Amber Road then Amber Road acts only as a payment agent of the Client and not as principal in any transaction.

- 4.3 Should the Client have any complaint concerning any Booking then it shall raise that complaint with Amber Road within 5 Working Days of the start date of the Booking in question and Amber Road shall then use its reasonable endeavours to provide a response to that complaint as soon as reasonably practicable.
- 4.4 Amber Road will assume that any individual employee of the Client who issues a Service Requests is authorised to make such request and Amber Road shall not be required to confirm the authority of any individual employee before actioning their request.
- 4.5 The Client shall indemnify Amber Road on demand against direct liabilities, reasonable costs, reasonable expenses, damages and all other direct professional costs and expenses suffered or incurred by Amber Road arising directly out of with a claim which is brought by any Service Provider against Amber Road relating to any contract between the Client and the Service Provider in question (including any claim that the Client has breached any such contract). For the avoidance of doubt, the Client's liability under the foregoing indemnity shall be limited solely to the value of those liabilities, costs, expenses and damages as specifically referred to in the foregoing indemnity and the Client shall have no liability under the foregoing indemnity for any indirect or consequential loss or damage.

5 Cancellations

- 5.1 The ability of the Client to cancel or amend completed Bookings will depend upon the terms and conditions of the applicable Service Provider which shall be provided by Amber Road to the Client on request.
- 5.2 If the Client wishes to cancel or amend any Booking then it shall notify Amber Road as soon as reasonably possible. If the Client fails to notify Amber Road of any required cancellation within the applicable Service Provider's deadline for doing so for the Booking in question then the Client acknowledges that it will be liable for the full cost of that Booking.
- 5.3 When cancelling or amending any Booking, the Client shall retain any cancellation reference numbers provided to it (whether by Amber Road or the applicable Service Provider) and shall produce those if requested by Amber Road.

6 Service Standards

- 6.1 Amber Road shall perform the Services using reasonable skill and care and in accordance with all applicable laws.
- 6.2 Should the Client have any complaint concerning the provision of any Service by Amber Road then it shall raise that complaint with Amber Road within 5 Working Days of its cause for complaint arising and Amber Road shall then use its reasonable endeavours to provide a response to that complaint as soon as reasonably practicable.
- 6.3 The Client acknowledges and agrees that the use of email, and short message transmission services, also known as SMS messaging or text messaging, as a means of sending messages as part of the Risk Messaging Service (if applicable) to its employees and other authorised users, can and likely will result in delayed, undelivered or incomplete messages from time to time and that the process of transmitting messages via email, or SMS can be unreliable and includes multiple third parties that participate in the transmission process, including a given employee's and other authorised user's mobile network operator and intermediary transmission companies whose respective networks and transmission can and likely will individually or in combination result in delayed, undelivered, or incomplete messages. The Client further understands and agrees that the Client should not in any way rely upon email, or SMS message transmission as part of the Risk Messaging Service, as applicable, for the safety of any child or other individual and that given the inherent risks of delay, lack of delivery or incompleteness, it is and would be under any circumstances unreasonable to do so and the Client assumes all risk associated with such delay, lack of delivery or incompleteness.
- 6.4 The Client acknowledges and agrees that messages will be transmitted in an unencrypted format. To the extent permitted by law, the network suppliers required for SMS delivery for the Risk Messaging Service (if applicable) may intercept and disclose any messages transmitted over the supplier's network to the extent reasonably necessary to protect the operation of such network, or to comply with any legal, regulatory, governmental, or network operator inquiries or requirements.
- 6.5 The Client acknowledges (if applicable) that the Risk Messaging Service is only available in English language.
- 6.6 All warranties, conditions and other terms concerning the quality and provision of the Services and their fitness for purpose which are not set out in these Conditions are hereby excluded from each Contract to the fullest extent lawfully permitted.

7 Charges

- 7.1 The Client shall pay to Amber Road the Costs and the Charges. All Costs may be passed on via payment request by Amber Road to the Client at any- time on or after the same are incurred and Charges may be invoiced by Amber Road to the Client at any-time on or after the relevant Service Request has been accepted in accordance with Clause 2.2 on the relevant Online Service provided (as applicable). The Client acknowledges that if under any Service Provider's terms and conditions any Booking must be paid for in advance or an advance deposit be paid then Amber Road shall be entitled to require payment by the Client of such prepayment or deposit at any-time on or after the same is incurred or, at Amber Road's discretion, Amber Road may require payment in advance as a condition of making such Booking. The Client also acknowledges that such prepayment or deposit will not be refundable in the event that the relevant Booking is cancelled unless and only to the extent otherwise provided for under the relevant Service Provider's terms and conditions. Where the Bill Back Service is included within the Services then Amber Road shall be entitled to issue a payment request to the Client for such expenses at any-time on or after the relevant Service Provider submits its invoice for the same to Amber Road together with any applicable Charges for provision of the Bill Back Service.
- 7.2 All invoices and payment requests submitted by Amber Road under each Contract shall be paid by the Client within 10 days of the date of invoice or request (as applicable) by direct debit into such bank account as may be nominated by Amber Road from time to time.
- 7.3 The Client shall notify Amber Road within 7 Working Days of receipt if the Client disputes the amount of any invoice or payment request (and the Client shall only raise bona fide disputes concerning invoices and payment requests acting at all times in good faith). In the event that the Client acting in good faith raises a bona fide dispute concerning any invoice or payment request then the Client shall pay the undisputed amount of such invoice or payment request in accordance with these Conditions and the parties shall use their respective reasonable endeavours to agree any amount disputed by the Client as soon as reasonably possible. Should it subsequently be agreed or held that the Client incorrectly withheld payment of any amount pursuant to this Clause 7.3 then the Client shall pay the relevant amount to Amber Road within 10 days of the date of such agreement or ruling together with statutory interest thereon should payment have been delayed beyond the original due date for payment under these Conditions.
- 7.4 Amber Road shall be entitled to suspend without liability provision of the Services by giving the Client not less than 5 days' notice in the event that payment of any amount owing to it and/or to any Service Provider from the Client is overdue and/or should any credit limit as referred to in Clause 7.6 have been exceeded by the Client.
- 7.5 The Charges, Costs and any other amount which may become payable from time to time by the Client each Contract:
- (a) are stated exclusive of VAT which if applicable, shall be payable in addition by the Client at the applicable rate from time to time in force; and
 - (b) shall, subject to Clause 7.3, be paid by the Client in full in accordance with these Conditions without set off, deduction or withholding.
- 7.6 Amber Road reserves the right to apply from time to time a credit limit to the Client's account with it and should any such credit limit be exceeded by the Client (and/or should Amber Road reasonably anticipate that any of the events as detailed in Clause 8.1(b) are likely to occur in respect of the Client) then Amber Road reserves the right to require payment in advance from the Client as a condition of continuing to provide the Services or (at Amber Road's discretion) to exercise its right under Clause 7.4 to suspend further provision of the Services.
- 7.7 Unless specially agreed otherwise in writing by an authorised representative of Amber Road, the Charges payable by the Client shall be the standard charges of Amber Road in force at the time the Client's Service Request is accepted in accordance with Clause 2.2. Such Charges may be adjusted by Amber Road at any-time on notice (which notice may be provided by Amber Road via any Online Service or otherwise via any website operated by Amber Road from time to time).
- 7.8 In addition to the Charges payable by the Client, the Client acknowledges that Amber Road will retain any commission paid to it by any Service Provider relating to any Booking and shall not be obliged to disclose the amount of any such commission to the Client.
- 7.9 Amber Road shall be entitled to sub-contract without notice the performance of any Services. In such circumstances where the relevant sub-contractor is a member of the Amber Road Group, that entity shall be entitled to invoice or require payment from the Client direct for any Costs and Charges for the relevant Services and should any Amber Road Group entity do so then the Client shall pay such invoice or payment request in accordance with this Clause 7 and the relevant Amber Road Group entity shall be entitled to rely on and enforce this Clause 7 directly against the Client.

8 Termination

- 8.1 Amber Road may terminate any or all Contracts in place from time to time and/or terminate the provision of any Online Service at any- time by giving written notice to the Client if:
- (a) the Client commits any material breach of any Contract and/or of these Conditions;
 - (b) the Client becomes bankrupt or goes into liquidation (whether voluntary or compulsory), becomes insolvent, is dissolved, compounds with its creditors or has a receiver, administrative receiver or administrator appointed over the whole or any part of its assets or a petition is presented, or a meeting is convened for the purpose of considering a resolution, for the making of an administrative order, the winding-up, bankruptcy or dissolution of the Client or the Client suffers any similar process in any jurisdiction outside of England and Wales;
 - (c) the Client ceases or threatens to cease carrying on its business, operations or activities; and/or
 - (d) the Client has failed to pay any amount due under any Contract by its due date for payment.
- 8.2 Amber Road may terminate the provision of any Online Service which is provided by any third party service-provider or sub-contractor on notice in the event that the relevant service-provider or sub-contractor suspends, terminates or withdraws that Online Service for any reason. In addition, the Client acknowledges that the provision of certain Online Services by Amber Road's third party service-providers and/or sub-contractors is conditional on those Online Services being purchased in combination with each other and that should the Client cease to use or have its use of any such Online Service terminated then that shall also entitle Amber Road to terminate on notice the Client's use of any such related Online Services.
- 8.3 The Client may terminate these Conditions and Amber Road's appointment as a service provider to the Client without reason at any-time by giving three months written notice of termination. The Client shall no longer make any Service Requests following such termination but such termination shall not affect any Contract which may have come into force prior to the date of such termination which Contract shall survive such termination subject to and in accordance with these Conditions.
- 8.4 Termination or expiry of any Contract shall not affect such Bookings which shall remain in full force and effect and the provisions of the relevant Contract shall continue to apply to such Bookings (and in particular, the Client shall remain obliged to pay for such Bookings in accordance with these Conditions) PROVIDED THAT in the event that any Contract has been validly terminated by Amber Road under Clause 8.1(b) or 8.1(d) then Amber Road shall be entitled to require the Client to pay in advance for any such Bookings and should the Client fail to do so within five days of any request by Amber Road then Amber Road shall be entitled at its discretion to cancel without liability to the Client any outstanding Bookings made under that Contract with respect to the period after termination or expiry.
- 8.5 Upon termination or expiry of any Contract all outstanding invoices, payment requests, Costs and Charges under the Contract in question shall become immediately due and payable by the Client.

9 Liability

- 9.1 Neither party seeks to limit or exclude in any way its liability for death or personal injury caused by negligence; for fraud or fraudulent misrepresentation; in respect of any breach of any condition implied under section 12 of the Sale of Goods Act 1979 (as amended or replaced from time to time); and/or for any other matter or liability which cannot be lawfully limited or excluded. Each provision of these Conditions and of any Contract shall be read as subject to this Clause 9.1 and no provision of these Conditions or of any Contract is intended to nor shall be interpreted as seeking to limit or exclude any of the foregoing types of liability.
- 9.2 Amber Road shall not be liable for:
- (a) any failure or delay to comply with any of its obligations to the extent that such failure or delay is caused by any failure or delay by the Client to comply with its obligations under these Conditions or any Contract; and/or
 - (b) any failure or delay by any Service Provider to provide or perform any Booking nor for any other act or omission of any Service Provider.
- 9.3 Subject at all times to Clauses 9.1, 9.2 and 9.4, the maximum liability of either Party for all claims under each Contract howsoever arising shall be limited in aggregate to the value of the Charges actually paid by the Client to Amber Road under the Contract in question. Further, the Client does not seek to limit or exclude its liability to pay all Costs and Charges in accordance with the applicable Contract and/or, subject to Clause 9.4, under Clause 4.5.
- 9.4 Neither Party shall be liable for: (i) loss of business; loss of use; loss of profit; loss of anticipated profit; pure economic loss; loss of contracts; loss of revenues; loss or damage to goodwill or brand; loss of anticipated savings; loss of data or use of data; product recall costs; damage to reputation; and/or any consequential, special or indirect

loss or damage in any case, regardless of whether or not Amber Road was aware or had been made aware (or ought reasonably to have been aware) at the time the applicable Contract came into force of the risk that such loss or damage might occur; and/or any failure or delay in complying with its obligations under any Contract where such delay or failure is due to an event of Force Majeure.

10 Data Protection

10.1 Words and expressions used in this Clause 10 not defined elsewhere in these Conditions shall have the meanings as provided for under the Data Protection Laws (defined below). For the purposes of this Clause 10 and Clause 12.10:

“Data Protection Laws” means all applicable laws which govern the use of data relating to identified or identifiable individuals, including the Data Protection Act 1998, the GDPR and the Privacy and Electronic Communications (EC Directive) Regulations 2003, as amended or replaced from time to time, and to the extent applicable to a party.

“Personal Data” means any personal data (as defined in the Data Protection Laws) which is processed by the parties from time to time in connection with the relevant Contract.

10.2 Where the Client provides any Personal Data to Amber Road, or any Personal Data is provided to Amber Road on the Client’s behalf, in connection with the Services the parties acknowledge that the Client is the Data Controller and Amber Road is a Data Processor of any such Personal Data. Further details of Amber Road’s processing of Personal Data, including types of Personal Data, the purposes and duration of the processing and the categories of Data Subjects are provided in Schedule 1 to these Terms and Conditions.

10.3 Amber Road shall, when processing the Personal Data as a Data Processor:

- (a) process any Personal Data only to the extent, and in such a manner, as is necessary for the purposes of providing the Services and in accordance with the Client’s written instructions from time to time (and the Client hereby authorises Amber Road to process any such Personal Data for such purposes) but not further or otherwise unless required by law. In which case, Amber Road shall (to the extent permitted by law) inform the Client of that legal requirement before carrying out the processing;
- (b) take all appropriate technical and organisational measures to ensure a level of security for the Personal Data which is appropriate to the risks to individuals that may result from the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Personal Data (a “Personal Data Breach”);
- (c) in the event of a Personal Data Breach, promptly notify the Client of the Personal Data Breach and provide any information the Client may reasonably require relating to that Personal Data Breach and provide all assistance reasonably requested from the Client in writing to deal with the Personal Data Breach, at the Client’s cost;
- (d) ensure that access to the Personal Data is limited to those of its employees who have committed themselves to confidentiality obligations;
- (e) not engage a sub-processor to process the Personal Data unless:
 - (i) the sub-processor is an Authorised Sub-Processor (defined by Clause 10.4) or Amber Road has obtained prior written consent from the Client; and
 - (ii) the proposed sub-processor has entered into a contract with Amber Road which imposes equivalent obligations on the sub-processor as are imposed on Amber Road in this Clause 10.3;
- (f) not transfer any Personal Data to, or access or allow access to it from, outside the European Economic Area without the Client’s prior written consent. The Client hereby consents to the transfer of Personal Data by Amber Road to Service Providers and Authorised Sub-Processors based outside of the European Economic Area to the extent necessary to allow Amber Road to provide the Services in accordance with the relevant Contract;
- (g) taking into account the nature of the processing, provide commercially reasonable assistance to enable the Client to fulfil its obligations to respond to any requests from Data Subjects in accordance with Data Protection Laws;
- (h) provide commercially reasonable assistance at the Client’s cost to enable the Client to comply with its obligations under Articles 32-36 (Security, Breach Notifications, Data Protection Impact Assessments, Prior Consultation) of the GDPR; and
- (i) upon expiration or termination of the provision of the Services, at the Client’s choice, delete or return all Personal Data (including any copies of it) in its possession or control unless Amber Road is required to retain Personal Data in order to comply with applicable laws.

10.4 The Client consents to the use of sub-processors by Amber Road to the extent reasonably necessary to provide the Services. Under Article 28 of the GDPR Amber Road will inform the controller (the Client in this case) of any intended changes concerning the addition or replacement of sub-processors, and give the controller the opportunity to object to such changes.

- 10.5 The Client acknowledges that in order to provide the Services it will be necessary for Amber Road to disclose Personal Data and/or other Confidential Information of the Client to Service Providers and that any such disclosure, made in accordance with these Conditions, shall not constitute a breach by Amber Road of this Clause 10 and/or 11 nor shall Amber Road be liable to the Client (or to any Data Subject) for the acts or omissions of any Service Provider to whom any such Personal Data and/or Confidential Information is disclosed.
- 10.6 The Client will comply with all of its obligations under the Data Protection Laws in relation to its collection, provision and use of any Personal Data, including but not limited to:
- (a) the giving of privacy notices and obtaining consent (if required) to the processing of individuals' Personal Data as required by Data Protection Laws to allow both parties to lawfully process the Personal Data in accordance with the relevant Contract, including the disclosure to Service Providers, some of which may be located outside of the European Economic Area; and
 - (b) ensuring that any transfers of Personal Data outside of the European Economic Area by Amber Road to Service Providers or access to the Personal Data outside of the European Economic Area by Service Providers, which are necessary in order to provide Services and made in accordance with the relevant Contract, comply with the rules on international transfers under Data Protection Laws.
- 10.7 The Client warrants that Amber Road's use of the Personal Data in accordance with the Client's instructions and the relevant Contract will not put Amber Road in breach of any Data Protection Laws.
- 10.8 Either Party agrees to fully indemnify and keep indemnified and defend at its own expense the other Party against all reasonable and direct costs, claims, damages and expenses incurred by the Party or for which the Party may become liable to the extent due to any failure by the defaulting Party or its employees or sub-contractors to comply with its obligations under this Clause 10 or the Data Protection Laws when processing the Personal Data. Any party wishing to claim under the foregoing indemnity shall promptly notify the other of any actual or potential claim of which it becomes aware and shall use its reasonable endeavours to mitigate/minimize the amount of any such claim.
- 10.9 If at any time, in Amber Road's reasonable opinion, it needs to amend these Conditions in order to comply with its obligations under Data Protection Laws, the Client agrees to enter into a written variation to the relevant Contract to make the amendments which in Amber Road's reasonable opinion are required.

11 Confidentiality

- 11.1 Each party shall, both during the term of any Contract and following the expiry or termination of any Contract, keep in strict confidence all Confidential Information which is disclosed to it by the other party together with any other Confidential Information concerning that other party which it may obtain as a result of the operation of any Contract. Each party shall only use and disclose such Confidential Information of the other party to those of its employees, agents or subcontractors (and in the case of Amber Road, to Service Providers) who need to know the same for the purpose of discharging its obligations or exercising its rights under any Contract. Each party shall take reasonable measures to protect all Confidential Information and to ensure that all Confidential Information is not disclosed, distributed or used in violation of these Conditions (which measures shall be no less than that which a reasonable person would take with respect to like Confidential Information).
- 11.2 The parties recognise and agree that money damages are an inadequate remedy for a breach of this Clause 11 and further recognise that any such breach would result in irreparable harm to the non-breaching party (and/or to any of its service providers or sub-contractors). Therefore, in the event of any such breach, the non-breaching party may seek injunctive relief from a court of competent jurisdiction to enjoin such activity in addition to any other remedies available to it.

12 General

- 12.1 Any notices to be served on either party by the other shall be in writing and shall be sent by pre-paid registered post to the registered office address from time to time of the other party. Such notice shall be deemed to have been received by the addressee 72 hours after posting provided applicable evidence of posting is retained and produced on request. Whilst the parties may make operational communications via email or fax, formal notice may not be served via email or fax.
- 12.2 The parties are with respect to each other independent contractors and save only to the extent as may be specifically provided for otherwise under these Conditions (including under Clause 4.2), nothing in these Conditions or in any Contract and no actions taken by the parties under these Conditions or any Contract shall be deemed to constitute any agency, partnership, association, joint venture or other co-operative enterprise between the parties.

- 12.3 Each Contract together with any documents referred to or incorporated into it in accordance with its terms (including these Conditions) represents the entire agreement between the parties relating to its subject matter and supersedes all previous presentations made and/or agreements, negotiations and discussions between the parties relating to the same.
- 12.4 Save only to the extent as may be specifically provided for otherwise under these Conditions, no variation or amendment to any Contract or these Conditions shall be binding unless made in writing and signed by or on the behalf of each of the parties.
- 12.5 The Client may not assign or transfer any of its rights and/or obligations under these Conditions or any Contract without the prior written consent of Amber Road.
- 12.6 If any provision of these Conditions or of any Contract is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, the remaining provisions shall remain in full force and effect.
- 12.7 The failure to exercise or delay in exercising any right or remedy under these Conditions or any Contract shall not be regarded as a waiver of such right or remedy, or a waiver of other rights or remedies. No single or partial exercise of any right or remedy shall prevent any further exercise of the right or remedy or any other right or remedy. The rights and remedies granted to each party are cumulative and, save only as may be specifically provided for otherwise under these Conditions or any Contract, are not exclusive of any other rights or remedies which may be available, whether under these Conditions, any Contract or as a matter of general law.
- 12.8 Subject to Clause 7.9, a person who is not a party to any Contract shall have no right to enforce any term of any Contract pursuant to the Contracts (Rights of Third Parties) Act 1999 (as amended or replaced from time to time).
- 12.9 These Conditions, each Contract and any dispute or claim arising out of or in connection with either of those or their subject matter or formation (including any non-contractual disputes or claims) shall be governed by English law and, save in respect of the enforcement of any judgment, the parties agree to submit to the exclusive jurisdiction of the English courts.

Signed in Agreement

Authorised Signatory for Amber Road:

Authorised Signatory for Customer:

Signature

Signature

Print Name

Print Name

Date of signature

Date of signature