BOOKING HOLDINGS INC. MASTER SERVICE AGREEMENT

**This Booking Holdings Inc. Master Service Agreement (the “MSA”) is made by and between Booking Holdings Inc, a Delaware corporation with a principal place of business at 800 Connecticut Avenue, Norwalk Connecticut 06854 (“BHI”) and Spreedly, Inc., a Delaware corporation with a principal place of business at 300 Morris Street, Suite 400, Durham, North Carolina 27701 (“Supplier”) and is effective as of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, XX, 2024 (the “Effective Date.”)**

BHI GENERAL PURCHASING TERMS

**Additional terms may apply, if specified in the Statement of Work applicable to the services purchased.**

1. DEFINITIONS AND INTERPRETATION
   1. **Definitions**: The following definitions are used in these BHI General Purchasing Terms:

| TERM | DEFINITION |
| --- | --- |
| **Affiliate** | means in relation to a party, any other entity which directly or indirectly has Control, is under the Control of, or is under direct or indirect common Control with, that party from time to time. |
| **Agreement** | means the MSA, any Statement of Work signed pursuant to the MSA during the Term, and, if applicable the SaaS Schedule. |
| **AI System** | means (a) any machine-based system or model that is designed to operate with varying levels of autonomy and that can, for explicit or implicit objectives, generate outputs such as content, predictions, recommendations or decisions that influence physical or virtual environments (including any artificial intelligence model that is trained on broad data at scale, is designed for generality of output, and can be adapted to a wide range of distinctive tasks); or (b) any technology, system or tool enabled by a machine-based system or model of the type referred to in limb (a), as the case may be. |
| **Applicable Law** | means any law applicable to the provision of the Services and the performance of the Agreement in any relevant jurisdiction from time to time, including all applicable: (a) legislation, regulations, or directives; (b) binding court orders or judgments; or (c) industry regulations, codes, policies, or standards enforceable by law. |
| **Background IP** | means all Intellectual Property that is used in the course of or in connection with performance of this Agreement:   1. owned by a party prior to or as of the Effective Date, or 2. created, developed, derived or generated by or on behalf of a party independently from the Services. |
| **Bespoke IP** | means all Intellectual Property arising or obtained, created, developed, discovered, derived or generated by or on behalf of a party in the performance of this Agreement, including in the Products |
| **BHI Compliance Requirements** | means BHI’s mandatory terms related to compliance with (amongst other things) anti-bribery and corruption laws, anti-money laundering laws, trade and sanctions, tax compliance and the prevention of modern slavery, which are included as Appendix A to this Agreement. |
| **BHI Data Processing Requirements** | means BHI’s mandatory requirements related to the processing of Personal Data by suppliers as Data Processors included as Appendix C to this Agreement. |
| **BHI Data Sharing Requirements** | Means BHI’s mandatory requirements related to the sharing and processing of Personal Data by suppliers as Data Controllers included as Appendix D of this Agreement. |
| **BHI Policies** | means BHI’s policies and standards made available to the Supplier from time to time, including the Supplier Code of Conduct available here:<https://www.bookingholdings.com/wp-content/uploads/2021/08/BHI-Supplier-Code-of-Conduct-04.09.21-English.pdf>., BHI Compliance Requirements, and BHI Security Requirements. |
| **BHI Materials** | means (i) any material in whatever form, including any data, calculations, algorithms, methodologies, processes, reports, specifications, business rules or requirements, guides, manuals, information and other materials, provided or made available to the Supplier by or on behalf of BHI and (ii) any adaptation, modification, enhancement, disassemblement, improvement and/or development to any of the foregoing arising or obtained, created, developed, derived or generated in the course of or in connection with the Services |
| **BHI Security Requirements** | means BHI’s mandatory information security measures that the Supplier must have in place, and which may be revised from time to time and form part of this Agreement, the current version is attached hereto as Appendix B. |
| **Booking Holdings Group** | means BHI and each of its Affiliates from time to time. |
| **Business Day** | means a day other than a Saturday, Sunday, or public holiday in the United States or any location where the Services are being provided. |
| **Confidential Information** | means all information (however recorded or disclosed) related to a party (or its Affiliates) that is marked as confidential or would otherwise be regarded as confidential by a reasonable businessperson, including but not limited to, information relating to the business affairs, customers, prospects, suppliers, employees, staff, market opportunities, operations, product information, know-how, designs, trade secrets or software of that party (or its Affiliates). For the avoidance of doubt, BHI Materials shall be Confidential Information of BHI. |
| **Control** | means the direct or indirect power to direct the management and policies of an entity or the composition of its board of directors or equivalent body, whether through the ownership of shares, by contract, or otherwise. |
| **Data Controller** | means an individual who, or entity that, alone or jointly determines the purpose and means of processing Personal Data. “Data Controller” shall be understood to include “Business” and analogous terms as defined under applicable Data Protection Law. |
| **Data Processor** | means an individual who, or entity that, processes Personal Data on behalf of the Data Controller. “Data Processor” includes “Service Provider” and analogous terms as defined under applicable Data Protection Law. |
| **Data Protection Law** | means all Applicable Laws relating to the processing of Personal Data and the protection of privacy as amended from time to time, including (without limitation) the European Union’s General Data Protection Regulation (Regulation (EU) 2016/679) (“**GDPR**”), the Privacy and Electronic Communications Directive (2002/58/EC) (“**ePrivacy Directive**”) and any laws and regulations implementing or created pursuant to the GDPR and the ePrivacy Directive , the UK General Data Protection Regulation (“**UK GDPR**”), the UK Data Protection Act 2018, Cal. Civ. Code §§ 1798.100 et seq. (the California Consumer Privacy Act of 2018) (“**CCPA**”), the California Privacy Rights Act of 2020 (“**CPRA**”), Colo. Rev. Stat. §§ 6-1-1301 et seq. (the Colorado Privacy Act) (“**CPA**”), Connecticut’s Data Privacy Act (“**CTDPA**”), Utah Code Ann. §§ 13-61-101 et seq. (the Utah Consumer Privacy Act) (“**UCPA**”), VA Code Ann. §§ 59.1-575 et seq. (the Virginia Consumer Data Protection Act) (“**VCDPA**”), and Singapore Personal Data Protection Act 2012 as revised in 2020 (“**PDPA**”). |
| **Data Security Breach** | means a breach in the technical and/or organizational measures to protect the confidentiality, integrity or availability of Personal Data (as defined below) or an incident that leads to the accidental or unlawful destruction, loss, alteration or unauthorised disclosure of, or access to, Personal Data |
| **Fees** | means all sums payable for the provision of the Services under the Agreement. |
| **Force Majeure Event** | means any causes beyond a party’s reasonable control, which causes include but are not limited to acts of God or the public enemy; riots and insurrections, epidemics, pandemics, war, accidents, fire, strikes and other labor difficulties, embargoes, judicial action, lack of or inability to obtain export permits or approvals, necessary labor, materials, energy, utilities, components or machinery, acts of civil or military authorities. |
| **Good Industry Practice** | means the degree of skill, care, diligence, and foresight which would reasonably and ordinarily be expected from a conscientious and skilled supplier experienced in providing goods or services equivalent to the Services. |
| **Insolvency Event** | means the occurrence of any of the following events in respect of a party:   1. any procedure is commenced for the winding-up or re-organisation of the party (other than for a solvent amalgamation or reconstruction) that is not dismissed within ten (10) Business Days; 2. any procedure is commenced for the appointment of an administrator, receiver, administrative receiver or trustee in bankruptcy in relation to the party or all or substantially all of its assets that is not dismissed within ten (10) Business Days; 3. the holder of a security over all or substantially all of the party’s assets takes steps to enforce the security; 4. the party is unable to pay its debts as they fall due or enters into a composition or arrangement with its creditors generally or any class of them, including a company voluntary arrangement or a deed of arrangement; or 5. anything analogous to the events described in (a) to (d) occurs in any jurisdiction. |
| **Intellectual Property or IP** | means all rights, title and interest in: (a) patents, trademarks, service marks, trade names, registered designs, design rights, semiconductor topography rights, database rights, copyrights and all other forms of intellectual or industrial property (in each case in any part of the world, whether or not registered or registerable for their full period of registration with all extensions, renewals and revivals, and including all applications for registration or otherwise) , and any goodwill related to the foregoing or the Products;; (b) inventions, formulae, Confidential Information (including know-how or secret processes); (c) computer software; and (d) any similar rights or assets which may now or in the future subsist anywhere in the world. |
| **Losses** | means all losses, liabilities, damages, costs, reasonable and customary Data Security Breach remediation and notification costs and fees (i.e. credit monitoring and similar services) as determined by the location of the parties whose Personal Data was impacted by the Data Security Breach expenses (including reasonable legal fees) and the costs of investigations, litigation, settlement, judgement interest, penalties, any other third party claims and fines. |
| **Personal Data** | means any information relating to an identified or identifiable natural person. “Personal Data” shall be understood to include “Personal Information” and analogous terms under applicable Data Protection Law. |
| **Personnel** | means either party’s employees, officers, workers, agents and contractors, and those of its subcontractors (of any tier). |
| **Products** | means agreed goods, documents, reports, data, software, hardware, and other materials and work product (in whatever form) produced and agreed to be purchased by BHI and/or its Affiliates under the Agreement, including any goods supplied as part of Services delivered to BHI and/or its Affiliates. |
| **Regulator** | means a government department or regulatory, statutory, and other body which, under Applicable Law, is entitled to regulate or investigate the matters dealt with in the Agreement or the parties to the Agreement. |
| **SaaS Schedule** | means the Booking Holdings Inc. Master Service Agreement Software as a Service Schedule. |
| **Service Levels** | means the service levels, key performance indicators or other similar metrics (if any) agreed between the parties against which the Supplier’s performance will be measured. |
| **Services** | means any services and Products to be provided by the Supplier to BHI and/or its Affiliates, as described in the Statement of Work, including activities that are incidental to or reasonably necessary for the proper provision of those services and Products. |
| **Statement of Work** | means the document containing the description of Services (which may also be called an order, order form, or quote) as agreed and signed between the parties from time to time. |
| **Supplier Records** | means all records and information reasonably required to verify the Fees payable by BHI and the Supplier’s compliance with the Agreement, including product documentation, delivery records, financial records, and performance data. |
| **Taxes** | means any national, governmental, provincial, state, municipal or local taxes, levies, imports, duties, (sur)charges, fees and withholdings of any nature imposed by any governmental, fiscal or other authority, including VAT, GST, sales and use tax, ITBIS or other similar taxes. |
| **Term** | means the period set forth in Clause 2. |
| **Third Party Supplier** | means a party supplying the Services other than the Supplier. |

* 1. **Interpretation**: In these General Purchasing Terms:
     1. references to a specific law include that law as amended from time to time, or any law that replaces or amends it;
     2. the words "including" or “for example” (or similar) should not be given a restrictive meaning because they are followed by examples; and
     3. unless the context requires otherwise, references to a notice or approval means a notice or approval given in writing.

1. DURATION

**Term**: The Term of this Agreement will begin on the Effective Date and continue for [XX] years or until terminated in accordance with its terms or when the term of all Statements of Work has expired. The term for each Statement of Work shall be specified therein.

1. PROVISION OF SERVICES
   1. **Provision of Services**: The Supplier will provide the Services described in a Statement of Work and, if applicable, in accordance with the SaaS Schedule, during the Term.
   2. **No Order Commitment:** Unless otherwise agreed by the parties in writing, nothing in this Agreement shall require BHI to order, reach or maintain a minimum level or volume of Services.
   3. **Statement of Work will Incorporate the Agreement**: Each Statement of Work will incorporate the terms of the Agreement and no other terms, including the terms and conditions of the Supplier, will apply.
   4. **No Exclusivity**: The Agreement does not grant the Supplier any exclusive rights to provide the Services. BHI may perform (or buy from another third party) any goods or services that are the same as, or similar to, the Services.
   5. **Direct Agreements by BHI Affiliates**: The Supplier agrees that BHI Affiliates may (but are not required to) enter into their own Statements of Work for Services pursuant to the same terms as this Agreement. A Statement of Work executed by a BHI Affiliate that references the Agreement will form an independent contract between the Affiliate and the Supplier (with separate liability caps and a different term) and in each such case, all references in this Agreement to BHI shall be deemed to refer to such BHI Affiliate for purposes of such Statement(s) of Work ensuring that the BHI Affiliate has the same rights and obligations as BHI under this Agreement. BHI will have no liability to the Supplier under any Statement of Work the Supplier has directly with another BHI Affiliate, nor will one BHI Affiliate have liability for any other BHI Affiliate or for BHI.
2. DELIVERY OF PRODUCTS AND GOVERNANCE
   1. **Standard of Performance**: The Supplier must deliver all Services or Products in accordance with:
      1. Good Industry Practice;
      2. Applicable Laws; and
      3. BHI Policies.
   2. **Instalments:** The Supplier may not deliver Products and/or Services in instalments unless this has been agreed in advance with BHI. BHI may reject a partial or incomplete delivery that was not agreed in advance.
   3. **Acceptance:** Products provided are subject to BHI’s inspection and evaluation which shall not release the Supplier from its obligations and warranties. BHI may reject any Products, in full or in part, that do not comply with the terms of the Agreement. If BHI rejects the Products, in full or in part, it shall notify the Supplier of the reasons for rejection and the Supplier shall remedy the situation in accordance with Clause 7 (*Remedies*).
   4. **Risk and Title**: Risk in the Products will pass to BHI at the time of delivery and title will pass (free and clear of any lien and encumbrances) to BHI on the earlier of payment and delivery.
   5. **Assignment of Warranties**: The Supplier will assign to BHI the benefit of any manufacturer warranties and guarantees for the Products and/or Services to the fullest extent possible (including any accrued rights of action under them).
3. SERVICE LEVELS AND SERVICE CREDITS
   1. **Measuring Performance**: The Supplier will measure its performance against the Service Levels and report on its performance in accordance with the Statement of Work Service Level Agreement Schedule.
   2. **Service Failures**: If the Supplier’s performance falls below the required Service Levels (referred to in this Clause as a “**Service Failure**”), the Supplier will promptly:
      1. identify the cause of the Service Failure and notify BHI of it;
      2. correct the Service Failure or, if it cannot be rectified immediately, put in place and implement a plan that sets out in reasonable detail how the Service Failure will be remedied, including a timetable for doing so; and
      3. provide BHI with regular updates (in accordance with BHI’s requirements) about the implementation of the remediation plan.
   3. **Service Credits**: The Supplier will pay BHI all service credits due (if any) as a result of a Service Failure in accordance with the Statement of Work Service Level Agreement Schedule.
   4. **Status of Service Credits**: Both parties agree that the service credits represent a reasonable reduction to the Fees to reflect the reduced quality of Services received by BHI. BHI's right to receive service credits is in addition to, and will not affect, BHI's right to seek any other remedy that would otherwise be available to it.
   5. **Governance:** Both parties agree that proper governance is critical to the success and ongoing management of the engagement, and will work in good faith to develop proper governance structure within an accompanying SOW document.
4. WARRANTIES
   1. **Supplier Warranties**: Supplier represents, warrants, and covenants to BHI that:
      1. **Quality of Products and Services**: All Products and Services supplied to BHI will (a) match the description in the Statement of Work and any applicable Supplier standard specifications document; (b) be of satisfactory quality and in accordance with Good Industry Practice; (c) be fit for the purpose(s) held out by the Supplier; (d) comply with all Applicable Laws relating to their manufacture, labelling, packaging, storage, development, delivery, use and/or application and will remain so for the Term;(e) be free from material defects in design, material and workmanship in normal conditions of use and will remain so for the Term; and (f) be free from any viruses, malware or any other malicious software code that could damage or interfere with BHI’s systems or networks and will remain so for the Term; and (g) not comprise, incorporate, utilise, be in any way derived from or created or developed by, or otherwise exploit any AI System.
      2. **Ownership of IP:** it is and will be the sole creator, author and/or inventor of the Bespoke IP, or otherwise has the right to incorporate third party IP into the Bespoke IP and license BHI to use the same as contemplated in the Agreement.
      3. **No IP Infringement**: BHI’s receipt and use of the Products and Services (including any Supplier Background IP and any Bespoke IP that is incorporated into same) created, developed, derived or generated by on behalf of Supplier or any of Supplier’s Affiliates) will not at any time infringe, misappropriate, or otherwise violate the Intellectual Property or other rights of any third party.
   2. **General Warranties**: Each party represents, covenants, and warrants to the other that, at all times:
      1. **Approvals and consents**: it has all necessary rights, approvals, permits and consents to enter into and perform the Agreement, and to grant the rights and licenses referred to in it; and
      2. **Applicable Law**: it will comply with all Applicable Laws in relation to the provision of the Products and the Services and the performance of the Agreement.
5. REMEDIES
   1. **Correction of Faulty Products**: If Supplier is providing any Products to BHI, and such Products do not comply with the terms of this Agreement including the applicable SOW, without limiting any other rights or remedies that BHI may have under this Agreement or at law, BHI may reject the Products and, at BHI’s option, Supplier shall promptly:
      1. repair or replace the rejected Products at the Supplier’s risk and expense; or
      2. refund the price of the Products in full (including those which the Supplier has first attempted to repair or replace but has failed to do so to BHI's reasonable satisfaction).
   2. **Correction of Non-Compliant Services**: If Supplier is providing any Services to BHI, and such Services do not comply with the terms of this Agreement including the applicable SOW, without limiting any other rights or remedies that BHI may have under this Agreement or at law, BHI may reject the Services and, at BHI’s option, Supplier shall promptly:
      1. reperform the nonconforming Services at Supplier’s risk and expense; or
      2. refund the price paid for the Services in full.
6. SUPPLIER RELIEF
   1. The Supplier will not be in breach of the Agreement if the breach is caused by BHI’s failure to fulfil an obligation or dependency that has been agreed to in writing by the parties, provided that the Supplier:
      1. has notified BHI of the failure (or anticipated failure) and its likely effect on the Supplier’s performance;
      2. could not have avoided the effect of the failure by taking reasonable precautions; and
      3. has taken reasonable steps to mitigate the effect of the failure and continues to perform its unaffected obligations.
7. FEES AND PAYMENT
   1. **Fixed Fee**: Services are provided for a fixed Fee as set out in the applicable Statement of Work.
   2. **Invoicing.** Supplier shall invoice BHI as provided in the applicable Statement of Work. All undisputed amounts set forth in a properly detailed and timely invoice submitted to BHI in accordance with the other invoicing requirements set forth in this Agreement shall be payable within sixty (60) days after BHI’s receipt thereof, but only if Supplier submits the invoice to BHI in one of the following two (2) ways: via electronic mail addressed to Priceline[\_InvoiceCapture@concursolutions.com](mailto:PCLNAP_InvoiceCapture@concursolutions.com) with the subject line containing the invoice number and or Supplier name (the preferred method), or by first class mail, postage prepaid to Booking Holdings c/o Concur Invoice Capture, Attn: User Name, 10700 Prairie Lakes Drive, Eden Prairie, MN 55344. Supplier’s failure to submit invoices hereunder in one of the manners herein prescribed relieves BHI entirely from any obligation to make payment of undisputed amounts within sixty (60) days, but not from the obligation to make payment as otherwise required by this Agreement. BHI shall have the right to remit payment to Supplier in any form it chooses, including without limitation by ACH, check, wire, corporate card, payment card or any other electronic means. In no event shall BHI be required to pay any invoice that is not received by BHI within ninety (90) days after the date when Supplier was first entitled to issue an invoice hereunder. Any disputed amount(s) shall not affect payment of undisputed charges and expenses.
   3. **BHI Billing System and Time Entry Requirements.** In addition to the requirements set forth above, Supplier shall comply with any BHI procurement, time tracking and billing system procedures or requirements, as provided by BHI to Supplier from time to time (including, as the case may be, with respect to automated billing and electronic tools). Further, if Supplier provides Services on a time and material basis, BHI may implement a time entry system and if so, at BHI’s request Supplier shall require all of its personnel to enter their time into BHI’s specified time entry system by the deadlines communicated to Supplier by BHI, and such entries shall fully support any invoice Supplier submits to BHI hereunder. If Supplier’s personnel fail to enter their time into BHI’s time entry system by the deadlines set by BHI, BHI shall have the absolute right to reject and not pay any invoiced amount related to time that was not entered timely into BHI’s specified time entry system or is not otherwise fully traceable to such appropriate time entries made by Supplier personnel.
   4. **No Charges without a Contract.** Under no circumstances will BHI be required to pay Supplier for any services or work performed by Supplier Personnel prior to an appropriate Statement of Work being executed by the parties, and Supplier should not expect to be able, and hereby expressly waives any right, to recoup payment from BHI for any such work under any legal or equitable theory. Supplier performs all such work without a Statement of Work at its own risk.
   5. **No Increases.** Supplier’s prices and rates contained in any Statement of Work shall not increase during the Term, except as expressly stated otherwise in any applicable Statement of Work as agreed between the parties.
   6. **Credits.** To the extent any credit is due to BHI pursuant to this Agreement, Supplier shall provide BHI with an appropriate credit on the subsequent invoice against amounts then due and owing. If no further payments are due to Supplier, Supplier shall pay such amounts to BHI within sixty (60) days after they become due to BHI.
   7. **Payment Disputes**. BHI may withhold payment for any charges set forth on a Supplier invoice that it disputes in good faith, without such act constituting a breach of this Agreement. BHI will pay undisputed charges when such payments are due hereunder. If an invoiced amount is disputed in good faith by BHI, then BHI shall provide written notification to the Supplier of the dispute and the basis for such dispute. The parties agree to work together to promptly resolve all such disputes in accordance with this Agreement. BHI may set off any amounts, due and owing to BHI from Supplier under any agreement between the parties as credits against charges payable to Supplier under this Agreement.
   8. **Accountability.** Supplier shall maintain complete and accurate records of, and supporting documentation for, the amounts billable to and payments made by BHI hereunder in accordance with generally accepted accounting principles applied on a consistent basis. Supplier agrees to provide BHI with documentation and other information with respect to each invoice as may be reasonably requested by BHI to verify accuracy and compliance with the provisions of this Agreement.
   9. **Set-Off**: BHI is entitled but not obligated to keep or set off any amount owed to it (or to any other BHI Affiliate) by the Supplier against any amount payable to the Supplier under the Agreement.
   10. **No Expenses Unless Agreed**: Unless otherwise agreed in writing, the Fees include all costs and expenses incurred by the Supplier (and its Personnel) in providing the Services. If BHI agrees to reimburse for out-of-pocket expenses, the expenses must be pre-approved by an authorized representative of BHI and comply with BHI’s Expense Reimbursement Policy, a copy of which BHI will provide to Supplier, and which may be updated from time to time without notice to Supplier. Supplier must provide itemized receipt(s) documenting each expense to qualify for reimbursement.
   11. **Taxes**: Each party will be responsible for the payment of Taxes, of whatever nature and however levied, as may be required by the Applicable Laws of its jurisdiction, unless otherwise prescribed by an applicable international tax treaty. No further amounts will be payable by either party under this Agreement in respect of Taxes. All amounts payable under this Agreement are inclusive of any Taxes. Where applicable, Taxes will be calculated out of (and not on top of) the amounts payable at the prevailing tax rate.
   12. **Withholding Taxes**: Any payments made by BHI to Supplier under the Agreement shall be made after deduction for or on account of any Taxes, levies, imports, duties, charges, fees and withholdings of any nature now or hereafter imposed by any governmental, fiscal or other authority. The Supplier is responsible and liable for the payment and remittance of any Taxes, levies, imports, duties, charges, fees and withholdings over and above the full invoice paid by BHI.
8. INTELLECTUAL PROPERTY
   1. **Background IP**: Subject to Clause ‎‎10.2 (*Bespoke IP*) below, each party or its licensor or Affiliate, as applicable, will retain ownership of all its Background IP.
   2. **Bespoke IP**: BHI will own all Bespoke IP created in the course of providing the Services or otherwise relating to the Products or the business of BHI. The Supplier unconditionally and irrevocably hereby assigns to BHI, its successors and assigns, and BHI accepts, all right, title and interest in and to all Bespoke IP with full title guarantee. Where Bespoke IP does not yet exist, this assignment will be deemed effective at the point it is created. Supplier understands and agrees that Supplier has no right to use the Bespoke IP except as necessary to perform the Services or create Products for BHI. Supplier agrees to provide the necessary assistance to BHI for the protection, the defense and exercise of the transferred rights in the Bespoke IP. To this end, Supplier shall provide, in such form as BHI may request, all information, details and data relating to the Bespoke IP and shall execute (or cause its employees, former employees, Affiliates, or contractors to execute) and deliver promptly to BHI the documents, powers of attorney or such form of transfers and assignments to permit it or its agent to confirm ownership of and preserve and protect BHI’s rights in and to the Bespoke IP. Supplier hereby irrevocably designates and appoints BHI and its duly authorized officers and agents as Supplier’s agent and attorney-in-fact to act for and on Supplier’s behalf to execute, deliver and file any and all documents with the same legal force and effect as if executed by Supplier, if BHI is unable for any reason to secure Supplier’s (or its Personnel’s) signature on any document needed in connection with the actions described in this Clause or in Clause 10.6 below. Supplier acknowledges that this appointment is coupled with an interest.
   3. **License from BHI**: Subject to Clause 11.2, BHI grants to the Supplier a non-exclusive, royalty-free, non-assignable, non-sub-licensable (except as set out in Clause 21) and revocable license or sublicense, as applicable, to use BHI’s Background IP [and Bespoke IP] solely (and to the extent necessary for) providing the Services for the benefit of BHI and for the purpose of providing the Services and performing its obligations under the Agreement during the Term.
   4. **License from the Supplier**: The Supplier grants to BHI (or, where relevant, will ensure the grant of) a worldwide, royalty-free, non-exclusive, perpetual and irrevocable license, with right to sublicense, to use, copy and modify the Supplier’s Background IP to allow BHI to perform its obligations and exercise its rights under the Agreement and to realize the full benefit and use of the Services (which may include appointing a Third Party Supplier to support, maintain and adapt the Services for the Booking Holdings Group and/or using the Services to provide other goods and services to the Booking Holdings Group). The license herein shall include the right of BHI to make, modify, use, create derivative works of, offer for sale, and sell products and services incorporating the Products without any restrictions on the use or exploitation thereof.
   5. **Use by Affiliates and Third Party Suppliers**: BHI may sub-license the rights granted in Clause ‎‎10.4 (*License from the Supplier*) to BHI Affiliates and to its Third Party Suppliers as necessary to realize the full benefit and use of the Services and the Products.
   6. **Completion of Rights**: The Supplier will (and will procure that all relevant third parties will) promptly execute and deliver all documents and perform all acts required to give full effect to the assignments, licenses and other rights granted in this Clause ‎‎10 (*Intellectual Property*), including those contemplated in Clause 10.2 herein.
   7. **Marks**: Except as otherwise specified in the Statement of Work where such use is necessary for performance of the Services Supplier may not use the trademarks, names, logos or brands of BHI or its Affiliates (including in any advertising or publicity material) (collectively “Logos”) without BHI’s prior written consent (email is sufficient). Any use of the Logos that is necessary for performance of the Services shall be subject to the usage requirements specified in the applicable Statement of Work and/or any other requirements set forth by BHI.
   8. **Feedback**. BHI is under no obligation to provide any feedback to the Supplier regarding the Services (“Feedback”). To the extent BHI (or any of its Affiliates) provides any Feedback, BHI shall own all right, title and interest (including any IP) in and to such Feedback. Subject to the confidentiality provisions set out herein, BHI grants to the Supplier a right to use and incorporate such Feedback in the Services for the sole purpose of and to the extent necessary to provide and maintain the Services for the benefit of BHI, in accordance with Applicable Law, and the Supplier is and will be responsible and liable for its use of any such Feedback. Feedback is provided by BHI as-is and, to the maximum extent permitted by Applicable Law, without any representations and warranties of any kind
9. BHI, MATERIALS, SYSTEMS AND EQUIPMENT
   1. **BHI Materials:** BHI will retain sole and exclusive ownership of all BHI Materials (including all Intellectual Property in and to all BHI Materials). To the extent any right, title and interest (including any Intellectual Property) in and to the BHI Materials does not vest in BHI by operation of law, the Supplier hereby assigns and shall (when applicable) procure the assignment to BHI of all such right, title and interest (including any Intellectual Property) on the same basis as set forth in Clause 10.2.
   2. **Use of BHI Materials:** Subject to Clause 11.3, the Supplier shall not useany BHI Materials other than for the sole purpose of (and to the extent necessary for) providing the Services for the benefit of BHI and performing its obligations under the Agreement during the Term.
   3. **No Use of AI Systems:** The Supplier shall not use any AI System in the course of providing or in connection with the Services (including, for the avoidance of doubt, processing or analysing any BHI Materials in connection with the creation of or training, development, maintenance or any improvement of any AI System) without BHI’s prior written approval.
   4. **Access to Premises and Systems**: If the Supplier (or its Personnel) has access to BHI’s premises or systems, it must observe all health and safety and security requirements, including any BHI Security Requirements, that apply and that have been communicated to the Supplier. The Supplier must:
      1. keep all access credentials and security passes (including passwords) secure and limit access only to those who reasonably need it to provide the Services;
      2. not insert into any BHI systems any viruses, malware or any other malicious software code that could damage or interfere with BHI’s systems or networks; and
      3. immediately notify BHI of any breaches in security of which it is aware, including any damage or unauthorised access to BHI systems or property.
   5. **BHI Equipment**: The Supplier must hold all BHI equipment safely and at its own risk until it is returned to BHI.
10. DATA PROTECTION AND SECURITY
    1. **Protection of Personal Data**: If the provision of the Services requires the Supplier to process Personal Data, then the Supplier must comply with all of its obligations under the Data Protection Law and provide all co-operation and assistance to BHI or an Affiliate that BHI or an Affiliate requires in connection with BHI’s or an Affiliate’s compliance with Data Protection Law for any Personal Data Processed in connection with this Agreement.
    2. **Processing of Personal Data as Data Processor**: If the Supplier acts as a Data Processor on behalf of BHI or an Affiliate, it must comply with the BHI Data Processing Requirements as included in Appendix C to this Agreement.
    3. **Processing of Personal data as Data Controller:** If the Supplier acts as an independent Data Controller, it must comply with BHI Data Sharing Requirements as included in Appendix D to this Agreement.
    4. **Additional Data Processing Addenda**: Supplier shall enter into separate data processing addenda with BHI or Affiliates as requested in writing (email shall be sufficient) by BHI or an Affiliate, as required for compliance with the GDPR or other Data Protection Law which request will not be unreasonably denied.
11. COMPLIANCE

The Supplier must comply with the BHI Compliance Requirements at all times during the Term of the Agreement.

1. RECORD KEEPING AND AUDITS
   1. **Supplier Records**: The Supplier must accurately maintain the Supplier Records during the Term and for at least two (2) years afterwards.
   2. **Auditing the Records**: BHI (or an auditor nominated by BHI) may conduct audits for the purposes of assessing the Supplier’s compliance with its obligations under this Agreement, including auditing the Supplier Records, Supplier's premises (including but not limited to data processing facilities) and systems. All audits must be conducted with reasonable notice (but no less than thirty (30) days’ prior written notice) and without unreasonable interference to the Supplier’s business activities. At BHI’s request, the Supplier will, in a timely manner, provide BHI (or its auditor) with reasonable assistance and access to its (and its subcontractors’) premises, books, systems and Personnel in order to verify the Supplier Records.
   3. **Auditors will be subject to a Non-Disclosure Agreement**: BHI will ensure that any auditor it selects to audit the Supplier Records is subject to appropriate confidentiality obligations that protect the Supplier’s Confidential Information (subject, always, to any requirements of Applicable Law or a Regulator).
   4. **Supplier Assistance**: The Supplier must provide reasonable assistance to BHI (or its auditor) to support the verification of the Supplier’s Records.
   5. **Audit Results**: If an audit reveals that BHI has been overcharged the Supplier must promptly pay to BHI a sum equal to the amount that was overpaid.
   6. **Audit Costs**: Each party will cover its own costs of an audit, unless it reveals that BHI has been overcharged, in which case the Supplier will be responsible for the total cost (including BHI's reasonable external and internal costs).
   7. **Mandatory Audit**. Notwithstanding the above, BHI reserves the right to conduct an audit in any manner as requested by any government or public authority or otherwise as required by Applicable Law.
2. PERSONNEL
   1. **Pre- Screening**: The Supplier must perform criminal background checks, education and employment eligibility verification, and such other appropriate employment screening to ensure that all Personnel used to provide the Services are adequately screened by the Supplier to ensure they are qualified to perform the Services in accordance with Applicable Law and based on the level of education or skill required. The Supplier will, on request, provide BHI with reasonable evidence of its compliance with this Clause ‎‎15.1 (Screening).
   2. **Replacement of Personnel**: If BHI reasonably considers that a member of the Supplier’s Personnel is not sufficiently competent or diligent, it may request that that person no longer provide the Services and the Supplier must comply with the request within a reasonable time. BHI will not be responsible for any additional costs resulting from the Supplier’s replacement of Personnel.
3. CONFIDENTIALITY AND PUBLICITY
   1. **Confidentiality Obligations**: A receiving party will:
      1. not disclose the disclosing party’s Confidential Information to any third parties except as permitted in the Agreement;
      2. protect the disclosing party’s Confidential Information with the same degree of care that it uses to protect its own confidential and proprietary information and, in any event, not less than in accordance with Good Industry Practice;
      3. only use the disclosing party’s Confidential Information for the purposes for which it was disclosed; and
      4. ensure that each subcontractor or Third Party Supplier that receives Confidential Information is bound by similar confidentiality obligations.
   2. **Permitted Disclosures**: Clause ‎‎16.1 (*Confidentiality Obligations*) does not restrict:
      1. either party from disclosing Confidential Information to: (a) its Affiliates (provided, in Supplier’s case, that such Affiliate is not a competitor of BHI or its Affiliates that is offering comparison and/or reservation services (e.g., an online travel agent, tour operator, meta-platform, etc. in relation to travel (e.g., accommodation, flights, rental cars or attractions))); or (b) its Personnel or professional advisers (or those of its Affiliates) who need to know the information for the purposes of exercising that party's rights or performing its obligations under the Agreement;
      2. BHI from disclosing Confidential Information to its Third Party Suppliers to the extent that they need the information to assist with BHI with exercising its rights or performing its obligations under this Agreement, provided such Third Party Suppliers are subject to similar confidentiality obligations as set out in the Agreement; provided such Third Party Suppliers are subject to similar confidentiality obligations as set out in the Agreement; or
      3. any disclosure of Confidential Information required:
         1. by Applicable Law, a court of competent jurisdiction or a Regulator; provided that, if permitted by Applicable Law, the receiving party promptly notifies the disclosing party in advance and reasonably cooperates within requests from the disclosing party in relation to this disclosure.; or
         2. as a result of being listed on a recognised investment exchange.
   3. **Confidentiality Exceptions**: Clause ‎‎16.1 (*Confidentiality Obligations*) does not apply to Confidential Information that:
      1. was already known to the receiving party before it was disclosed by (or on behalf of) the other party, provided that such information is not subject to other confidentiality obligations to the disclosing party that are known to the receiving party;
      2. becomes available to the recipient on a non-confidential basis from a source other than the disclosing party, provided that, to the receiving party’s knowledge, the source is not bound by confidentiality obligations to the disclosing party;
      3. is independently developed by the receiving party without using the disclosing party’s Confidential Information; or
      4. comes into the public domain in a way that does not breach the Agreement.
   4. **Publicity and Announcements**: The Supplier must not issue any press release or announcement about the existence of the Agreement, or its involvement in providing the Services, without BHI’s written consent (unless required to do so by Applicable Law). This includes referring to BHI on the Supplier’s website or external marketing materials.
4. LIABILITY AND INDEMNIFICATION
   1. **Limitation of Liability:** Unless prohibited by Applicable Law, except for Exclusions of Liability: Subject to Clause 17.4 (Liability Never Limited or Excluded), neither party will be liable to the other, whether in contract, tort (including negligence), breach of statutory duty or otherwise for any indirect or consequential loss or damage arising in connection with the Agreement.
   2. **Supplier Liability Cap:** The Supplier’s maximum aggregate liability to BHI and/or BHI Affiliates in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty or otherwise, will not exceed the greater of Five Hundred Thousand Dollars ($500,000.00) or Two Hundred Percent (200%) of the aggregate value of all Fees paid or payable by BHI and/or BHI Affiliates under the Agreement.
   3. **BHI Liability Cap:** BHI and/or BHI Affiliates’ maximum aggregate liability to the Supplier in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty or otherwise, will not exceed 100% of the total Fees paid or payable by BHI and/or BHI Affiliates to the Supplier under the Agreement.
   4. **Liability Never Limited or Excluded**: None of the limitations or exclusions of liability in this Clause ‎‎17 (Liability and Indemnification) apply to:
      1. Liability for death or personal injury caused by a party’s negligence;
      2. Losses caused by fraud, fraudulent misrepresentation or gross negligence;
      3. Losses suffered as a result of the Supplier’s deliberate abandonment of its obligation to provide the Services;
      4. Losses suffered as a result of any third-party claims made against BHI due to the Supplier’s breach of its obligations under this Agreement; and
      5. any liability of the Supplier arising under Clause 12 (*Data Protection and Security*), ‎‎Clause 13 (*Compliance*), ‎‎ ‎‎Clause 16 (*Confidentiality and Publicity*), and Clause 17.6 (*Indemnification*).
   5. **Mitigation**: Each party will take reasonable steps to mitigate its Losses incurred in connection with this Agreement.
   6. **Indemnification**: The Supplier will, both during and after the Term, indemnify BHI and all BHI Affiliates against all Losses incurred:

(a) as a result of any claim or allegation that the Services or the Products, or the use of the Services or the Products or the receipt, use or enjoyment of the Services or Products and/or the Supplier’s Background IP and/or the Bespoke IP (created, developed, derived or generated by or on behalf of Supplier or any of its Affiliates) by BHI or a BHI Affiliate in accordance with the Agreement, infringes, misappropriates or otherwise violates the IP or other rights of a third party. This indemnity will not apply where the relevant claim or allegation arises directly as a result of BHI’s use of the Services or Products in combination with other items not provided or recommended by the Supplier, or any use of the Services in breach of the Agreement but only if (a) such combination or use was not contemplated as part of the specification of the Services, and (b) the claim or allegation would have been avoided absent such combination or use; or

(b) in connection with any act or omission of the Supplier (including its Third Party Suppliers) in breach of Clause 12, or Annex C or Annex D to Appendix D, including without limitation a Data Security Breach, and/or a violation of Data Protection Laws..

If a claim is made under Clause 17.6 (a) the Supplier may, at its expense, either: (i) take steps to ensure that BHI can continue to use the relevant Services or the Products; or (ii) modify or replace the Services or the Products to avoid any infringement, provided such modification does not affect the functionality or performance of the Services or the Products.

* 1. **Indemnification Procedure:** (a) With the exception of the indemnification obligations as set forth under Clause 17.6 (b), where the Supplier is required to indemnify BHI and/or BHI Affiliates in connection with a third-party claim against BHI, BHI will notify the Supplier of the claim; allow the Supplier to conduct negotiations and proceedings related to the claim (provided BHI may participate in such proceedings with its own counsel;) give the Supplier reasonable assistance in connection with the conduct of the claim (at the Supplier’s cost); and not admit any liability or agree to any settlement without the Supplier’s prior approval (not to be unreasonably withheld), provided that: this Clause 17.7 only applies where the Supplier has confirmed that it will conduct the defense of the claim and continues to do so diligently; and the Supplier must not settle the claim without BHI’s prior approval (not to be unreasonably withheld).

(b) Where the Supplier is required to indemnify BHI for a claim arising out of Clause 17.6(b), BHI will notify the Supplier of the claim and BHI will conduct negotiations and proceedings related to the claim (at the Supplier’s cost); Supplier will give BHI reasonable assistance in connection with the conduct of the claim (at the Supplier’s cost); and BHI will not admit any liability or agree to any settlement without consulting with the Supplier.

1. INSURANCE
   1. The Supplier must maintain full and comprehensive insurance for all typically insurable risks associated with the provision of the Services and its performance of the Agreement, including as a minimum:
      1. Employer's Liability insurance with a limit of not less than $1,000,000 each accident/ each employee and Worker's Compensation insurance within statutory limits;
      2. Commercial General Liability insurance with a limit of at least $1,000,000 per occurrence and $2,000,000 aggregate;
      3. Cyber Liability/ Technology Errors & Omissions insurance with a limit of at least $10,000,000 per occurrence;
      4. Automobile/ Motor Liability insurance with a limit of at least $1,000,000 per occurrence and $2,000,000 aggregate (if applicable);
      5. Umbrella Liability insurance with a limit of at least $2,000,000 per occurrence and aggregate.

For certain Services or Products (i.e. architectural, engineering consultants, communication/network providers and other Services and Products as determined by BHI) the following insurance requirements shall also apply:

18.1.6 Professional Liability insurance with limits based on the estimated maximum risk; and

18.1.7 Crime/Fidelity insurance with limits based on the estimated maximum risk.

Each policy shall include a waiver of subrogation in favor of BHI and the Commercial General liability, Automobile/Motor Liability, Umbrella Liability, and Cyber Liability/Technology Errors & Omissions policies shall name BHI and other parties designated by BHI as additional insureds.

* 1. **Period of Insurance**: The Supplier must maintain the required insurance during the Term and for three (3) years afterwards.
  2. **Evidence of Insurance**: The Supplier shall deliver a Certificate of Insurance that evidences the insurance required in this Clause 18 to BHI no later than ten (10) days from signing the Agreement.

1. **[OPTIONAL]** BUSINESS CONTINUITY AND DISASTER RECOVERY
   1. **BCDR Plan**: The Supplier must have in place a Business Continuity and Disaster Recovery Plan that ensures the continued performance and operational resilience of the Services in accordance with Good Industry Practice (referred to in this Clause as the “**BCDR Plan**”). At the request of BHI, the Supplier must provide a copy of the BCDR Plan to BHI within five (5) Business Days and must promptly implement any changes reasonably requested by BHI at the Supplier’s cost to ensure it complies with Good Industry Practice.
   2. **Maintaining and Testing the BCDR Plan**: The Supplier must update and test the BCDR Plan on a regular basis and must provide BHI with the results of its most recent test on request. The Supplier must comply with the BCDR Plan and invoke it whenever required.
2. TERMINATION
   1. **Termination for Convenience**: BHI may terminate the Agreement at any time by giving the Supplier no less than sixty (60) days written notice.
   2. **Termination for Material Breach**: Either party may terminate the Agreement immediately by giving written notice to the other party if the other party commits a material breach of the Agreement that cannot be remedied or, if it is capable of remedy, that has not been remedied within twenty (20) Business Days of receiving notice of the breach from the terminating party. A material breach may include a breach of the BHI Compliance Requirements or persistent breaches of the Agreement which, together, equate to a material breach.
   3. **Termination for Default**: Either party may terminate the Agreement immediately by giving written notice to the other party, if:
      1. the other party suffers an Insolvency Event; or
      2. the other party ceases or threatens to cease to carry on all or substantially all of its business.
   4. **Termination for Change of Control:** TheSupplier will notify BHI within twenty ( 20) Business Days if there is a material change in the ownership or Control of the Supplier. On receipt of such notice,BHI may terminate the Agreement immediately (or on a future date specified by BHI) by giving written notice to the Supplier if there is a material change in the ownership or Control of the Supplier without the prior written approval of BHI.
   5. **Termination for Prolonged Force Majeure**: If a Force Majeure Event (as defined in Clause 23) has a material adverse effect on the performance of either party’s obligations under this Agreement for more than thirty (30) days, BHI may terminate the Agreement (in full or in part).
   6. **Consequences of Termination for Convenience**: If BHI terminates the Agreement under Clause ‎‎20.1 (*Termination for Convenience*), BHI will pay all Fees due for Services provided up to the date of termination, but no other termination Fees or additional expenses will apply unless agreed to by the parties in writing.
   7. **[OPTIONAL] Handover Period**: If requested to do so in writing, the Supplier will continue to provide the Services after the Term (“Handover Period”). The Handover Period shall last for the shorter of (a) up to six (6) months; and (b), if applicable, until a new agreement with the Supplier regarding the Services is in place. During the Handover Period:
      1. the Agreement will be deemed to continue and the Supplier will continue to provide the relevant Services;
      2. the Supplier will provide BHI with all assistance as BHI may reasonably request to facilitate the orderly transition from the Supplier to an alternative solution or provider; and
      3. all relevant Fees will continue to be payable for the Services.
   8. **Repayment of Unused Fees**: If the Agreement is terminated by BHI under Clause ‎‎20.2 (*Termination for Material Breach*), ‎‎20.3 (*Termination for Default*), ‎‎20.4 (*Termination for Change of Control*), and 20.5 (*Termination for Prolonged Force Majeure*)where the Supplier is the party that experiences the prolonged Force Majeure, then the Supplier must promptly refund to BHI a pro-rated refund for any unused portion of the Fees that had been paid in advance. The refund shall include fees applicable to the termination date through the end of the term.
   9. **Return of Items**: In addition to the Supplier's obligations under the Data Processing Requirements, at BHI’s request, the Supplier must promptly return, delete or dispose of all BHI equipment, materials and information including any BHI Materials and confirm in writing that it has done so. The Supplier may, however, keep copies of Confidential Information as part of archival records stored on backup systems provided that these will remain subject to Clause ‎16 (*Confidentiality and Publicity*).
   10. **Relationship between the Agreement and the Statement of Work**: If BHI terminates the Agreement for any reason, then, unless otherwise agreed in writing all Statements of Work with BHI will also terminate. The termination or expiration of a Statement of Work will not terminate the Agreement or any other Statement of Work with BHI.
   11. **Relationship between the Agreement and Agreements with BHI Affiliates**: The termination of any Statement of Work between BHI and the Supplier shall not terminate any Statement of Work between the Supplier and a BHI Affiliate nor shall the termination of any Statement of Work between the Supplier and a BHI Affiliate terminate this Agreement.
   12. **Accrued Rights Unaffected**: Termination or expiry of the Agreement will not affect any rights, remedies, obligations, or liabilities of the parties that have accrued up to the date of termination or expiry.
   13. **Continuing Obligations**: Any provision of the Agreement which expressly or by implication is intended to continue in force after termination or expiry will remain in full force and effect, including Clauses ‎‎10 (*Intellectual Property*) ‎‎12 (*Data Protection and Security*), ‎‎16 (*Confidentiality and Publicity*), ‎17 (*Liability and Indemnification*) and the Data Processing Requirements.
3. ASSIGNMENT AND SUBCONTRACTING
   1. **Consent Generally Required**: Subject to the remainder of this Clause ‎‎21 (*Assignment and Subcontracting*), neither party is permitted to assign, transfer, novate or subcontract the benefit of the Agreement, or to subcontract its obligations under it, without the other party’s prior written consent (not be unreasonably withheld or delayed).
   2. **Permitted Disposals by BHI**: BHI may, without the Supplier’s consent, assign, transfer, novate or subcontract its rights and obligations under the Agreement to: (a) any Affiliate of BHI from time to time; or (b) to any purchaser of the business undertaking or an asset of BHI to which the Services relate or successor by merger or sale of all or substantially all the assets of BHI. At the request of BHI, the Supplier will promptly execute all documents required to give effect to such a transaction.
   3. **Responsibility for Subcontractors**: The Supplier will remain responsible and liable for all the acts or omissions of its subcontractors as if they were the acts or omissions of the Supplier.
4. DISPUTE RESOLUTION
   1. **Resolving Disputes**: Any dispute arising in connection with the Agreement will, in the first instance, be referred to each party’s contract manager. If the dispute cannot be resolved by the contract managers within twenty (20) Business Days, the dispute will be referred to senior executives of each party, as nominated by the parties. If the dispute is not resolved by the senior executives within twenty (20) Business Days of being referred to them, the dispute may be resolved in accordance with Clause ‎‎‎23.11 (*Jurisdiction*).
   2. **Interim Relief**: Clause ‎‎22.1 (*Resolving Dispute*s) does not prevent either party from making any application to a court to obtain an interim remedy (including an injunction) for any threatened or actual breach of the Agreement.
5. GENERAL
   1. **Agreement Change**: Any change to the Agreement must be agreed in writing and signed by an authorised representative of both parties.
   2. **Force Majeure Events**: Neither party shall be deemed in default hereunder or liable for any loss or damage resulting from delays in performance or from failure to perform or comply with the terms of this Agreement due to a Force Majeure Event. The party subject to a Force Majeure Event shall immediately notify the other party of the occurrence of such event and take all reasonable steps and best efforts to restore its ability to perform and to perform its obligations under this Agreement. In no event shall BHI be liable for any charges accruing during that period of time in which there is an interruption of Services. For clarity, Force Majeure Events do not include events or circumstances caused by: a shortage of funds, labour, materials or other resources; an increase in operational costs; the failure of a subcontractor or any other third party to provide goods or services; or circumstances that could have been avoided by a party exercising reasonable care (including, in the case of the Supplier, strikes or employee disputes) or by complying with its obligations relating to disaster recovery and business continuity.
   3. **Notices**: Notices will be deemed to have been given as follows: (a) if delivered personally, on delivery; (b) if sent by first class post within the same country, two (2) Business Days after the date of posting; (c) if delivered by international recorded delivery or courier, three (3) Business Days after dispatch; (d) by email and (e) any notice delivered after 5pm will be deemed not to have been given until the next Business Day. For email notice, to be deemed delivered it is sufficient to prove that the notice was transmitted by email. If to the Supplier Notice shall be sent to: Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Mailing Address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Email Address

If to BHI notice shall be sent to: Legal Department Booking Holdings, Inc., 800 Connecticut Avenue, Norwalk, CT 06854 or [bhilegal@bookingholdings.com](mailto:bhilegal@bookingholdings.com) with carbon copy (which shall not of itself constitute notice) to Procurement Department Booking Holdings, Inc., 800 Connecticut Avenue, Norwalk, CT 06854 or [Procurement@bookingholdings.com](mailto:Procurement@bookingholdings.com)

All notices under the BHI Data Processing Requirements as included in Appendix C to this Agreement shall be sent to [bhilegal@bookingholdings.com](mailto:bhilegal@bookingholdings.com) (or as otherwise notified to Supplier in writing email is sufficient).

* 1. **Severability**: If any provision (or part of a provision) in the Agreement is unenforceable, invalid, or illegal for any reason, the other provisions of the Agreement will remain in force as if they had been executed without the offending provision appearing in the Agreement. The offending text will be deemed to be substituted with enforceable wording that has the closest effect.
  2. **Invalidity**: The parties agree that if any limitation or exclusion in the Agreement is held to be invalid under any Applicable Law it will, to that extent, be deemed to be omitted but, if any party becomes liable for Losses which would have otherwise been limited or excluded, that liability will be subject to the other limitations and provisions set out in the Agreement.
  3. **Waiver**: No delay or omission by either party to exercise any right or remedy provided for by law or under the Agreement will operate to waive, limit or otherwise affect that right or remedy.
  4. **No Partnership or Agency**: Nothing in the Agreement is intended to, or will be deemed to: (a) establish any partnership or joint venture between BHI and the Supplier; or (b) make one party the agent of the other. Neither party has authority or power to bind, create a liability for, or enter into any commitments for or on behalf of, the other party.
  5. **Entire Agreement and Order of Precedence**: The Agreement constitutes the whole and only agreement between the parties relating to its subject matter and supersedes and excludes all prior agreements or arrangements made between them that relate to it. In the event of any conflict or inconsistency among the documents, the order of precedence shall be (1) the SaaS Schedule (if applicable,) (2) the MSA and (3) the applicable Statement of Work.
  6. **Third Party Rights**: The Agreement is not intended to, and does not, give any person who is not a party to it any rights to enforce any provisions contained in it except for: (a) Clause ‎‎16 (*Confidentiality and Publicity*), Clause 17.6 (*Indemnification*), and, where applicable, the BHI Data Processing Requirements, which will be enforceable by each BHI Affiliate; and (b) any other provisions which expressly provide for enforcement by a third party.
  7. **E-Signatures and Counterparts**: Unless Applicable Law requires otherwise, the Agreement will be executed using electronic signatures. They may also be executed in one or more counterparts. Each counterpart will constitute an original and together they will constitute a single agreement. If an effective date is not stated within the Agreement the Effective Date shall be the date the last party signs it.
  8. **Governing Law and Jurisdiction**: This Agreement and the respective rights and obligations of the parties will be governed by laws of the State of New York, without reference to conflict-of-laws or similar provisions that would mandate or permit application of the substantive law of any other jurisdiction. The parties agree that the courts in New York, New York will have jurisdiction over any and all disputes relating to this Agreement. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT.

**SIGNATURE PAGE FOLLOWS**

Agreed to and accepted by and on behalf of the parties.

| SIGNATURES | | | |
| --- | --- | --- | --- |
| **For and on behalf of Booking Holdings Inc.** | | **For and on behalf of the Spreedly, Inc.[Supplier]** | |
| Signature: |  | Signature: |  |
| Name (print): |  | Name (print): |  |
| Job Title: |  | Job Title: |  |
| Date: |  | Date: |  |