



**EXHIBIT B**  
**TO**  
**MASTER SOFTWARE AS A SERVICE AGREEMENT**  
**FPG GENERAL TERMS AND CONDITIONS (“GTC”)**

THIS GTC GOVERNS YOUR PURCHASE AND USE OF FPG GROUP COMPANY SERVICES.

IF YOU REGISTER FOR A TRIAL OF OUR SERVICES, THIS GTC WILL ALSO GOVERN THAT TRIAL.

BY ACCEPTING THIS GTC, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN AGREEMENT (AS DEFINED BELOW) THAT REFERENCES THIS GTC, YOU AGREE TO THE TERMS OF THIS GTC. IF YOU ARE ENTERING INTO THIS GTC ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS CONTAINED HEREIN, YOU MUST NOT ACCEPT THIS GTC AND MAY NOT USE THE SERVICES.

You may not access the Services if you are a direct competitor of FPG or any FPG Group Company. In addition, You may not access the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

**1. Definitions**

- 1.1. If not defined in the GTC, the terms or expressions which are capitalized have the meaning set out in the Services Agreement. Under this GTC, unless the context otherwise requires, the following terms shall have the respective meanings indicated:

Add-Ons	The add-on Services that are described in any ORF or Services Agreement.
Affiliate	Any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. " <u>Control</u> ," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
Agreements	This GTC, any Services Agreements or any ORFs.
Business Day	A Day which is neither Saturday, Sunday or a public holiday where Customer is located.
Commencement Date	The earliest of: (i) the date specified in an Agreement where Provider shall commence provision of Services, (ii) the date Customer has accepted or deemed to have accepted Services in accordance with the Acceptance of Services outlined in Section 3.5, or (iii) the date Customer begins utilizing Services. Applicable Fees for Services or Packages commence to accrue on the Commencement Date.
Consultant or FPG Consultant	The consultant provided by FPG responsible for delivering certain Services.
Copyleft	Restrictions imposed on software requiring that (i) the user may not sublicense, resell or distribute the same software or any Derivative Work



Restrictions	thereof under different terms of use, (ii) the user may not charge license fees for the sublicense, resale or distribution thereof, (iii) the user must release the source code to any third party to whom such software or any Derivative Work thereof is distributed, (iv) the user may not claim copyright or other Intellectual Property Rights in any Derivative Work thereof, or (v) the user is prohibited from discriminating by restricting the persons or purposes for which the software is used.
Customer Data or Hilton Data	Any and all information owned or made accessible to FPG provided by Hilton or Hilton Affiliate, in any form, format or media now known or later developed (including paper, electronic and other records), that to which Provider has access to, obtains, uses, maintains or otherwise handles in connection with the performance of Services, including Guest Data and Personal Data, if any.
Customer Order Form (“ <u>ORF</u> ”)	Request for Service submitted by Customer or Customer Affiliate in the form of an ORF or Agreement executed between the Parties designated by Provider (including any addenda and supplements thereto), detailing Services. An ORF may also be referenced as a “Work Order”, “Scope of Work”, or “Scope of Services”.
Day	An eight (8) hour day typically starting at 9:00am and finishing at 5:00pm local Customer time with one (1) hour for lunch.
Deliverables	All Documents, Content, products and materials developed by the Provider or its agents, subcontractors, Consultants and employees in relation to the Services and the Programs, in any form, including data, reports, presentations and specifications (including drafts) if any.
Derivative Work	Work based on one or more pre-existing works, including a condensation, transformation, expansion or adaptation, which would constitute a copyright infringement if prepared without authorization of the owner of the copyright of such pre-existing work.
Documentation	Documents or information provided in relation to the Services including user guides, white papers, on-line help, quick-reference guides, any drawing, map, plan, diagram, design, picture or other image or record embodying information in any form.
Electronic Signature “ <u>ES</u> ”	Signature or endorsement consisting of one or more letters, characters, numbers or other symbols in digital form incorporated in, attached to or associated with a human in a readable electronic version of this GTC, or any applicable Agreement.
Fees	The amount to be paid to Provider for each of the Services, Subscriptions or Packages, as outlined in any applicable Agreement.
FPG Group Company	Any of the following companies, namely Frontline Performance Group, LLC, Frontline Performance Group UK, LTD, Frontline Performance Group SARL, Frontline Performance Group Australia, PTY Limited, Frontline Performance Group Sociedad Limitada, Frontline Performance Group Japan, GK, Frontline Performance Group Canada, FPG Technologies India Private Limited, TSA Training Services Pte. Ltd., TSA Consultancy Services Pte. Ltd., TSA Technology Solutions Pte. Ltd., TSA Training Services FZ-LLC., TSA Performance Services Limited, and TSA Solutions Corporation, or any other FPGAffiliate.
FPG Software	Infrastructure, technology, communications network, equipment, storage



(also referred to as IN-Gauge <sup>SM</sup> )	<p>capacity, data integration, software, and reporting analytics delivered as Subscription, which FPG owns, leases or uses to provide Subscription Services (also referred to as “<u>Hosted Services</u>”) including any of the following:</p> <ul style="list-style-type: none"> <li>• IN-Gauge<sup>SM</sup> Performance Management Software</li> <li>• Data extraction Process to support PMS, POS, Datawarehouse, Data Lake or any customer third party application</li> <li>• FPG Front Desk Upsell tracking and reporting processes and mechanism;</li> <li>• IN-Gauge<sup>SM</sup> modular application to include core functionality, features and UI</li> <li>• IN-Gauge<sup>SM</sup> machine learning products to learn application</li> <li>• IN-Gauge<sup>SM</sup> Knowledgebase</li> <li>• IN-Gauge<sup>SM</sup> administration panel provided as part of IN-Gauge<sup>SM</sup></li> </ul>
FPG Technology	FPG Software – IN-Gauge Performance Management Software containing audio visual information, processes, algorithms, user interfaces, user guides, trade secrets, techniques, Licensed Marks, Technical material, documentation or information proprietary to or licensed to Provider.
Force Majeure Event	Any cause beyond a Party’s reasonable control that forces the other Party to cease operations, including, without limitation, any act of war, act of nature, pandemic, earthquake, hurricanes, tornados, flood, fire or other similar casualty, embargo, riot, terrorism, insurrections, sabotage, strike or labor difficulty, governmental act, law or regulation, epidemic, quarantine, inability to procure materials or transportation facilities, failure of power, court order, failure of the internet, failure of a supplier or other cause, whether similar or dissimilar to the foregoing, not resulting from the actions or inactions of such Party.
Guest	An individual or entity seeking accommodations or services at the Customer’s facilities;
Guest Data	Any and all information submitted by or authorized for submission by a Guest and supplied to the Provider by Customer in furtherance of the Services;
Intellectual Property Rights or IP Rights	Any and all registered and unregistered rights granted, applied for or otherwise related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws and all renewals and extensions thereof, arising under the law of the United States of America or of any other country;
Licensed Marks	<p>As to Provider, trade or service marks or logos associated with any FPG Group Company, and their Affiliates, FPG Professional Services, FPG Software - IN-Gauge, and FPG Packages;</p> <p>As to Customer, all names, logotypes, trademarks, service marks, trade dress and trade names and any variation thereof that (i) are proprietary to any of Hilton Worldwide Holdings Inc. or its subsidiaries (including Hilton) or affiliated entities and (ii) were used, are used or are hereafter used by Hilton Worldwide Holdings Inc. or its subsidiaries (including Hilton) or affiliated entities, or licensed to Hilton Brand Properties, including the following: (A) “Canopy”, “Conrad”, “Curio”, “Doubletree” “Embassy Suites”, “Hilton”, “Hilton Garden Inn”, “Hampton”, “Hilton Honors”, “HHonors”, “Homewood Suites”, “Home2 Suites”, “Hilton Grand Vacations”, “HGV”, “HGVCclub”, “LXR Hotels and Resorts”, “Motto”, “OnQ”, “Signia Hilton”, “Tapestry”, “Tempo”, “Tru”, “Waldorf Astoria” and any variations thereof and (B) the logotypes and</p>



	designs: Hilton "H" Swirl (logo), Concierge Class (logo), DoubleTree Twin Tree by Hilton (logo), Embassy Suites Hotels "E" Design, Embassy Suites Stylized E (logo) and any variations thereof.
Malicious Code	Any virus, worm, trojan horse, spyware, adware, rootkit, scareware, rogueware, ransomware, backdoor, trap door, logic bomb, Disabling Code or similar item intended to cause or capable of causing undesired effects, security breaches and/or damage to a system or a system's contents.
Notification	A written correspondence (including email correspondence) from Provider to Customer informing of any Service updates or Product/Service/Package enhancements such as a) Subscription or Package auto-renewal date and terms b) any changes to Customers Subscribed Services c) feature updates, enhancements or release updates d) scheduled maintenance or availability.
On-Site Service:	Professional Services provided by a trainer or Consultant at the location occupied by Customer or Customers End Users (as applicable).
Packages	Any combination of Services offered for a fixed fee, within a specified period along with specified Package terms. Packages to be structured for Customer based on Customer needs.
Party(ies)	The Customer and the Provider, individually or collectively.
Personal Data, Personal Information, Personally-identifiable information	Any information as defined under Privacy Law or government Data Protection Regulations, generally classified as identifying or relating to an identifiable individual, including name, address, telephone number, e-mail, credit card information, social security number, or other similar specific factual information, regardless of the media on which such information is stored (e.g., on paper or electronically or audio media) and may include such information that is generated, collected, stored or obtained as part of this GTC or such information that Provider may have access to under any Agreement.
Privacy Law	Any applicable national or international law, regulation or binding policy of any Governmental Authority that relates to the security and protection of any personally identifiable information, data privacy, trans-border data flow or data protection.
Program	The content, methodology, materials and metrics that focus on a specific business unit or operational division of the Customer's property such as Rooms and Front Desk, Reservations, Food & Beverage, Spa, or general Programs that may apply to all Customer Staff such as Morale Management, Essential Selling Skills, Cultural Transformation, Service Recovery.
Prohibited Open Source Code	Any software code or other materials that meets the following criteria: It contains or is derived (in whole or part) from, any software that is distributed as free software, open source software, shareware or similar licensing or distribution models and its licensing terms do any of the following: (i) conflict in any way with, or prevent the performance and fulfillment of, the respective rights and obligations of the Parties set forth in this Agreement, (ii) require that Hilton or Hilton Affiliate disclose or otherwise make available any Intellectual Property and (iii) subject any Deliverable or any Intellectual Property of Hilton or Hilton Affiliate to any Copyleft Restrictions.
Project Manager	Designated representative from each Party responsible to manage Services and ensure obligations relative to the Agreement.



Professional Services	<p>Training, coaching, consulting services provided by:</p> <ul style="list-style-type: none"> <li>- Consultants for the purpose of: <ul style="list-style-type: none"> <li>o maximizing Customer performance across revenue management, operations and finance. Working with Customer to develop implementation plans, ROI analysis, identifying opportunity, and establishing relevant revenue, profit, Guest loyalty, and Guest satisfaction goals and metrics.</li> <li>o increasing the performance of Customer employees, providing training, coaching and support for Customer business goals.</li> </ul> </li> <li>- Trainers fulfilling Services defined in Customer Agreement.</li> </ul> <p>Professional Services may be delivered On-site at Customer Location or Remote via messaging, phone call, video call, or video conference.</p>
Provider or FPG	Frontline Performance Group, LLC, a Florida limited liability company, and having its office at 1075 West Morse Boulevard, Winter Park, Florida 32789
Remote Service	Services provided by Trainer or Consultant via remote infrastructure such as phone calls, video conference, webinars, chats.
Restricted Person	Means (i) the government of any country subject to an embargo imposed by the United States government, (ii) an Person located in or organized under the Laws of a country that is subject to an embargo imposed by the United States government, (iii) any Person ordinarily resident in any country subject to an embargo imposed by the United States government, or (iv) any Person identified by an government or legal authority as a Person with whom dealings and transactions by Provider or any member of the Hilton Group are prohibited or restricted, including Persons designated under the U.S. Department of Treasury's Office of Foreign Assets Control List of Specially Designated Nationals and Other Blocked Persons (including terrorists and narcotics traffickers), any Person on the U.S. Commerce Department's Bureau of Industry and Security's Denied Persons or Entity List, or on other similar restricted party listings, including those maintained by other governments pursuant to United Nations, regional or national trade or financial sanctions.
Services	Tasks to be performed by Provider as outlined in the Agreement with Customer.
Shared Services	Includes but not limited to, administration, monitoring, auditing, and support services, maintained by Provider.
Subscriber	Customer who has purchased a Subscription from Provider.
Subscription	Provider Services purchased for a recurring or perpetual term.
Tax or Taxes	<p>Sales Tax, Value Added Tax, Goods &amp; Services Tax or other applicable tax, as imposed by the government regulation of the Country where Services are performed.</p> <p>Tax Law: The Law as amended or supplemented from time to time and any replacement thereto, of the Country where Services are performed.</p> <p>Valid Tax Invoice: An Invoice that meets the requirements of the applicable Tax Law.</p>
Trainer or FPG Trainer	Resource provided by FPG to facilitate instruction.
"Usage Data"	As defined in Section 12.9
"Metadata"	As defined in Section 12.10



## 2. **GENERAL**

- 2.1. **Terms and Interpretation** Unless otherwise defined in this GTC, capitalized terms will have the meaning set forth in the Definitions described in Section 1, in the Services Agreement (if any), in the ORF or any Documentation provided. Terms, acronyms and phrases known in the information technology industry shall be interpreted in accordance with their generally known meanings. Unless the context otherwise requires, words importing the singular include the plural and vice-versa; references to and use of the word “include” and its variations thereof shall mean “include without limitation” and “including without limitation”.
- 2.2. Section, schedule and paragraph headings shall not affect the interpretation of this GTC.
- 2.3. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person’s legal and personal representatives, successors and permitted assigns.
- 2.4. The GTC is part of any Services Agreement or ORF and shall have effect as if set out in full in the body of any Services Agreement or ORF.

## 3. **SERVICES**

- 3.1. This GTC sets forth the terms and conditions under which Parent, Customers and FPG agree that FPG will (i) grant such Parent and any Customers a Subscription to access and use certain Hosted Services and/or purchased Professional Services offered by the Provider;
- 3.2. The Services being made available to Parent and Customer are described in an Agreement and briefly would involve;
- (a) Subscription to access and use certain Hosted Services, or perform services, functions and responsibilities related to the hosting of the software, system and services,
  - (b) Activation, implementation, configuration and enablement services,
  - (c) Professional Services and other Add-Ons such as Onsite Consulting, Onsite Training, all of which may be offered as a Package.
  - (d) Support Services
- (collectively referred to as “Services”).
- 3.3. Applicable Services will be performed in accordance with the Service Levels set forth in Schedule A.
- 3.4. The specific Services to be provided by the Provider to the Customer will be detailed in each Agreement which will be effective when signed by the authorized parties and will be governed by the terms and conditions of this GTC. In the event of any conflict between the terms and conditions set forth in this GTC and the terms and conditions set out in the Agreement, the terms and conditions set out in the Agreement shall take precedence. In the event of any conflict between the terms and conditions set forth in this GTC or the Agreement and the terms and conditions set out in the ORF, the terms and conditions set out in the GTC shall take precedence.
- 3.5. Customer Participation and Acceptance. Services may be procured by Customer, pursuant to the terms of the Services Agreement, and the terms herein. In the event Customer elects to subscribe to the Services, such Customer shall execute a Customer ORF on its own behalf. FPG and Customer agree that:
- 3.5.1. The determination to participate hereunder by Customer is voluntary and made at the discretion of Customer and its authorized signatory.





- 3.5.2. Applicable Fees for Provider Services, including activation, Subscription or Add-ons will be outlined in the Agreement with Customer.
- 3.5.3. Customer ORF Acceptance. Customer may submit signed ORF(s) requesting delivery of Services which Provider may accept by (i) sending a Welcome Letter acknowledging receipt and acceptance of the ORF; (ii) countersigning the ORF in accordance with the terms of this GTC; or (iii) by provisioning Services and sending Service Notification to Customer, whichever is earlier. Both Customer and Provider shall be contractually bound in respect of a particular ORF at (but not before) the occurrence of either event specified above. For the avoidance of doubt, Customer shall not be obligated to submit, nor shall Provider be obligated to accept, any ORF.
- 3.5.4. Electronic Signature ("ES") Acceptance. The parties expressly acknowledge and agree: (i) a human readable electronic version of this GTC or ORF containing the Parties' Electronic Signatures, or containing a mix of physical signatures and Electronic Signatures of the Parties, shall constitute an original version of this GTC or ORF, as applicable; (ii) a Party's use of keypad, mouse or other device to select an item, button, icon or similar act/action, to otherwise insert their Electronic Signature into this GTC or ORF, constitutes that Party's signature as if it had been manually signed the same; (iii) FPG designated ES Platform provider shall be accepted as a valid authentication technology; (iv) no certification authority or third-party verification is necessary to validate each Party's Electronic Signature; and (v) the lack of such certification or verification will not in any way affect the validity of that Party's signature or the enforceability of this GTC or ORF, as applicable.
- 3.5.5. Customer may purchase Services pursuant to this GTC, provided that an authorized representative of Customer executes the applicable ORF. The terms of this GTC shall apply to any ORF as if the Customer executed this GTC. If an Affiliate of Customer enters into a ORF pursuant to this GTC, then references to "Customer" herein shall be deemed references to Customer Affiliate only.
- 3.5.6. Credit Approval and Deposits. Provider reserves the right to conduct a credit check of Customer at any time, at Customer's expense. Customer hereby authorizes Provider to obtain, and upon request shall assist Supplier in obtaining, information about Customer's financial condition from third parties, including without limitation banks, credit reporting agencies and other businesses that provide like information. Upon Providers request, Customer will make a deposit or provide other security for the payment of Service Fees or any other charges, as specified by Provider, (i) as a condition to Providers acceptance of any ORF, or (ii) in the event Customer fails to comply with the payment terms set forth in the ORF twice in any twelve month period, as a condition to Provider continuation of Services. The deposit or any other security will be held by Provider as a security for payment of the Service Fees. When the provision of Services to Customer is properly terminated in accordance with this GTC, the amount of the deposit will be credited to Customer's account and any remaining credit balance will be refunded thirty (30) days of receipt of termination notification. Customer acknowledges that failure to comply with any request made by Provider under this Section 3 shall be a material breach of this GTC.
- 3.5.7. Upon execution of the ORF, the Customer which signs the ORF ("Subscriber") shall be solely responsible for its use of the Services and for its compliance with its obligations thereunder.
- 3.5.8. Provider shall invoice Subscriber directly for Services provided pursuant to the applicable ORF. Fees shall be invoiced to Subscriber pursuant to the terms of the ORF.

#### 4. **TRIAL OR PROMOTION PERIOD**



- 4.1. If the Provider provides a trial, evaluation or promotion period of FPG Software or any other specified Service (the “Trial”), the specified Services will be made available free of charge until the earlier of (a) the end of the Trial for which the Customer is registered to use the applicable Service(s) or (b) the start date of the paid purchased Services and or Subscriptions purchased by the Customer or (c) termination by the Provider in its sole discretion. The Provider may impose additional terms and conditions with respect to the Trial which may appear on the trial registration web page or the Work Order or Scope of Work. Subject to Customer’s review and acceptance, any such terms and conditions are deemed incorporated into this Services Agreement by reference and are legally binding.
- 4.2. Any data entered into the Services and any customization made to the Services by the Provider during the Trial will be permanently lost unless the Parties execute an Agreement for Services in consideration of payment to Provider, or Customer purchases a Subscription to the same Services.
- 4.3. During the Trial, Services are provided on an “as-is” basis without any warranty.
- 4.4. At the end of any Trial, Customer shall have the option to (1) complete the trial and cease using the Services without further obligation or (2) continue the Services by entering a ORF with Provider.
- 4.5. In the event a ORF is not executed, immediately prior to the end of any trial period, Provider shall deactivate Services and has no further obligation to provide Services to Customer.

## **5. Term, Termination and Suspension**

- 5.1. Term of Agreement; Term of Access to the Service. The term of this GTC commences on the Commencement Date and continues until the stated term in all Agreements has expired or has otherwise been terminated, unless otherwise extended pursuant to the written agreement of the parties.
- 5.2. The term of Service, The term of each of the Services or Subscription shall be as specified in the applicable ORF but shall not exceed one (1) year. Except as otherwise specified in an ORF, Subscriptions will automatically renew for additional periods equal to the expiring Subscription term or one (1) year (whichever is shorter), unless either party gives the other notice of non-renewal at least thirty (30) days before the end of the term for the relevant Subscription. In the event Customer purchases a Package, Services included in Package are provided for a fixed price, fixed scope of delivery, fixed period of delivery, with payment required upfront and ineligible for cancellation, except as provided in Section 4.4.
- 5.3. Termination by Either Party for Cause. Either Party may terminate this Services Agreement or any ORF
  - (a) on thirty (30) days’ prior written notice if the other Party has committed a material breach of this Services Agreement and has failed to cure or begun to cure such material breach within thirty (30) days notice thereof; or
  - (b) immediately upon written notice to the other Party if the other Party should become insolvent, file a voluntary petition in bankruptcy, be adjudicated a bankrupt, have a receiver appointed for the operation of its business, or make a material liquidation of assets;
  - (c) immediately upon written notice to the other Party if the other Party is in breach of its confidentiality obligations or any applicable privacy laws, regulations, or standards;
  - (d) immediately upon written notice to the other Party, in the event the other Party sells all or a substantial portion of its capital stock and/or assets and the purchaser thereof fails or refuses to assume the other Party’s obligations under the Agreements; or
  - (e) immediately upon written notice to the other party, in the event any representation or warranty made in the Agreements or any information furnished by the Defaulting Party in connection with the Agreements is intentionally false.





The per-unit pricing during any automatic renewal term will be the same as that during the immediately prior term unless the Parent is otherwise notified by the Company and elects to renew, in which case the pricing increase will be effective upon renewal and thereafter. In any event, any such pricing increase will not exceed 7% of the pricing for applicable Services or Add-Ons in the immediate prior Subscription term, unless pricing is defined as promotional, introductory, seasonal, or one-time.

FPG may introduce regional specials and promotions when onboarding or renewing hotels into the FPG program based on specific market and regional economic conditions.

5.4. Premature Termination by Parent or Customer. With the exception of 1) termination for Provider's breach of any of the Agreements or 2) non-renewal pursuant to Section 4.2 of the Agreement (Term of Services), if this Agreement or a Work Order is terminated by Parent or Customer prior to the expiration of the Term of the Agreement, Provider will be entitled to:

5.4.1. Payment for all Services previously rendered under the applicable Work Order, calculated on a pro-rated basis, considering the number of remote consulting hours or on-site days consumed OR the number of months Services have been rendered, whichever is higher; as well as cost for implementation set-up and activation if termination occurs within the first six (6) months of the Agreement; and

5.4.2. As liquidated damages, a Termination Fee equal to sixty percent (60%) of the aggregate fees payable for each full or partial month remaining in the Term of the Agreement or Work Order.

Parent shall not be entitled to a refund.

THE PARTIES HERETO ACKNOWLEDGE AND AGREE THAT THE ACTUAL DAMAGES TO COMPANY IN THE EVENT OF PARENT OR CUSTOMER'S TERMINATION (ACTUAL OR CONSTRUCTIVE) GIVING RISE TO THE APPLICATION OF THE TERMINATION FEE AS PROVIDED IN SECTION 5.4 (PREMATURE TERMINATION BY PARENT OR CUSTOMER) OF THIS AGREEMENT WOULD BE IMPOSSIBLE OR IMPRACTICAL TO DETERMINE AND THAT THIS PROVISION FOR A TERMINATION FEE IS REASONABLE UNDER THE CIRCUMSTANCES EXISTING AND KNOWN TO THE PARTIES AS OF THE DATE OF THIS WORK ORDER.

5.5. Effect of Termination. Upon any termination, Subscriber shall, as of the effective date of such termination, immediately cease accessing and otherwise utilizing the applicable Service (except as permitted under Section 5.6 entitled "Access to Customer Data") and all FPG Confidential Information. Moreover, upon any such termination, unless the Customer requests otherwise in writing, Provider will have no further obligation to maintain or provide Customer with access to any Customer Data and may thereafter, unless legally prohibited, delete all Customer Data. Termination for any reason shall not relieve Customer of the obligation to pay undisputed Fees accrued or due and payable to Provider prior to the effective date of termination.

5.6. Access to Customer Data and Deletion of Customer Data. Upon request by Customer made within thirty (30) days after any expiration or termination of this GTC, Provider will make Customer Data available to Customer through the Service on a limited basis solely for purposes of Customer retrieving Customer Data for a period of up to thirty (30) days after such request is received. After such thirty (30) day period, Provider will have no obligation to maintain or provide any Customer Data and may thereafter, unless legally prohibited, delete all Customer Data. If Customer requests Provider assistance, Customer may acquire Professional Services at Provider billing rates pursuant to a separately executed Agreement.

5.7. Suspension: Provider recognizes that Customer business may require a period of closure for renovations or seasonal operations. If this occurs during the Term, Customer shall be required to notify Provider in writing sixty (60) days prior to planned closure for renovations or seasonal operations and is required to inform Provider of anticipated re-opening dates (known as the "Renovation or Seasonal Closing Period"). At Providers discretion, the Services may be suspended for the Renovation or



Seasonal Closing Period and automatically resume at the end of the Renovation or Seasonal Closing Period at the same fee. Any such suspension of the Services for the Renovation or Seasonal Closing Period may include Provider suspending any obligation to maintain or provide Customer with access to any Customer Data. Customer will not be responsible for payment for the duration of the suspension.

- 5.8. Surviving Provisions. Notwithstanding anything to the contrary in this Section, Sections titled "Fees and Payment for Services Purchased or Subscriptions, "Software License Rights," Intellectual Property", "Confidentiality," "Disclaimers," "Mutual Indemnification, "Warranty", "Limitation of Liability," "Term & Termination", "Fees & Payment for Services," "Access to Data and Deletion of Customer Data," "Contracting Parties, Notices, Governing Law and Jurisdiction," and "General Provisions" will survive any termination or expiration of this GTC.

## **6. Fees & Payment for Services Purchased or Subscriptions**

- 6.1. Provider will accurately invoice Customer electronically for all fees, charges and reimbursable items payable to the Provider according to the terms being set out in the Services Agreement or ORF. The Customer will pay undisputed invoiced amount promptly upon receipt of invoice, without deduction or setoff. Any such invoice not paid in full by Customer within forty-five (45) Business Days after date of invoice shall be deemed to be delinquent.
- 6.2. All payments are to be made in full and free from all deductions, costs, local taxes (including withholding taxes), charges and agreed staff incentive, if any. All payments shall be made in the specified currency on the Invoice and paid according to Agreement terms. Provider shall be permitted to assess a surcharge of an additional Two and Nine-Tenths percent (2.9%) of the invoice amount for any payment made by credit card, to defray Provider's credit card convenience fees.
- 6.3. If a customer has any dispute with an invoice, dispute must be received in writing within 30 days after the invoice date. All dispute will be worked through in good faith by the parties, and the principals shall discuss all disputes within 30 days after either side raises a dispute in writing.
- 6.4. If any undisputed invoiced amount is not received by the due date, then without limiting FPG's rights or remedies, those charges will accrue late interest at the rate of 1.5% of the outstanding balance per month or the maximum rate permitted by law, whichever is lower. FPG reserves the right to suspend Services for undisputed overdue accounts. Any such suspension of the Services for undisputed overdue accounts may include Provider suspending any obligation to maintain or provide Customer with access to any Customer Data.

## **7. Taxes**

- 7.1. Taxes includes any tax, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever. The Customer shall pay all taxes relating to the provision of the Services by Provider pursuant to any Services Agreement or ORF. If the Provider has the legal obligation to pay or collect Taxes on behalf of the Customer, FPG will add such taxes to Customer Invoice. Such tax shall be paid by the Customer unless a valid tax exemption certificate authorized by the appropriate taxing authority is provided to FPG. Provider shall be solely responsible for the payment of compensation (including provision for employment taxes, federal, state and local income taxes, workers compensation and any similar taxes) associated with the employment of, or contracting with, Provider's personnel. Provider shall also be solely responsible for the payment of any taxes on its income.

## **8. Software License Rights**

- 8.1. Subject to a valid Services Agreement or ORF being in full force and effect, the Provider grants Customer a non-exclusive, non-transferable, non-assignable license to access and use the FPG Software. The Provider reserves all rights to the FPG Software and FPG Program materials and methodology, including the right to update, modify, alter, amend or remove any functions or feature



from the FPG Software at any time at its sole discretion; provided that no change to the FPG Software will result in material degradation or diminishment of the features, functionality, or operability of the FPG Software.

- 8.2. Customer has the right to and use of content contained in the FPG Software and/or FPG Program subject to the terms of the Agreements and Documentation, only during the term of the Agreements, and only with respect to any locations being Serviced pursuant to the Agreements.
- 8.3. Subject to Provider's confidentiality and data protection obligations, Customer grants Provider, FPG Affiliates and applicable contractors a worldwide, limited-term license to host, copy and transmit and display your Customer Data, as reasonably necessary to provide the services for Customers use. Subject to the limited licenses granted herein, Provider acquires no right, title or interest from the Customer under this GTC or to any of the Customer Data. Customer agrees that as between it and FPG it shall have sole responsibility and liability for: (i) acquiring any and all authorization(s) necessary for FPG's use of the Customer Data; (ii) the completeness and accuracy of all of the Customer Data and other materials provided to FPG by Customer; and (iii) ensuring that the Customer Data does not infringe or violate any patents, copyrights, trademarks or other intellectual property rights, or misappropriate the trade secret, or violate the privacy rights of any third-party. Subject to the foregoing license, Customer shall retain exclusive ownership of the Customer Data.
- 8.4. FPG Software contains audio visual information, processes, algorithms, user interfaces, know-how, trade secrets, techniques, Licensed Marks and other technical material or information (collectively "FPG Technology") that is proprietary to or licensed by Provider (collectively "FPG IP Rights").
- 8.5. Other than as expressly set forth herein, no other license or rights in or to the FPG Technology or FPG IP Rights are granted to the Customer or Parent. Nothing in the Agreements shall constitute an assignment or transfer of the FPG IP Rights or FPG Technology to the Customer. FPG reserves all rights not expressly granted herein. Except as set forth in this GTC, no express or implied license or right of any kind is granted to Customer regarding the FPG IP Rights or FPG Technology. Customer hereby acknowledges and agrees that FPG and its third-party suppliers and licensors exclusively own all rights, title and interest in the FPG IP Rights or FPG Technology, any customizations or other deliverables developed and/or provided during the Services, and intellectual property rights therein. Customer also acknowledges that the FPG IP Rights or FPG Technology contain confidential and proprietary information and trade secrets belonging to FPG, its third-party suppliers and licensors, and that nothing herein gives Customer any right, title or interest in the FPG IP Rights or FPG Technology except for Customer's limited express rights granted pursuant to this GTC. FPG shall be entitled to the unrestricted use and dissemination of any questions, comments, suggestions, ideas, feedback or any other information about the FPG IP Rights or FPG Technology. All data input into the FPG Technology are the property of FPG and become a part of the FPG IP Rights or FPG Technology which may be accessed and shared in the aggregate indefinitely.
- 8.6. Customer may use FPG Technology and exercise the IP Rights embodied therein solely for Customer's business purposes. Customer or Parent shall not:
  - (a) copy, alter, modify, patch, reverse engineer, derive the source code, disassemble or decompile the FPG Technology or FPG Software, or create any derivative works therefrom;
  - (b) copy, alter, modify, repurpose FPG Program materials and methodology;
  - (c) timeshare, license or allow any person or entity other than its employees or authorized personnel to access or use FPG Software or any FPG Technology;
  - (d) create any link to FPG Software or any FPG Technology or frame or mirror any content contained in or accessible from FPG Software or any FPG Technology;
  - (e) tamper with the security of any user account;
  - (f) access any Services to build a competitive product or compete with Provider;
  - (g) render any part of FPG Technology or FPG Software unusable;
  - (h) use any of FPG Technology or FPG Software for purposes not specified in the Services Agreement;



- (i) disclose or publish the results of any benchmark tests run using the FPG Software or any FPG Technology;
- (j) use the FPG Software or any FPG Technology to engage in spamming, mailbombing, spoofing or any other fraudulent, illegal or unauthorized use;
- (k) knowingly introduce into or transmit through FPG Software or any FPG Technology any virus, worm, trap door, back door; or
- (l) remove, obscure or alter any copyright notice, trademarks or other proprietary rights notices affixed to or contained within FPG Software or any FPG Technology.

8.7. Unless otherwise specified in the Services Agreement, any work product generated as a result of the Services contemplated hereunder remain the property of Provider.

## 9. **Provider's Obligations**

9.1. Provider shall:

- 9.1.1. maintain any consents, permits, licenses, approvals, accreditations and other documents necessary to provide the Services;
- 9.1.2. have the necessary resources, facilities, tools and equipment to perform the Services;
- 9.1.3. ensure that its performance of the Services do not infringe any third-party intellectual property, proprietary or other rights;
- 9.1.4. maintain commercially reasonable administrative, physical, organizational and technical safeguards for protection of the security, confidentiality and integrity of Customers Data;
- 9.1.5. comply with all applicable domestic laws, ordinances, statutes and regulations, regarding the privacy and security of personal identifiable information within the applicable jurisdictions. Provider shall not provide Customer Data or Guest Data to any third-party without the express consent of the Customer.
- 9.1.6. be responsible for the performance of personnel (including FPG employees and contractors) delivering Services and is responsible for personnel compliance with Provider obligations under this GTC, except as otherwise specified herein.

9.2. Provider represents and warrants that all Services shall be performed:

- 9.2.1. in accordance with the specifications set out in the Services Agreement or ORF;
- 9.2.2. by experienced and properly trained personnel exercising all reasonable skill and care necessary to perform the Services;
- 9.2.3. in a proper and professional manner in accordance with generally accepted industry standards and practices;
- 9.2.4. in compliance with all applicable government laws, statutory provisions, industry regulations, standards and guidelines (including, without limitation, health, safety, hygiene and environmental requirements in the place where Services are provided).

9.3. Provider

- 9.3.1. may delegate the performance of portions of the Services to its authorized subcontractors and service providers, provided the Provider remains liable to the Customer for the provision of Services.
- 9.3.2. is responsible at all times for the performance of Provider personnel (including employees and contractors) and their compliance with Providers obligations under this GTC, except as otherwise specified herein

## 10. **Customer's Obligations**

10.1. Customer shall:



- 10.1.1. be solely responsible for errors in the Services resulting from inaccurate or incomplete data supplied by the Customer or at the Customer's direction;
- 10.1.2. be responsible for the accuracy, quality and legality of data provided to Provider and the means by which Customer acquired such data;
- 10.1.3. provide all commercially reasonable logistic, administrative, physical, organizational and technical requirements necessary for the Provider to render the services under any Services Agreement;
- 10.1.4. be responsible for their Users compliance with the Agreements and Documentation;
- 10.1.5. be responsible for maintaining the minimum operating environment required to deliver the Services as outlined in Schedule B.
- 10.1.6. be responsible for informing Provider of any change or upgrade to those Customer systems required for Provider Services.
- 10.1.7. use commercially reasonable efforts to prevent unauthorized access to or use of Services and Content and notify Provider promptly of any such unauthorized access or use;
- 10.1.8. be responsible for determining appropriate level of access and administering access management.

## **11. Intellectual Property Rights**

- 11.1. In the course of delivering the Services, each Parties may disclose or grant access to the other Party (the "Recipient Party") documents, data, records or other information stored in print, electronic format or in any other manner (collectively the "Materials") which contain intellectual property rights belonging to the first Party.
- 11.2. Each Parties shall use the Materials of the other solely for the use or provision of the Services.
- 11.3. The Recipient Party shall not reproduce, distribute, publish, sell, adapt, translate, commercialize or otherwise handle Materials in any manner inconsistent with the intellectual property rights of the other Party.
- 11.4. For the purposes of this Section, "electronic format" includes, download, or other similar electronic medium (in any machine or human readable format, including without limitation swf, html, xml, rtf or pdf).
- 11.5. All Hilton Data, and all Intellectual Property Rights in and to Hilton Data, belong solely and exclusively to Hilton.
- 11.6. Provider will not use any Hilton Intellectual Property (including the Hilton Marks), or any variations thereof, without the prior written approval of Hilton and, in the event of such approval, only in the manner and at such times as will be prescribed in such approval. Provider does not have any ownership in Hilton Marks. Provider will not do any of the following: (i) authorize any third party to use any of the Hilton Marks; (ii) contest or deny the validity of, or right or title to, the Hilton Marks; (iii) encourage or assist others, directly or indirectly, to contest or deny the validity of, or right or title to, the Hilton Marks; or (iv) use the Hilton Marks in any manner that would diminish the value thereof or harm the reputation of Hilton or any Hilton Affiliate.

## **12. Confidentiality and Personal Data**

- 12.1. "Confidential Information" shall mean all non-public information or proprietary materials (in every form and media) which has been or is hereafter disclosed or made available by either Party (the "Disclosing Party") to the other (the "Receiving Party") including (i) trade secrets and know-how, (ii) existing or contemplated products, services, processes, techniques and methodologies, (iii) business plans, sales or marketing methods, (iv) financial information, (v) cost data, (vi) guest lists, (vii) pricing policies, (x)





information about officers, employees, consultants and service providers, and (xi) other proprietary business information. "Information" related to people or entities includes contact information such as name, title, position, address, phone numbers, and email addresses.

- 12.2. "Trade Secrets" include methods, techniques or processes that derives independent economic value from not being generally known to, and not being readily accessible by persons who can obtain economic value from its disclosure or use.
- 12.3. The Parties shall each (i) hold the Confidential Information of the other in strict confidence and take reasonable care to avoid the disclosure or release thereof to any other person or entity, and (ii) not use the Confidential Information of the other Party for any purpose whatsoever except as expressly contemplated under the Services Agreement. Each Party shall disclose the Confidential Information of the other only to those of its employees, consultants and service providers having a need to know such Confidential Information, provided that such persons and entities have signed a non-disclosure agreement containing provisions no less restrictive than those contained in this Section.
- 12.4. The obligations of either Party under this Section shall not apply to information or materials that the Receiving Party can demonstrate:
  - 12.4.1. was in its possession at the time of disclosure and without confidentiality restriction;
  - 12.4.2. at the time of disclosure is generally available to the public or after disclosure becomes generally available to the public through no breach of Agreement or other wrongful act by the Receiving Party;
  - 12.4.3. has been received from a third-party without restriction on disclosure and without breach of Agreement or other wrongful act by the Receiving Party;
  - 12.4.4. is independently developed by the Receiving Party without reference to the Confidential Information of the Disclosing Party;
  - 12.4.5. is required to be disclosed by law or order of a court of competent jurisdiction or regulatory authority, provided that, if permitted, the Receiving Party shall furnish prompt written notice of such required disclosure and reasonably cooperate with the Disclosing Party, at Disclosing Party's cost and expense, in any effort made by the Disclosing Party to seek a protective order or other appropriate protection of its Confidential Information and any disclosure under this subsection is limited to the extent of the legal requirement.
- 12.5. All Confidential Information disclosed hereunder shall (i) remain the property of the disclosing Party. Except as otherwise provided in this GTC or a Services Agreement, no license under any patent or other intellectual property right is granted or conveyed hereby or by any disclosure of Confidential Information made hereunder.
- 12.6. The Receiving Party shall return to the Disclosing Party all documents and materials containing any Confidential Information and destroy all remaining copies under its control on the earlier of:
  - 12.6.1. Within five (5) days of a demand by the Disclosing Party; or
  - 12.6.2. the termination of this GTC or Services Agreement howsoever caused if demanded by the Disclosing Party.
- 12.7. The Disclosing Party shall be entitled to seek injunctive relief to prevent any threatened or actual breach of the obligations in this Section. Such injunctive relief shall be in addition to any other remedies available to the Disclosing Party at law or in equity.
- 12.8. Personal Data. Provider will comply with all applicable privacy and other laws and regulations relating to protection, collection, use, and distribution of Personal Data. As between Customer and Provider, Personal Data is the exclusive property of Customer and will be deemed Customer Materials under the applicable provisions of this GTC and Confidential Information subject to the confidentiality provisions of this GTC. In no event may Provider: (a) use Personal Data to market its services or those of a third-





party; or (b) sell or transfer Personal Data to third parties; or (c) otherwise provide third parties with access thereto. If Provider is required under applicable law to use Personal Data in a manner inconsistent with any of the foregoing, it will prior to doing so inform Customer of the applicable legal requirement(s), unless the law prohibits such information on important grounds of public interest.

12.9. Usage Data. The Parties recognize that it is possible for data to be collected from End Users that is not Personal Data, including "hits", "clickstream data" and the like. Any such data entered by or collected from End Users ("Usage Data"), is Provider's exclusive property. Provider may use Usage Data in any manner that is aggregated and anonymized such that the data cannot be identified back to Customer, any Property or any End-User or group of End-Users.

12.10. Metadata. The Parties recognize that Provider's platform, processing and analysis produces metadata including custom output and reports. Such output and reports including benchmarking, geographical comparisons ("Metadata"), are Provider's exclusive property. Provider may use Metadata and reports in any manner that is aggregated and anonymized such that the Metadata cannot be identified back to Customer, any Property or any End-User or group of End-Users.

### 13. REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS

#### 13.1. Representations.

Each Party represents that it has validly entered into the Agreement incorporating this GTC and has the legal power to do so.

#### 13.2. Warranties.

The disclosing Party warrants that it has the right to disclose Confidential Information.

EXCEPT AS STATED HEREIN IN THE AGREEMENT OR THE GTC, THE DISCLOSING PARTY MAKES NO OTHER WARRANTIES, AND CONFIDENTIAL INFORMATION IS PROVIDED ON AN "AS IS" BASIS.

Both parties shall comply with and obtain all authorizations required by export control laws and all related regulations to operate and provide respective services.

FPG represents and warrants that (a) this GTC, the Agreements, and Documentation accurately describe the applicable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data, (b) it will not materially decrease the overall security of the purchased Services during Agreement or Subscription term, (c) the purchased Services will perform materially in accordance with the applicable Documentation, (d) it will not materially decrease the functionality of the purchased Services during Agreement or Subscription term, and (e) the purchased Services and Content will not introduce Malicious Code into Customer or Customer Affiliate systems. For any breach of an above warranty, Customer's exclusive remedies are those described in (Term, Termination and Suspension).

FPG represents, warrants and covenants that none of the Services or Deliverables violates or infringes upon, or will violate or infringe upon, the rights of any Person, including non-disclosure rights, privacy rights, Intellectual Property Rights and other proprietary rights and (ii) there are no existing, pending or, to the best of Provider's knowledge, threatened claims regarding any violation or infringement of such rights.

FPG represents, warrants and covenants that it will not use any Prohibited Open Source Code.

FPG represents, warrants and covenants that (i) Neither it nor any of its owners, shareholders, directors or subcontractors own, or are owned or controlled by, any Restricted Person; (ii) it will not engage in any transaction with any Restricted Person; (iii) it has implemented and will maintain during the Term procedures and operational controls that are designed to ensure its compliance with the foregoing; and



(iv) if any of the foregoing representations, warranties and covenants becomes incorrect or is breached it will notify Hilton in writing immediately.

### 13.3. Disclaimers.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CONTENT AND TRIAL SERVICES ARE PROVIDED "AS IS," EXCLUSIVE OF ANY WARRANTY WHATSOEVER. EACH PARTY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS.

## 14. Mutual Indemnification

- 14.1. Indemnification by FPG. FPG will defend Parent and Customer and their officers, directors, agents, employees, successors and assigns (collectively, the "Indemnitees") against any claim, demand, suit or proceeding made or brought against the Indemnitees by a third-party alleging that the use of a purchased Service or use of any technology or software owned by Company in accordance with the Agreements infringes or misappropriates such third-party intellectual property rights (a "Claim Against Customer"), and will indemnify Customer from any damages, attorney fees and costs finally awarded against Customer as a result, or for amounts paid by Customer under a court-approved settlement of, a Claim Against Customer, provided Customer (a) promptly give written notice of the Claim Against, (b) give FPG sole control of the defense and settlement of the Claim Against (except that FPG may not settle any Claim Against Customer unless it unconditionally, without admission of fault, releases Customer of all liability), and (c) give FPG reasonable assistance, at FPG expense. If FPG receives information about an infringement or misappropriation claim related to a Service or FPG Technology, FPG may at their sole discretion and at no cost to Customer (i) modify the Service of FPG Technology so that it no longer infringes or misappropriates, without breaching Provider warranties under Section 13.2 (Warranties), (ii) obtain a license for continued use of that Service or technology in accordance with this GTC, or (iii) terminate Customer Subscription(s) for that Service upon thirty (30) days written notice and refund any prepaid fees covering the remainder of the term of the terminated Subscription(s). The above defense and indemnification obligations do not apply to the extent a Claim Against Customer arises from content, a non-FPG application or Customer breach of Agreement or use of Services.
- 14.2. Indemnification by Customer. Customer will defend Provider against any claim, demand, suit or proceeding made or brought against FPG by a third-party alleging that Customer Data, or Customer use of any Service or content in breach of Agreements, infringes or misappropriates such third-party intellectual property rights or violates applicable law (a "Claim Against FPG"), and will indemnify FPG from any damages, attorney fees and costs finally awarded against FPG as a result of, or for any amounts paid by FPG under a court-approved settlement of, a Claim Against FPG, provided FPG (a) promptly give Customer written notice of the Claim Against FPG, (b) give Customer sole control of the defense and settlement of the Claim Against FPG (except that Customer may not settle any Claim Against FPG unless it unconditionally releases FPG of all liability), and (c) give Customer all reasonable assistance, at Customer expense.
- 14.3. Exclusive Remedy. This Section 14 states indemnifying Party sole liability to, and the indemnified Party's exclusive remedy against, the other Party for any type of claim described in this Section 14.
- ## 15. Limitation of Liability
- 15.1. Save as expressly stated in the Agreements, Provider does not make any representation or warranty of any kind, whether such warranty be expressed or implied, including any warranty of merchantability or fitness for a specific purpose or any warranty form course of dealing or usage of trade.



- 15.2. Except for any liability in connection with Provider's obligations under the Agreements, Provider shall not be liable for any losses or damages resulting from the loss, misdirection, corruption or erasure of data, unauthorized dissemination of data outside of Provider's control, inability to access the internet, or inability to transmit or receive information due to circumstances not within the direct and exclusive control of Provider or its service Providers such as but not limited to, Customer's equipment capabilities including the Property Management System (PMS), telecommunication failure or internet service limitations (including but not limited to disruption or outage of communication, power or utilities).
- 15.3. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENTS INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS, LOSS OF OPPORTUNITY TO MAKE PROFITS, LOSS OF REVENUE, OR BUSINESS INTERRUPTION EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY APPLIES REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE.
- 15.4. THE PROVIDER'S AGGREGATE LIABILITY FOR ANY DAMAGES INCURRED IN CONNECTION WITH THE AGREEMENTS, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE AMOUNT PAID BY CUSTOMER TO PROVIDER UNDER THE AGREEMENTS GIVING RISE TO THE LIABILITY IN THE TWELVE (12) MONTHS PRECEDING THE FIRST INCIDENT OF WHICH THE LIABILITY AROSE. THIS LIMITATION OF LIABILITY APPLIES REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, OR OTHERWISE.
- 15.5. THE LIMITATIONS OF LIABILITY SET FORTH IN SECTION 15.3 AND SECTION 15. WILL NOT APPLY WITH RESPECT TO: (1) ANY BREACH BY EITHER PARTY OF ITS CONFIDENTIALITY OBLIGATIONS UNDER THE AGREEMENTS AND THE GTC (2) DATA PROTECTION OBLIGATIONS AND (3) DAMAGES ARISING OUT OF OR RESULTING FROM A PARTY'S WILLFUL MISCONDUCT, GROSS NEGLIGENCE OR FRAUD.
- 15.6. The Parties agree that the limitations in this Section are essential elements of the Agreement between the Parties and that in the absence of such limitations, the terms of the Agreement would be substantially different.

## 16. **General Provisions**

- 16.1. Privileged Licenses, Licenses and Permits. FPG will, at its expense, identify, procure and maintain all permits, certificates, approvals and licenses which may be required at any time in connection with the performance of the Services.
- 16.2. Relationship of the Parties
- 16.2.1. The relationship between Provider and Customer is that of independent contractors and neither Party is an employee, agent, partner or joint-venture of the other. Neither Party has any authority, apparent or otherwise, to contract for or on behalf of the other, or otherwise legally bind the other in any fashion.
- 16.2.2. Neither Party shall hold itself out as the agent of the other Party, nor imply, nor fail to correct a misunderstanding, that there is an agency relationship between it and the other Party.
- 16.2.3. Each Party is solely responsible for its employees, contractors, directors, officers and representative agents and neither party's employees, contractors, directors, officers or representative agents will be entitled to or benefit from the other Party's benefit or entitlement plans.
- 16.3. Construction & Legal Advice

In the event of any dispute over the terms in the Agreements, the terms in the Agreements will be deemed to have been drafted by all Parties herein and will not be strictly construed as against any Party. The Parties have been made aware of their right and opportunity to consult with independent legal



counsel and have either done so, or knowingly waive the right to do so. Further the Parties acknowledge that they have engaged in negotiations to reach agreement on the said terms.

16.4. Force Majeure

Except for Customer payment obligations accruing under Agreement up to the date of a Force Majeure Event, neither Party shall be liable, nor shall any credit, allowance or other remedy be extended, for any performance that is prevented or hindered due to a Force Majeure Event. Either Party shall promptly notify the other party of the nature and extent and shall use all reasonable efforts to overcome the force majeure. If during the Agreement term Provider is unable to provide Services for a period in excess of sixty (60) consecutive days for any reason as set forth in this Section 16.4, then either Party may terminate the affected Services upon written notice to the other Party, and both Parties shall be released from any further future liability in relation to such Services.

16.5. Foreign Corrupt Practices Act FCPA and Anti-Money Laundering

16.5.1. Provider understands and complies with the provisions of the U.S. Foreign Corrupt Practices Act ("FCPA") (15 U.S.C. §§ 78dd-1, et. seq.), as if the Provider were a U.S. "issuer," and laws and regulations related to anti-corruption, anti-bribery, anti-money laundering and sanctions, that are applicable to this GTC or the actions of Provider in connection with this GTC.

16.5.2. Neither Party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any employees or agents of either Party in connection with this GTC. Reasonable entertainment provided in the ordinary course of business does not violate the above restriction. If Customer shall learn of any violation of the above restriction, if permitted by applicable law, Customer will use reasonable efforts to promptly notify Provider at [Admin@FrontlinePG.com](mailto:Admin@FrontlinePG.com).

16.6. Amendments

Save where a Party or the Parties have expressly reserved the right to amend, vary or supplement the terms of the Services Agreement, the terms of the Services Agreement may be amended, varied or supplemented only by an instrument in writing signed by the respective Parties' authorized representatives.

16.7. Severability

If any provision or part of a provision in the Agreements shall be, or be found by any authority or Court of competent jurisdiction to be, invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions or parts of such provisions in the Agreements, which shall remain in full force and effect. Notwithstanding the foregoing, Parties shall negotiate in good faith in order to agree the terms of a mutually satisfactory provision to be substituted for the provision so found to be illegal, invalid or unenforceable.

16.8. Export Controls

Each party shall comply with the export laws and regulations of the applicable jurisdictions in providing and using Provider Services. Without limiting the generality of the foregoing, Customer shall not make Services available to any person or entity that: (i) is located in a country that is subject to a U.S. government embargo; (ii) is listed in The Office of Foreign Assets Control (OFAC) Specially Designated Nationals and Blocked Persons List (SDN List) or Other OFAC Sanctions List as maintained and provided by The U.S. Department of the Treasury; or (iii) is engaged in activities directly or indirectly related to the proliferation of weapons of mass destruction.

16.9. Headings; "Includes" and "Including"



All captions, titles or section headings of this GTC are for ease of reference only, shall not affect the interpretation or construction of any provisions of this GTC. Wherever the word “including” or “include” shall appear in this GTC, such term shall be construed to mean “including without limitation” or “include without limitation,” as the case may be.

16.10. Partial Invalidity

If any provision of the Agreements or the application thereof to any Party or circumstances shall be declared void, illegal or unenforceable by a competent court of law, competent arbitrator or other competent authority, the remainder of the Agreements shall be valid and enforceable to the extent permitted by applicable law. The invalid provision shall be replaced by an appropriate provision, which to the extent permitted by applicable law, comes closest to the parties` intent of what the parties would have agreed on, had they been aware of the invalidity or unenforceability, in order to meet the spirit and purpose of the Agreements.

16.11. Waiver

No failure or delay by a Party to exercise any right, power or remedy under the Agreements shall operate as a waiver thereof, nor shall any single or partial exercise of the same preclude any further exercise thereof or the exercise of any other right, power or remedy. Without limiting the foregoing, no waiver by a Party of any breach by the other Party of any provision hereof shall be deemed to be a waiver of any subsequent breach of that or any other provision hereof.

16.12. Rights and Remedies

The remedies conferred by the Agreements shall be in addition to any other remedy that is available at law or in equity. The election of any one or more of such remedies by any of the Parties shall not constitute a waiver by such Party of the right to pursue any other available remedy.

16.13. Assignment

Neither Party may assign its right, benefits or obligations under the Agreements to any other Party without the prior written consent of the other Party provided that no consent shall be required for the Provider to assign its rights, benefits and obligations under the Agreements to an Affiliate.

16.14. Successors and Assigns

The Agreements shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns.

16.15. Counterparts

This GTC or any Agreement or ORF may be executed in counterparts and exchanged by facsimile or electronically scanned copy. Each such counterpart will be deemed to be an original and all such counterparts together will constitute one and the same Agreement.

16.16. Prevailing Language of Agreement & Notices

16.16.1. The Agreements are in English and if the Agreements are translated into and/or signed in any language other than English, the English language text shall prevail in the event of any discrepancy or inconsistency between the translation and the English language text.

16.16.2. Each notice, instrument, certificate or other communication to be given by a Party to another under the Agreements or in connection with the Agreements shall be in English (being the language herein and in the Agreements) and in the event that such notice, instrument, certificate or other communication or the Agreements are translated into any other language, the English language text shall prevail in any and all events and circumstances.



16.17. Non-Solicitation; Non-Exclusivity; Non-Disclosure

- 16.17.1. Non-Solicitation of Other Party's Employees and Officers. The Parties agree that, for one (1) year following the termination of the Services Agreement or ORF, neither Party will, without the prior express written consent of the other, directly or indirectly employ, any person who worked directly with the other Party or has been an officer of the other Party at any time during the term of the Services Agreement or ORF.
- 16.17.2. Non-Exclusivity. Customer acknowledges and understands that Provider provides similar consulting services to other customers or companies and agrees that Provider may continue to do so without restriction.
- 16.17.3. Non-Disclosure of Compensation Terms. Customer agrees that, during the term of the Services Agreement or ORF, and during the twenty-four (24) month period commencing with the date of termination of the Services Agreement or ORF, Customer will not, without the prior express written consent of Provider, disclose to any other person or entity the value or form of any compensation paid to Provider by Customer as consideration for Provider's performance under the Agreements.

16.18. Entire Agreement and Order of Precedence.

This GTC, together with the applicable Services Agreement or ORF, represents the entire agreement between the Parties regarding use of Services and Content relating to the subject matter of the Services Agreement or ORF. It supersedes all prior or contemporaneous oral or written communications, proposals, conditions, representations and warranties and prevails over any conflicting or additional terms of any quote, order, acknowledgment, or other communication between the Parties relating to the same subject matter.

No modification, amendment, or waiver of any provision of this GTC will be effective unless in writing and signed by the Party against whom the modification, amendment or waiver is to be asserted. The parties agree that any term or condition stated in a pre-printed purchase order or in any other order documentation (excluding ORFs) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the ORF, (2) the applicable Services Agreement, (3) this GTC, and (4) the Documentation.





## 17. Contracting Parties, Notices, Governing Law and Jurisdiction

### 17.1. General.

The table below defines the Provider entity the Customer is contracting with under this GTC. Based upon where Customer is domiciled, this table specifies the party to direct notices to, what law will apply in any lawsuit arising out of or in connection with this GTC, and which courts have jurisdiction.

If You are domiciled in:	You are contracting with:	Notices should be addressed to:	The governing law is:	The courts having exclusive jurisdiction
The United States of America, Mexico or a Country in Central America, South America or the Caribbean	Frontline Performance Group, LLC	1075 W. Morse Blvd., Winter Park, FL 32789	Florida and Controlling United States federal law	Orlando, Florida U.S.A.
Canada	Frontline Performance Group Canada, Ltd.	777 Dunsmuir Street, Suite 1700 Vancouver BC V7Y 1K4	Florida and Controlling United States federal law	Orlando, Florida U.S.A.
A Country in Europe other than France or Spain	Frontline Performance Group UK, LTD	3rd Floor, 207 Regent Street, London, W1B 3HH	England & Wales	England & Wales
France	Frontline Performance Group SARL	250BIS BD Saint Germain 75007 Paris	England & Wales	England & Wales
Spain	Frontline Performance Group Sociedad Limitada	Paseo de Gracia 34, Barcelona, 08007, Spain	England & Wales	England & Wales
A Country in the Middle East or Africa, Turkey, Sri Lanka, Maldives	TSA Training Services FZ-LLC	The Administrator P.O. Box 75329, Dubai, United Arab Emirates;	England & Wales	England & Wales
India	FPG Technologies India Private Limited	3rd Floor, 305 and 306, A Wing, ICC Trade Tower, Senapati Bapat Road, Pune, Maharashtra, 411016	Singapore	Singapore
A Country in Asia or the Pacific region, other than Japan or China	TSA Training Services Pte Ltd, a Singapore private limited company	The Administrator 100H Pasir Panjang Road #03-01 to 03 OC@Pasir Panjang Singapore 118524	Singapore	Singapore
Japan	Frontline Performance Group Japan, GK	Oak Minami-Azabu Building 2F, 3-19-23 Minami-Azabu, Minato-ku, Tokyo	Singapore	Singapore
China, Hong Kong, Macau or Mongolia	TSA Consultancy Services Pte. Ltd, a Singapore private limited company	The Administrator 100H Pasir Panjang Road #03-01 to 03 OC@Pasir Panjang Singapore 118524	Singapore	Singapore
Australia	Frontline Performance Group Australia, Pty Limited	Level 9, 63 Exhibition Street, Melbourne VIC 3000	Singapore	Singapore



17.2. Agreement to Governing Law and Jurisdiction

Each Party agrees to the applicable governing law above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts above.

17.3. Manner of Giving Notice.

Except as otherwise specified in the Services Agreement or ORF, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the seventh business day after regular mailing, (iii) the second business day after sending

by confirmed facsimile, or (iv) by email at the time when the email was confirmed received (provided email shall not be sufficient for notices of termination or an indemnifiable claim). Billing-related notices and any other relevant Service notices to Customer shall be addressed to the contacts designated in the Services Agreement, ORF or subsequent documentation provided by the Customer.



## SCHEDULE A – SUPPORT & SERVICE LEVEL

### 1. Online Ticket Support

Provider will provide Customer with Online Ticket Support as the primary support channel for all Technology and Services. All tickets submitted will be classified into case types and responded to within regular business hours of Customer location.

### 2. Correction of Malfunctions.

Provider will correct Malfunctions as provided herein. "Malfunction" shall mean a failure of Services to operate as required by this GTC.

The definitions of the Malfunction classifications are as follows:

- a) Severity Level 1: A problem which renders Services inoperative, causes a significant and ongoing interruption to the end-user's business activities or causes an unrecoverable loss or corruption of data.
- b) Severity Level 2: A problem which causes the Services to be inoperative, disrupted or malfunctioning and which materially interferes with Customer's use of the Services.
- c) Severity Level 3: A problem which causes the Services not to function in accordance with applicable specifications, including the Documentation, but which causes only a minor impact on Customer's use of the Services and for which an acceptable circumvention is available.
- d) Severity Level 4: Any general questions and issues pertaining to the Services and all Malfunctions which are not included in the other Malfunction classifications.

### 3. Procedure.

- a) Report of Malfunction. With respect to a report of any Malfunction, Customer will submit such malfunction via the Online Ticket system to describe Malfunction in reasonable detail and the circumstances under which Malfunction occurred or is occurring and will, with the assistance of Provider, classify as a Severity Level 1, 2, 3 or 4.
- b) Critical Malfunctions. If a Severity Level 1 or 2 Malfunction (each, a "Critical Malfunction") cannot be corrected to Customer reasonable satisfaction through communication with Provider within **eight (8)** hours after Provider receives the description of Malfunction via the Online Ticket system, Provider will: (1) immediately escalate to Provider customer service management; (2) take and continue to take actions to most expeditiously resolve the Critical Malfunction; (3) provide a written response to Customer of the steps taken and to be taken to resolve the problem, the progress to correction and the estimated time of correction, and provide update every **twenty-four (24)** hours until the Critical Malfunction is resolved; and (4) every **twenty-four (24)** hours, provide increasing levels of technical expertise and Provider management involvement in finding a solution to the Critical Malfunction until it has been resolved.
- c) Provider Level of Effort. Provider will work continuously until any Critical Malfunction for which a correction or workaround has not been achieved until resolved. Unless otherwise specified by Customer, Provider will work continuously during normal work hours in Provider location to resolve any Severity Level 3 Malfunction. Provider and Customer will mutually agree upon a schedule within which to resolve any Severity Level 4 Malfunction.
- d) Action Required from Provider. For a Critical Malfunction, Provider will commence an immediate correction plan, which Provider will then provision access for Customer to test. For a Severity Level 3 or 4 Malfunction, Provider will provide a correction as promptly as reasonably achievable, and at Customer request will seek to establish a mutually agreed schedule for the correction to be provided.

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### SCHEDULE A – SUPPORT AND SERVICE LEVEL

Service/Activity	Service Level
Availability of the Services	<p>FPG Software will be available to Customer for normal use 99.5% of the time each month, not including scheduled downtime.</p> <p>Scheduled downtime shall be for regular maintenance and upgrades.</p> <p>Customer will receive notification of scheduled downtime.</p>
Restore Time	<p>In the event of unscheduled downtime, Services shall be restored and fully operational within twenty-four (24) hours.</p>

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### SCHEDULE B – OPERATING ENVIRONMENT AND DATA MANAGEMENT

Customer is required to provide the minimum operating environment and procedures to ensure uninterrupted access and performance of Services. Customer Operating Environment requirements are listed below – last updated January 1, 2019. Future releases may have additional compatibility requirements of which the Customer will be notified in advance.

- Active internet or data connection to consume data from the cloud.
- Web Browser:
  - Subscribers accessing the IN-Gauge<sup>SM</sup> platform do so via a standard web browser
  - The web browser needs to be a supported and fully patched version
  - FPG supports Google Chrome, Safari, Mozilla Firefox, Microsoft Edge
  - IN-Gauge<sup>SM</sup> supports Google Chrome, Safari, Mozilla Firefox
- Data Extraction methods supported by IN-Gauge<sup>SM</sup>
  - IN-Gauge<sup>SM</sup> pull mechanism through customer Data warehouse or API Endpoint
  - Extracting Data from a Customer warehouse to IN-Gauge<sup>SM</sup>
  - Extracting Data from a Cloud Application (PMS & RES Data)
  - Multi-property from different app sources via customer Data warehouse or IN-Gauge<sup>SM</sup> data lake writing to API Gateway
  - Extract Opera Default Reports to support private On-Premise cluster
  - Single Property Deployment via On Premise or Cloud Application
  - Data can be added, imported or loaded to IN-Gauge<sup>SM</sup> from the interface
- Data can be consumed from a customer operating application whether legacy On-Premise or in the CloudGuest Data
  - FPG data integration does not require or use any Guest Personal Identifiable Data. FPG solution only considers reservation level data such as a guest arrival and departure dates, room type, room rate booked, room type upsell, upsell supplement pricing, inventory, market segmentation.
  - IN-Gauge<sup>SM</sup> processes the data submitted by the Customer as-is, to provide subscribed Services
  - IN-Gauge<sup>SM</sup> integration procedures include detailed guidelines on how to ensure no Guest Data will get transmitted to FPG as part of the data transfer. FPG will actively monitor the transferred data and will work with Customer to ensure no transmission of Personal Guest Data.
  - Unless otherwise required by applicable law, FPG will respond to any Data access and deletion requests within thirty (30) days of receiving such request at [Admin@FrontlinePG.com](mailto:Admin@FrontlinePG.com)
- Customer Personnel Data
  - IN-Gauge<sup>SM</sup> will process Personal Data as it relates to Customer personnel and only to the extent necessary to provide the Services set forth below:
    - To provide performance measurements to Customer, FPG needs to collect and maintain the following Customer personnel information:
      - Staff First Name, Last Name and valid email address to grant access FPG Technology (including IN-Gauge<sup>SM</sup> Connect or IN-Gauge<sup>SM</sup> Knowledge LMS Platform).
      - Customer personnel PMS identifiers and associated performance data for all Customer personnel performing upsells or check-ins, or otherwise participating in Provider Services.
  - For some specific interactions, FPG collects the following information:
    - Email and contact information for any authorised user raising a support ticket
    - Email and contact information for any recipient of Services reports.
  - For Customer application unique identifier and data transmission, Customer is responsible to ensure explicit consent from all employees participating in Services, where legally applicable.
  - Unless otherwise required by applicable law, Provider will respond to any data access and deletion requests within thirty (30) days of receiving such request by submitting a ticket to the IN-Gauge<sup>SM</sup> Support team via <https://fpg-ingauge.atlassian.net/servicedesk/customer/portals>.

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### EXHIBIT C

#### SERVICE PROVIDER DATA PROTECTION STANDARDS (SPDPS)

##### 1. DEFINITIONS.

- a. "Biometric Data" means Personal Information resulting from specific technical processing relating to the physical, physiological, or behavioral characteristics of an individual that allows or confirms the unique identification of that individual.
- b. "Cardholder Data" means: (i) with respect to a payment card, the account holder's name, account number, security codes, card validation code/value, service codes (i.e., the three or four digit number on the magnetic stripe that specifies acceptance requirements and limitations for a magnetic stripe read transaction), PIN or PIN block, valid to and from dates, and magnetic stripe data; and (ii) information and data related to a payment card transaction that is identifiable with a specific account, regardless of whether or not a physical card is used in connection with such transaction.
- c. "Data Protection Requirements" means, collectively, all laws and regulations relating to data privacy, data security, personal data, transborder data flow, and data protection that apply to Provider's Processing of Personal Information, including without limitation, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (the General Data Protection Regulation ("GDPR and Brazil's Law No. 13.709 of August 14, 2018, General Personal Data Protection Law (as amended by Law No. 13.853 of July 8, 2019) (the "LGPD")).
- d. "Data Safeguards" means the administrative, operational, organizational, technical, and physical safeguards described in Section 9 of these Standards, as modified in accordance with these Standards.
- e. "Genetic Data" means Personal Information relating to the inherited or acquired genetic characteristics of an individual that give unique information about the physiology or the health of that individual and which result, in particular, from an analysis of a biological sample from such individual.
- f. "Health Data" means Personal Information related to the physical or mental health of a natural person, including the provision of health care services, which reveal information about his or her health.
- g. "Malware" means computer software, code, or instructions that: (a) adversely affect the operation, security, availability, or integrity of a computing, telecommunications, or other digital operating or processing system or environment, including without limitation, other programs, data, databases, computer libraries, and computer and communications equipment, by altering, destroying, disrupting, or inhibiting such operation, security, or integrity; (b) self-replicate without manual intervention where such self-replication lacks functional purpose; (c) purport to perform a useful function but which actually perform either a destructive, harmful, or unauthorized function, or perform no useful function and utilize substantial computer, telecommunications, or memory resources; or (d) without authorization, collect and/or transmit to third parties any information or data, including such software, code, or instructions commonly known as viruses, Trojans, logic bombs, worms, and spyware.
- h. "Personal Information" means any information (i) that can be used (alone or in combination with other information within Provider's control) to identify, locate, or contact a specific individual, or (ii) related to an identified or identifiable individual. By way of illustration, and not of limitation, Personal Information consists of obviously personally identifiable data elements, such as name, address, and email address as well as less obvious information such as an individual's personal preferences, hotel stay-related information, guest account information, location data, and online identifiers. Personal Information also includes (without limitation) factors specific to the physical, physiological, genetic, mental, economic, cultural, or social identity of an individual. Personal Information may pertain to customers, employees, or others. Personal Information can be in any media or format, including computerized or electronic records as well as paper-based files,



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including all copies, fragments, and excerpts, whether or not such Personal Information has been intermingled with other information or materials. For purposes of these Standards, Personal Information only includes information: (i) provided to Provider by or on behalf of Hilton; or (ii) obtained, used, accessed, possessed, or otherwise Processed by Provider in connection with the provision of the Services.

- i. "PCI Standards" means the data security standards for the protection of payment card information with which the payment card companies collectively or individually require merchants to comply, including, but not limited to, the Payment Card Industry Data Security Standards currently in effect and as modified during the term of the Agreement.
- j. "Process" means any operation or set of operations performed upon Personal Information, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- k. "Provider Processing Record" means a written record of all categories of Processing carried out in connection with the Services, which contains the following: (i) the name and contact details of Provider and any Subcontractors and, where applicable, the name and contact details of Provider's data protection officer; (ii) the categories of Processing performed by the Provider for Hilton; (iii) the list of countries, if any, to which the Provider transfers Personal Data; and (iv) a description of the Provider's Data Safeguards.
- l. "Security Breach" means (i) any circumstance pursuant to which applicable Data Protection Requirements require action in response to such circumstance, including but not limited to, notification of such breach to be given to affected parties, a regulator, or data protection authority; or (ii) any actual, attempted, suspected, threatened, or reasonably foreseeable circumstance that compromises, or could reasonably be expected to compromise, either Physical Security or Systems Security (as such terms are defined below) in a manner that either does or could reasonably be expected to permit unauthorized Processing, use, disclosure, acquisition of, or access to any Personal Information. "Physical Security" means physical security at any location housing systems maintained by Provider or its agents or Subcontractors in connection with the Services or in the course of physical transportation of assets or physical media used by Provider or its agents or Subcontractors in performing the Services. "Systems Security" means security of computer, electronic, or telecommunications systems of any variety (including databases, hardware, software, storage, switching, and interconnection devices and mechanisms); security of networks of which such systems are a part or with which such systems communicate; and security of networks used directly or indirectly by Provider or its agents, or Subcontractors in connection with the Services.
- m. "Sensitive Personal Information" is Personal Information which due to its nature has been classified by applicable Data Protection Requirements as deserving additional privacy and security protections, including (without limitation): (i) an individual's name in combination with the individual's: (A) Social Security number, Taxpayer Identification Number, information contained in a passport or other travel document, driver's license number, or other identification number issued by a government or public body or (B) financial account number; (ii) an individual's username which, in combination with a password, PIN, or access code would grant access to an online account; (iii) Cardholder Data; (iv) data about racial or ethnic origin; (v) data about political opinions, religious or philosophical beliefs, or trade union membership; (vi) Genetic Data; (vii) Biometric Data; (viii) Health Data; and (ix) data concerning a natural person's sex life or sexual orientation.
- n. "Services" means the goods and services provided by Provider to Hilton, or through Hilton for the benefit of its franchisees, as further described in the Agreement.
- o. "Subcontractor" means an entity, including any Provider affiliate, engaged by Provider to perform Services for Provider that involve the Processing of Personal Information.

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### **2. SUBJECT MATTER AND DURATION OF PROCESSING; TYPE AND NATURE OF PERSONAL INFORMATION.**

Provider will Process Personal Information in connection with the Services described in the Agreement and during the term of such Agreement, subject to compliance with the Data Protection Requirements and the Agreement. The type of Personal Information Processed by Provider is described in the Agreement. The Processing may involve Personal Information of employees of Hilton, customers and guests of Hilton, and business contact information of Hilton corporate customers, suppliers, and other business partners, as further described in the Agreement.

### **3. NATURE AND PURPOSE OF THE PROCESSING; OWNERSHIP OF PERSONAL INFORMATION.**

Hilton will have the exclusive right to determine the purposes for which the Personal Information is Processed. Provider will Process Personal Information for the sole purpose of providing the Services in accordance with the Agreement. At no time will Provider acquire any ownership, license, rights, or other interest in or to the Personal Information. As between Hilton and Provider, Personal Information will remain the proprietary information of Hilton at all times and Hilton shall be the "Controller" and Provider shall be the "Processor," as such terms are defined in the GDPR and LGPD.

### **4. USE AND PROCESSING OF PERSONAL INFORMATION**

Provider will Process the Personal Information only on behalf of Hilton and only as specifically instructed by Hilton in writing, including with regard to transfers of Personal Information to a third country or an international organization, unless required to do so by Data Protection Requirements to which Provider is subject; in such a case, Provider shall inform Hilton of that legal requirement before Processing, unless such Data Protection Requirement prohibits such information on important grounds of public interest. Hilton hereby instructs Provider to Process the Personal Information solely as necessary to provide the Services under the Agreement and subject to compliance with the Agreement, these Standards and the Data Protection Requirements. In no event may Provider: (a) use Personal Information to market its services or those of an affiliate or third party; (b) sell or rent Personal Information; or (c) otherwise Process any Personal Information for Provider's, its affiliates', or any third party's own purposes. Provider shall immediately inform Hilton if, in its opinion, an instruction infringes any Data Protection Requirements.

### **5. USE OF SUBCONTRACTORS**

Where Provider engages a Subcontractor for carrying out specific Processing activities on behalf of Hilton, Provider shall impose on the Subcontractor the same data protection obligations as set out herein between Hilton and Provider. These obligations shall be imposed by way of a contract or other legal act under applicable Data Protection Requirements and shall require the Subcontractor to provide sufficient guarantees that it will implement appropriate technical and organizational measures in such a manner that the Processing will meet the requirements of applicable Data Protection Requirements. Provider will remain at all times accountable and responsible for compliance with these Standards by its Subcontractors.

### **6. DISCLOSURE OF PERSONAL INFORMATION**

Provider will hold the Personal Information in confidence in accordance with the Data Protection Requirements, these Standards, and the Agreement. Provider will not disclose Personal Information to any of its affiliates or to any third party (including, without limitation, any Subcontractors) except as necessary to provide the Services. Prior to disclosing any Personal Information to any Subcontractor or other third party, Provider will have in place with such Subcontractor or other third party a written agreement that includes obligations that are at least as restrictive as those in these Standards. Provider further agrees, upon Hilton's request, to provide a list of all affiliates and third parties to which Provider has disclosed Personal Information. Provider will remain at all times accountable and responsible for compliance with these Standards by Provider, Provider's affiliates, and third parties to whom Provider discloses any Personal Information. Provider will ensure that its personnel engaged in the Processing of Personal Information are informed of the confidential nature of the Personal Information and have executed written confidentiality agreements (or are under an appropriate statutory obligation of confidentiality). Provider will ensure that such confidentiality obligations survive any termination of employment of such personnel.

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### 7. DISCLOSURE UNDER LEGAL PROCESS

If Provider is requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand, or other similar process) to disclose any Personal Information to a third party, Provider will not disclose the Personal Information without complying with applicable laws. Unless prohibited by applicable law, Provider will provide Hilton with written notice of any request or requirement to disclose Personal Information to a third party no more than seventy-two (72) hours after receiving the request but in any event prior to making any disclosure so that Hilton may, at its own expense, exercise such rights as it may have under law to prevent or limit such disclosure. Notwithstanding the foregoing, Provider will exercise commercially reasonable efforts to prevent or limit any disclosure of Personal Information and to preserve the confidentiality of Personal Information including, without limitation, by cooperating with Hilton to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded to any Personal Information that the Provider is required to disclose.

### 8. CROSS-BORDER TRANSFERS OF PERSONAL INFORMATION

As provided in Section 4, Provider may only transfer Personal Information from one country to another upon the prior written consent of Hilton and in compliance with Data Protection Requirements. At Hilton's discretion, Provider will require any of its agents and/or Subcontractors to enter into a data processing agreement with Hilton that incorporates the Standards and any necessary contract terms related to cross-border data transfers. Should the agent and/or Subcontractor not agree to the data processing agreement, Provider may not use that agent or Subcontractor and must engage in a Subcontractor Change. Such change will be governed by Section 5(b) of these Standards.

- a. If the Provider will obtain or have access to Personal Information originating from the European Economic Area ("EEA"), UK, or Switzerland, the following applies:
  - i. If Provider will store Personal Information originating from the UK outside of the UK or EEA, Provider agrees to the UK Addendum to the European Commission Standard Contractual Clauses (SCCs) between controllers and processors. The SCCs and UK Addendum are incorporated by reference into these Standards, as further discussed in Section 8(b);
  - ii. If Provider will store Personal Information originating from within the EEA or Switzerland outside of the EEA or Switzerland, Provider agrees to the European Commission Standard Contractual Clauses (SCCs) between controllers and processors. The SCCs are incorporated by reference into these Standards, as further discussed in Section 8(b).
- b. When Section 8(a) applies, the SCCs for transfers between controllers and processors (Module two) are incorporated by reference (the SCCs can be found). Hilton and Provider agree to the SCCs as follows:
  - i. Hilton is the controller/data exporter. Provider is processor/data importer.
  - ii. Pursuant to Clause 6 (Details of the transfer) of the SCCs, Hilton and the Provider agree that the details of the transfer are described in the Agreement and Sections 2-4 of these Standards. The details of the transfer form Annex 1.B of the SCCs.
  - iii. Hilton and Provider agree to incorporate Clause 7 (Docking clause) of the SCCs.
  - iv. Pursuant to Clause 8 (Obligations of the parties) of the SCCs, Provider as the data importer agrees that it has implemented the technical and organizational security measures specified in Section 9 of these Standards (the Data Safeguards). The Data Safeguards constitute the technical and organizational security standards that form Annex II of the SCCs.

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- v. Hilton and Provider agree to incorporate Clause 9(a) Option 2 (General Written Authorization) of the SCCs.
  - vi. Hilton and Provider agree that the following language applies to Clause 13(a) (Supervision) of the SCCs: The supervisory authority of the Member State in which the representative within the meaning of Article 27(1) of Regulation (EU) 2016/679 is established, as indicated in Annex I.C, shall act as competent supervisory authority.
  - vii. Hilton and Provider agree that Clause 17 (Governing Law) Option 1 of the SCCs shall apply. These Clauses shall be governed by the law of one of the EU Member States, provided such law allows for third-party beneficiary rights. The Parties agree that this shall be the law of Ireland except when the UK Addendum applies, in which case the parties agree that this shall be the laws of England and Wales.
  - viii. Pursuant to Clause 18 (Choice of forum and jurisdiction) of the SCCs, any dispute arising from these Clauses shall be resolved by the courts of Ireland, except when the UK Addendum applies, in which case the parties agree that any dispute arising from these Clauses shall be resolved by the courts of England and Wales.
  - ix. Pursuant to Annex I. A (List of parties) of the SCCs, the Data Exporter party shall be: Hilton 7930 Jones Branch Drive McLean, Virginia 22101 U.S.A. Data Protection Officer DataProtectionOffice@hilton.com Activities relevant to the data transferred under these Clauses: The data exporter engages with the data importer to process data in accordance with the parties' data processing agreement. Role: Controller
  - x. Pursuant to Annex I.A (list of parties) of the SCCs, Provider shall provide Hilton with the Data Importer party information.
  - xi. Pursuant to Annex I.C (Competent Supervisory Authority) and in accordance with Clause 13 (Supervision) of the SCCs, the Competent Supervisory Authority is the Dutch Data Protection Authority, except when the UK Addendum applies, in which case the Competent Supervisory Authority is the UK's Information Commissioner's Office.
  - xii. Pursuant to Annex III. (List of Sub-Processors) of the SCCs, Provider shall provide Hilton with the list of sub-processors, when applicable.
  - xiii. Hilton and Provider agree that by signing the Agreement they are also signing the SCCs, and if relevant, the UK Addendum, as incorporated by reference and completed in accordance with this Section 8(b).
- c. Should a court with applicable jurisdiction invalidate the use of the SCCs as a mechanism by which to transfer Personal Information, Hilton and Provider agree to promptly implement contractual language and/or technical changes to ensure that transfers of Personal Information are lawful.
  - d. Should countries other than those in the EEA, UK, and Switzerland adopt cross-border data transfer clauses similar to the SCCs, Hilton and Provider agree to execute such clauses when necessary.

## 9. DATA SAFEGUARDS

- a. Provider will adopt, implement, and maintain appropriate security procedures and practices to prevent the unauthorized access, acquisition, destruction, modification, use, or disclosure of Personal Information. Such procedures and practices will be compliant, at a minimum, with the Agreement, these Standards, and the Data Protection Requirements. All such procedures and practices will take into account the nature of the Personal Information and the commensurate risks associated with such Personal Information.
- b. Consistent with the foregoing, Provider agrees:

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- i. to adopt, implement, maintain, and monitor a written information security program that contains administrative, technical, and physical safeguards to (A) prevent the unauthorized access, acquisition, destruction, modification, use, or disclosure of Personal Information; (B) ensure the ongoing confidentiality, integrity, availability, and resilience of processing systems and Services; and (C) ensure the ability to restore the availability of and access to Personal Information in a timely manner in the event of a physical or technical incident;
- ii. to conduct periodic risk assessments to identify and assess reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of electronic, paper, and other records containing Personal Information and evaluate and improve, where necessary, the effectiveness of its safeguards for limiting those internal and external risks;
- iii. to take reasonable steps to ensure the trustworthiness of all Provider employees, agents and Subcontractors who will be provided with access to Personal Information;
- iv. to ensure that its information security program includes industry standard password, firewall, operating system, anti-virus, and Malware protections to protect Personal Information stored or otherwise handled on computer systems;
- v. to encrypt, using industry standard encryption tools, all records and files (A) containing Personal Information that Provider transmits or sends wirelessly or across public networks; and (B) containing Sensitive Personal Information that Provider: (1) stores on laptops or storage media; (2) stores on portable devices; and (3) stores on any device that is transported outside of the physical or logical access controls of Provider; and to safeguard the security, confidentiality, and integrity of all encryption keys associated with encrypted Personal Information;
- vi. to maintain an incident response program that specifies the actions to be taken by Provider when it has reason to believe that a Security Breach may have or has occurred;
- vii. to implement such additional security measures as may be required under the Data Protection Requirements or specified in the Agreement.
- viii. to comply with the PCI Standards with respect to Cardholder Data if the Provider Processes Cardholder Data in connection with the Services. Consistent with Provider's obligations as set forth in the Agreement, Provider acknowledges its responsibility for the protection and security of Cardholder Data in connection with the performance of the Services. Provider further represents and warrants that it will not take any actions that will compromise Hilton's ability to comply with the PCI Standards.
- ix. where Provider, directly, or through any of its agents or Subcontractors, connects to Hilton's computing systems and/or networks, that: (A) all Provider interconnectivity to Hilton's computing systems and/or networks and all attempts at same will only occur through Hilton's security gateways/firewalls; (B) Provider will not access, and will not permit any other person or entity to access, Hilton's computing systems and/or networks without Hilton's authorization; (C) if Hilton grants Provider permission to access its computing systems and/or networks, Provider will only access Hilton's computing systems and/or networks as authorized; and (D) Provider's systems connecting to Hilton's systems or networks, and those Provider systems which, if compromised, could affect the security, confidentiality, integrity, or availability of Hilton's computing systems or networks, will be actively protected by an industry standard Malware detection/scanning program with up-to-date anti-virus definitions, prior to and while accessing any of Hilton's computing systems and/or networks. Provider agrees that Hilton may perform periodic assessments of Provider's network. Should any assessment of Provider's network reveal inadequate security by Provider

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or its agents or Subcontractors, Hilton, in addition to other remedies it may have, may suspend Provider's, its agents' or Subcontractors' access to Hilton's computing systems and/or networks until such security issue has been resolved to the satisfaction of Hilton.

- c. Provider agrees that: (i) its employees and agents will be required, as a condition of employment or retention, to protect all Personal Information in Provider's possession or otherwise acquired by or accessible to Provider; (ii) its employees and agents who will be provided access to, or otherwise come into contact with, Personal Information, will receive appropriate training relating to the protection of Personal Information; (iii) it will maintain appropriate access controls, including, but not limited to, limiting access to Personal Information to the minimum number of Provider employees and agents who require such access for purposes of providing goods and/or services to Hilton; and (iv) it will impose appropriate disciplinary measures for violations of its information security policies and procedures.
- d. If Provider disposes of any paper or electronic record containing Personal Information, Provider will do so in an appropriate manner based on the sensitivity of the information in order to prevent unauthorized access to such information in connection with its disposal. Upon request, Provider will be required to certify to Hilton that all forms of Personal Information disposed of have been destroyed in accordance with these Standards. If Provider cannot so certify, Provider shall provide a written explanation for its inability to certify that it complied with this disposal requirement.
- e. Provider shall review and, as appropriate, revise the Data Safeguards: (i) at least annually or whenever there is a material change in Provider's business practices that may reasonably affect the security, confidentiality, or integrity of Personal Information; (ii) in accordance with prevailing industry practices; (iii) in accordance with any new, amended, or re-interpreted Data Protection Requirements, and (iv) as reasonably requested by Hilton. Provider agrees not to alter or modify its Data Safeguards in such a way that will weaken or compromise the security, confidentiality, or integrity of Personal Information.

### 10. SECURITY BREACHES

Provider agrees to notify Hilton at [ISC@Hilton.com](mailto:ISC@Hilton.com) immediately upon becoming aware of a Security Breach, including the presence of Malware, if possible. If Provider is not able to notify Hilton immediately upon becoming aware of a Security Breach, including the presence of Malware, Provider will notify Hilton within seventy-two (72) hours of becoming aware of a Security Breach. After providing such notice, Provider will (i) promptly investigate the Security Breach, including by conducting a root cause analysis, and report its findings to Hilton, (ii) provide Hilton with a remediation plan, approved by Hilton in its sole discretion, to address the Security Breach and prevent any further incidents; (iii) remediate such Security Breach in accordance with the Hilton-approved remediation plan; (iv) conduct a forensic investigation to determine what systems, data, and information were affected by the Security Breach; (v) cooperate with Hilton as Hilton executes its security incident response plan and otherwise investigates the Security Breach; (vi) abide by any requests by Hilton for Provider to cooperate with any law enforcement or regulatory officials, credit reporting companies, or credit card associations investigating such Security Breach, and (vii) keep Hilton advised of the status of such Security Breach and all matters related thereto. Provider further agrees to provide all reasonable assistance requested by Hilton and/or Hilton's designated representatives in the furtherance of any investigation, correction, and/or remediation by Hilton of any such Security Breach and shall reimburse Hilton upon Hilton's demand for all reasonable Security Breach Related Costs incurred by Hilton arising out of or in connection with any such Security Breach. If a notification to an individual is required under any Data Protection Requirement or pursuant to any Hilton privacy or security policies, then notifications to all individuals who are affected by the same event (as reasonably determined by Hilton) shall be considered legally required. Security Breach Related Costs shall include Hilton's internal and external costs associated with addressing and responding to the Security Breach, including but not limited to: (i) the preparation and mailing or other transmission of legally required notifications; (ii) the preparation and mailing or other transmission of such other communications to affected individuals, agents, or others as Hilton deems reasonably appropriate; (iii) the establishment of a call center for up to twelve (12) months or such longer period as may be required pursuant to applicable Data Protection Requirements or is reasonable under the circumstances; (iv) the establishment of communications procedures in response to such Security Breach (e.g., customer service



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FAQs, talking points, and training); (v) fees for public relations and other similar crisis management services; (vi) legal, forensics, and accounting fees and expenses associated with Hilton's investigation of and response to such Security Breach or presence of Malware; and (vii) costs for commercially reasonable credit reporting, credit watch, identity protection, identity remediation, and similar services that are associated with legally required notifications or are advisable under the circumstances for up to twelve (12) months or such longer period as may be required pursuant to applicable Data Protection Requirements or is reasonable under the circumstances. Unless otherwise required by applicable Data Protection Requirements, Hilton shall make the final decision on notifying Hilton's employees, guests, service providers, regulatory authorities and/or the general public of such Security Breach, and the implementation of the remediation plan.

### **11. COMPLAINTS; INVESTIGATIONS**

If Provider receives any complaint, notice, or communication which relates directly or indirectly to Provider's Processing of Personal Information or either Hilton's or Provider's compliance with applicable laws or regulations in connection with Personal Information, Provider will promptly notify Hilton. At Hilton's request, Provider will assist and support Hilton in the event of such a complaint or an investigation by a regulator or data protection authority or similar authority, if and to the extent that such complaint or investigation relates to Provider's Processing of Personal Information. Such assistance will be at Hilton's sole expense, except where the complaint or investigation arose from an allegation concerning or an investigation into Provider's acts or omissions, in which case such assistance will be at Provider's sole expense.

### **12. DATA SUBJECT REQUESTS RELATING TO PERSONAL INFORMATION**

Provider will immediately inform Hilton in writing upon receiving any request for access to, correction, amendment, or deletion of any Personal Information from an individual who is (or claims to be) the subject of the data ("Data Subject Requests"). Unless otherwise required by laws or regulations or provided for in the Agreement, Provider will not respond directly to these requests unless explicitly authorized by Hilton to do so, other than as necessary to confirm that the request relates to Hilton. As part of the Services, Provider shall cooperate with and provide all reasonable assistance to Hilton in responding to and implementing Data Subject Requests.

### **13. DATA PROTECTION OFFICER**

Provider has appointed a data protection officer where required pursuant to Data Protection Requirements.

### **14. OTHER ASSISTANCE TO HILTON**

In addition to, and without limitation of, Provider's other obligations under these Standards, and where applicable to the Services and the Processing, Provider shall assist and cooperate with Hilton, at Hilton's request and as part of the Services: (i) in Hilton's implementation of security measures applicable to Personal Information; (ii) in connection with any Security Breach notification required to be made to a data protection authority or to customers; (iii) in connection with any privacy impact assessment related to the Processing; and (iv) in connection with any consultation with a data protection authority conducted by Hilton in connection with the Processing.

### **15. VIOLATIONS OF THESE STANDARDS**

Provider agrees to notify Hilton immediately of any material breach or violation of these Standards. Without limiting other remedies that may be available to Hilton for violation of these Standards, Provider agrees that Hilton may, at its discretion, immediately terminate Provider's provision of goods and/or services under any or all agreements or arrangements between Provider and Hilton, without penalty, if Provider violates any requirement of these Standards. Further, subject to the limitations of liability contained in this Agreement, Provider agrees to fully indemnify Hilton for all costs, fees, claims, or actions associated with any unauthorized Processing of Personal Information within Provider's control, as well as any unauthorized access, acquisition, or use of Personal Information by agents, Subcontractors, or third parties.

### **16. RECORD, AUDITS, AND INSPECTIONS**

Provider shall maintain, at all times during the term of the Agreement, and shall provide to Hilton, upon Hilton's request and at no additional charge, complete and accurate records and reasonable supporting

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documentation regarding the Data Safeguards as well as business continuity and recovery facilities, resources, plans, and procedures, and such other records and documentation necessary to validate Provider's compliance with these Standards, including the Provider Processing Record. Upon reasonable notice to Provider, Provider will permit Hilton, its auditors, designated audit representatives, and regulators, including data protection authorities, during normal business hours, to audit and inspect: (i) Provider's facilities where Personal Information is Processed; (ii) any computerized systems used to Process Personal Information; and (iii) Provider's security practices and procedures, data protection practices and procedures, and business continuity and recovery facilities, resources, plans, and procedures. The audit and inspection rights hereunder will be, at a minimum, for the purpose of (i) verifying Provider's compliance with these Standards and the Data Protection Requirements, (ii) verifying the integrity of the Personal Information, and (iii) facilitating Hilton's compliance with Data Protection Requirements.

### **17. RETURN OF PERSONAL INFORMATION**

Upon the termination or expiration of the Agreement or Provider's provision of Services, or upon Hilton's request, Provider will, and will cause its agents and Subcontractors to, return in a manner and format reasonably requested by Hilton, or, if specifically directed by Hilton, destroy, any or all Personal Information in its possession, power, or control and delete any existing copies unless applicable Data Protection Requirements require storage of the Personal Information, and Provider will certify the same, each as described in Section 9(d) above.

### **18. SURVIVAL; THIRD PARTY BENEFICIARIES**

Provider's obligations under these Standards will survive the termination or expiration of its services or any related agreements and will continue for as long as Provider, or any of its agents or Subcontractors retain or have access to Personal Information. Provider acknowledges and agrees that each entity referenced in the definition of "Hilton" above is an intended third party beneficiary of Provider's obligations and liabilities under these Standards, including without limitation Provider's obligations with respect to Personal Information, and as such, each will have a right of its own to enforce these Standards.

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### EXHIBIT D

#### INSURANCE REQUIREMENTS

The insurance required under this Agreement shall be written for not less than the limits of coverage specified herein, or as required by law in any jurisdiction with authority over Provider's operations, services, and/or performance, whichever is greater. Coverage shall be written on an occurrence basis, except for Professional Liability Insurance. Without limiting the foregoing, Provider shall take out and maintain in full force and effect during the performance of the Services:

- (a) Workers' Compensation and Employers' Liability insurance affording compensation benefits for all employees in an amount sufficient by virtue of the laws of the state or jurisdiction in which the work or any portion of the work is performed and employers' liability insurance with limits of not less than one million dollars (\$1,000,000) for each accident or disease.
- (b) Commercial General Liability Insurance with a combined single limit of not less than one million dollars (\$1,000,000) per occurrence for personal injury, bodily injury (including wrongful death), and property damage liability inclusive of coverage for all premises and operations, broad form property damage, independent contractors, contractual liability for this Agreement and product/completed operations coverage.
- (c) Automobile Liability Insurance with a combined single limit of not less than one million dollars (\$1,000,000) per occurrence for injuries, including accidental death and property damage.
- (d) Umbrella or Excess Liability Insurance with limits not less than one million dollars (\$1,000,000) per occurrence which shall provide additional limits for employers' liability, commercial general liability and automobile liability insurance.
- (e) Professional Liability Insurance or Errors and Omissions insurance shall be maintained with limits of not less than three million dollars (\$3,000,000) and such coverage shall apply to all forms of intellectual property infringement and cyber liabilities and shall be maintained by Provider for a period of three (3) years after termination of this Agreement or all Statements of Work, whichever is later.
- (f) Crime Insurance including employee dishonesty coverage with a minimum limit of \$1,000,000 per occurrence that includes "Client Property" coverage for Customer and its employees' money and property under Provider's care, custody and control. Customer, on behalf of itself and its employees, shall be included as a joint loss payee.

Certificates (and any other appropriate documentation) evidencing such policies and indicating Customer Corporation, Eligible Recipients and any additional entities specified in an SOW as additional insureds thereunder shall be furnished to Customer and shall be written by insurance companies reasonably satisfactory to Customer, and provide that such policies may not be changed or canceled until after thirty (30) days' prior written notice to Customer. Provider hereby waives and shall cause Provider's insurers to waive their rights of subrogation against Customer, the Eligible Recipients and each of their respective Affiliates, directors, officers, and employees under such policies. The foregoing insurance coverages shall be primary to and non-contributory with respect to any other insurance or self-insurance that may be maintained by Customer and each of its Affiliates, directors, officers, and employees and shall contain a cross-liability or severability-of-interest clause where applicable. Provider shall provide insurance coverage by insurance companies having policy holder ratings no lower than "A-" and financial ratings not lower than "XII" in the Best's Insurance Guide, latest edition in effect as of the date of this Agreement. Such insurance shall be written with insurers of good standing and licensed to do business in the locations where the Services are to be performed.

The fact that Provider has obtained the insurance required in this Schedule shall in no manner lessen nor affect Provider's other obligations or liabilities set forth in this Agreement. Any self-insurance, self-retained layer, deductibles, and exclusions in coverage in the policies required under this Schedule shall be assumed by, for the account of, and at the sole risk of, Provider. In no event shall Provider's liability be limited to the extent of the minimum limits of insurance required above. Provider shall verify that all of Provider's agents and Subcontractors are insured against claims arising out of or relating to their performance related to this Agreement.

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