

## TERMS AND CONDITIONS - LINEUP NINJA

Please read these Terms and Conditions carefully. All contracts that the Provider may enter into from time to time for the provision of the Hosted Services shall be governed by these Terms and Conditions.

### 1. Definitions

1.1 Except to the extent expressly provided otherwise, in these Terms and Conditions:

**"Account"** means an account enabling a person to access and use the Hosted Services, including both administrator accounts and user accounts;

**"Affiliate"** means an entity that Controls, is Controlled by, or is under common Control with the relevant entity;

**"Agreement"** means a contract between the parties incorporating these Terms and Conditions, and any amendments to that contract from time to time;

**"Business Day"** means any weekday other than a bank or public holiday in England;

**"Business Hours"** means the hours of 09:00 to 17:00 GMT/BST on a Business Day;

**"Change"** means any change to the Agreement;

**"Charges"** means the following amounts:

- (a) the amounts specified in the Services Order Form;
- (b) such amounts as may be agreed in writing by the parties from time to time;

**"Confidential Information"** means the Provider Confidential Information and the Customer Confidential Information;

**"Control"** means the legal power to control (directly or indirectly) the management of an entity (and **"Controlled"** should be construed accordingly);

**"Customer"** means the person or entity identified as such in the Services Order Form;

**"Customer Confidential Information"** means:

- (a) any information disclosed by or on behalf of the Customer to the Provider during the Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure:
  - (i) was marked or described as "confidential"; or

- (ii) should have been reasonably understood by the Provider to be confidential;

**"Customer Data"** means all data, works and materials: uploaded to or stored on the Platform by the Customer; transmitted by the Platform at the instigation of the Customer; supplied by the Customer to the Provider for uploading to, transmission by or storage on the Platform; or generated by the Platform as a result of the use of the Hosted Services by the Customer;

**"Customer Indemnity Event"** has the meaning given to it in Clause 27.3;

**"Customer Personal Data"** means any Personal Data that is processed by the Provider on behalf of the Customer in relation to the Agreement, but excluding Personal Data with respect to which the Provider is a data controller;

**"Customer Systems"** means the hardware and software systems of the Customer that interact with, or may reasonably be expected to interact with, the Hosted Services;

**"Data Protection Laws"** means all applicable laws relating to the processing of Personal Data including, while it is in force and applicable to Customer Personal Data, the General Data Protection Regulation (Regulation (EU) 2016/679);

**"Documentation"** means the documentation for the Hosted Services produced by the Provider and delivered or made available by the Provider to the Customer;

**"Effective Date"** means, following the Customer completing and submitting the online Services Order Form published by the Provider on the Provider's website, the date upon which the Provider sends to the Customer an order confirmation;

**"Force Majeure Event"** means an event, or a series of related events, that is outside the reasonable control of the party affected (including failures of the internet or any public telecommunications network, hacker attacks, denial of service attacks, virus or other malicious software attacks or infections, power failures, industrial disputes affecting any third party, changes to the law, disasters, explosions, fires, floods, riots, terrorist attacks and wars);

**"Hosted Services"** means the Lineup Ninja application, as specified in the Hosted Services Specification, which will be made available by the Provider to the Customer as a service via the internet in accordance with these Terms and Conditions;

**"Hosted Services Defect"** means a defect, error or bug in the Platform having an adverse effect on the appearance, operation, functionality or performance of the Hosted Services, but excluding any defect, error or bug caused by or arising as a result of:

- (a) any act or omission of the Customer or any person authorised by the Customer to use the Platform or Hosted Services;

- (b) any use of the Platform or Hosted Services contrary to the Documentation, whether by the Customer or by any person authorised by the Customer;
- (c) a failure of the Customer to perform or observe any of its obligations in the Agreement; and/or
- (d) an incompatibility between the Platform or Hosted Services and any other system, network, application, program, hardware or software not specified as compatible in the Hosted Services Specification;

**"Hosted Services Specification"** means the specification for the Platform and Hosted Services set out in the Services Order Form and in the Documentation;

**"Intellectual Property Rights"** means all intellectual property rights wherever in the world, whether registrable or unregistrable, registered or unregistered, including any application or right of application for such rights (and these "intellectual property rights" include copyright and related rights, database rights, confidential information, trade secrets, know-how, business names, trade names, trademarks, service marks, passing off rights, unfair competition rights, patents, petty patents, utility models, semi-conductor topography rights and rights in designs);

**"Maintenance Services"** means the general maintenance of the Platform and Hosted Services, and the application of Updates and Upgrades;

**"Minimum Term"** means, in respect of the Agreement, the period set out in the Services Order Form;

**"Personal Data"** has the meaning given to it in the General Data Protection Regulation (Regulation (EU) 2016/679);

**"Platform"** means the platform managed by the Provider and used by the Provider to provide the Hosted Services;

**"Provider"** means Lineup Ninja Ltd, a company incorporated in England and Wales (registration number 10733922) having its registered office at Suite 3b Kings House, 1 King Street, Leeds, England, LS1 2HH;

**"Provider Confidential Information"** means:

- (a) any information disclosed by or on behalf of the Provider to the Customer during the Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure was marked or described as "confidential" or should have been understood by the Customer (acting reasonably) to be confidential;

**"Provider Indemnity Event"** has the meaning given to it in Clause 27.1;

**"Services"** means any services that the Provider provides to the Customer, or has an obligation to provide to the Customer, under these Terms and Conditions;

**"Services Order Form"** means an online order form published by the Provider and completed and submitted by the Customer, incorporating these Terms and Conditions by reference;

**"Support Services"** means support in relation to the use of, and the identification and resolution of errors in, the Hosted Services, but shall not include the provision of training services;

**"Supported Web Browser"** means the current release from time to time of Microsoft Edge, Mozilla Firefox, Google Chrome or Apple Safari;

**"Term"** means the term of the Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2;

**"Terms and Conditions"** means all the documentation containing the provisions of the Agreement, namely the Services Order Form, the main body of these Terms and Conditions and the Schedules, including any amendments to that documentation from time to time;

**"Third Party Services"** means any hosted or cloud services provided by any third party that may transmit data to and/or from the Hosted Services;

**"Update"** means a hotfix, patch or minor version update to any Platform software; and

**"Upgrade"** means a major version upgrade of any Platform software.

## **2. Term**

- 2.1 The Agreement shall come into force upon the Effective Date.
- 2.2 The Agreement shall continue in force indefinitely, subject to termination in accordance with Clause 30.
- 2.3 Unless the parties expressly agree otherwise in writing, each Services Order Form shall create a distinct contract under these Terms and Conditions.

## **5. Hosted Services**

- 5.1 The Provider shall ensure that the Platform will, on or by the Effective Date, automatically generate an Account for the Customer and provide to the Customer login details for that Account.
- 5.2 The Provider hereby grants to the Customer a worldwide, non-exclusive licence to use the Hosted Services by means of a Supported Web Browser for the internal business purposes of the Customer in accordance with the Documentation during the Term.
- 5.3 The licence granted by the Provider to the Customer under Clause 5.2 is subject to the following limitations:

- (a) the Hosted Services may only be used by the officers, employees, agents and subcontractors of either the Customer or an Affiliate of the Customer;
  - (b) the Hosted Services must not be used at any point in time by more than the number of concurrent users specified in the Services Order Form, providing that the Customer may add or remove concurrent user licenses in accordance with the procedure set out in the Documentation.
- 5.4 Except to the extent expressly permitted in these Terms and Conditions or required by law on a non-excludable basis, the licence granted by the Provider to the Customer under Clause 5.2 is subject to the following prohibitions:
- (a) the Customer must not sub-license its right to access and use the Hosted Services;
  - (b) the Customer must not permit any unauthorised person to access or use the Hosted Services;
  - (c) the Customer must not republish or redistribute any content or material from the Hosted Services, other than their Customer Data; and
  - (d) the Customer must not make any alteration to the Platform.
- 5.5 The Customer shall use reasonable endeavours, including reasonable security measures relating to Account access details, to ensure that no unauthorised person may gain access to the Hosted Services using an Account.
- 5.6 The Provider shall use reasonable endeavours to maintain the availability of the Hosted Services.
- 5.7 The Customer must comply with Schedule 1 (Acceptable Use Policy), and must ensure that all persons using the Hosted Services with the authority of the Customer or by means of an Account comply with Schedule 1 (Acceptable Use Policy).
- 5.8 The Customer must not use the Hosted Services in any way that causes, or may cause, damage to the Hosted Services or Platform or impairment of the availability or accessibility of the Hosted Services.
- 5.9 The Customer must not use the Hosted Services:
- (a) in any way that is unlawful, illegal, fraudulent or harmful; or
  - (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.
- 5.10 For the avoidance of doubt, the Customer has no right to access the software code (including object code, intermediate code and source code) of the Platform, either during or after the Term.

## **6. Customisations**

- 6.1 The Provider and the Customer may agree that the Provider shall design, develop and implement a Customisation or Customisations in accordance with a specification and project plan agreed in writing by the parties.
- 6.2 All Intellectual Property Rights in the Customisations shall, as between the parties, be the exclusive property of the Provider (unless the parties agree otherwise in writing).
- 6.3 From the time and date when a Customisation is first delivered or made available by the Provider to the Customer, the Customisation shall form part of the Platform, and accordingly from that time and date the Customer's rights to use the Customisation shall be governed by Clause 5.
- 6.4 The Customer acknowledges that the Provider may make any Customisation available to any of its other customers or any other third party at any time after making the Customisation available to the Customer.

## **7. Maintenance Services**

- 7.1 The Provider shall provide the Maintenance Services to the Customer during the Term.
- 7.2 The Provider shall provide the Maintenance Services with reasonable skill and care.
- 7.4 The Provider may suspend the provision of the Maintenance Services if any amount due to be paid by the Customer to the Provider under the Agreement is overdue.

## **8. Support Services**

- 8.1 The Provider shall provide the Support Services to the Customer during the Term.
- 8.2 The Provider shall provide the Support Services with reasonable skill and care.
- 8.3 The Provider shall provide the Support Services as set out in the Services Order Form
- 8.4 The Provider may suspend the provision of the Support Services if any amount due to be paid by the Customer to the Provider under the Agreement is overdue.

## **10. Customer Systems**

- 10.1 The Customer shall ensure that the Customer Systems comply, and continue to comply during the Term, with the requirements of the Services Order Form, subject to any changes agreed in writing by the Provider.

## **11. Customer Data**

- 11.1 The Customer hereby grants to the Provider a non-exclusive licence to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Customer Data to the extent reasonably required for the performance of the Provider's obligations and the exercise of the Provider's rights under the Agreement. The Customer also grants to the Provider the right to sub-license these rights to its hosting, connectivity and telecommunications service providers to the extent reasonably required for the performance of the Provider's obligations and the exercise of the Provider's rights under the Agreement, subject always to any express restrictions elsewhere in the Agreement.
- 11.2 The Customer warrants to the Provider that the Customer Data will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law and The Customer shall indemnify and shall keep indemnified the Provider against any and all liabilities, damages, losses, costs and expenses (including legal expenses and amounts reasonably paid in settlement of legal claims) suffered or incurred by the Provider and arising directly or indirectly as a result of any such infringement.

## **12. Integrations with Third Party Services**

- 12.1 The Provider may integrate any Third Party Services with the Hosted Services at any time.
- 12.2 The Provider may remove, suspend or limit any Third Party Services integration at any time in its sole discretion.
- 12.3 The supply of Third Party Services shall be under a separate contract or arrangement between the Customer and the relevant third party. The Provider does not contract to supply the Third Party Services and is not a party to any contract for, or otherwise responsible in respect of, the provision of any Third Party Services. Fees may be payable by the Customer to the relevant third party in respect of the use of Third Party Services.
- 12.4 The Customer acknowledges that:
  - (a) the integration of Third Party Services may entail the transfer of Customer Data from the Hosted Services to the relevant Third Party Services; and
  - (b) the Provider has no control over, or responsibility in respect of, any disclosure, modification, deletion or other use of Customer Data resulting from any integration with any Third Party Services.
- 12.5 Without prejudice to its other obligations under this Clause 12, the Customer must ensure that it has in place the necessary contractual safeguards to ensure that both:
  - (a) the transfer of relevant Customer Personal Data to a provider of Third Party Services is lawful; and

(b) the use of relevant Customer Personal Data by a provider of Third Party Services is lawful.

12.7 The Customer hereby consents to the transfer of the Customer Data to the Third Party Services.

12.8 The use of some features of the Hosted Services may depend upon the Customer enabling and agreeing to integrations between the Hosted Services and Third Party Services.

12.9 The Customer warrants to the Provider that the transfer of Customer Data by the Provider to a provider of Third Party Services in accordance with this Clause 12 will not infringe any person's legal or contractual rights and will not put the Provider in breach of any applicable laws.

12.10 Additional Charges may be payable by the Customer to the Provider in respect of a Third Party Services integration.

12.11 Save to the extent that the parties expressly agree otherwise in writing and subject to Clause 28.1:

(a) the Provider gives no warranties or representations in respect of any Third Party Services; and

(b) the Provider shall not be liable to the Customer in respect of any loss or damage that may be caused by any Third Party Services or any provider of Third Party Services.

#### **14. No assignment of Intellectual Property Rights**

14.1 Nothing in these Terms and Conditions shall operate to assign or transfer any Intellectual Property Rights from the Provider to the Customer, or from the Customer to the Provider.

#### **18. Charges**

18.1 The Customer shall pay the Charges to the Provider in accordance with these Terms and Conditions.

18.4 The Provider may elect to vary any element of the Charges by giving to the Customer not less than 30 days' written notice of the variation.

#### **21. Payments**

21.1 The Provider shall issue invoices for the Charges to the Customer from time to time during the Term.

21.2 The Customer must pay the Charges to the Provider within the period of 30 days following the issue of an invoice in accordance with this Clause 21.

21.3 The Customer must pay the Charges by debit card, credit card or bank transfer (using such payment details as are notified by the Provider to the Customer from time to time).



- 21.4 If the Customer does not pay any amount properly due to the Provider under these Terms and Conditions, the Provider may:
- (a) charge the Customer interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time (which interest will accrue daily until the date of actual payment and be compounded at the end of each calendar month); or
  - (b) claim interest and statutory compensation from the Customer pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.
- 21.5 If the payment from the Customer due to the Provider under these Terms and Conditions remains unpaid more than 30 days after the Invoice Due Date the Provider may suspend access to the Hosted Services until payment is received. No refund will be provided for the period of suspended service.

## **22. Confidentiality obligations**

22.1 The Provider must:

- (a) keep the Customer Confidential Information strictly confidential;
- (b) not disclose the Customer Confidential Information to any person without the Customer's prior written consent;
- (c) use the same degree of care to protect the confidentiality of the Customer Confidential Information as the Provider uses to protect the Provider's own confidential information of a similar nature, being at least a reasonable degree of care;
- (d) act in good faith at all times in relation to the Customer Confidential Information;

22.2 The Customer must:

- (a) keep the Provider Confidential Information strictly confidential;
- (b) not disclose the Provider Confidential Information to any person without the Provider's prior written consent;
- (c) use the same degree of care to protect the confidentiality of the Provider Confidential Information as the Customer uses to protect the Customer's own confidential information of a similar nature, being at least a reasonable degree of care;
- (d) act in good faith at all times in relation to the Provider Confidential Information;

22.3 Notwithstanding Clauses 22.1 and 22.2, a party's Confidential Information may be disclosed by the other party to that other party's officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Confidential Information that is disclosed for the performance of their work with respect to the Agreement and who are bound by a written

agreement or professional obligation to protect the confidentiality of the Confidential Information that is disclosed.

- 22.4 No obligations are imposed by this Clause 22 with respect to a party's Confidential Information if that Confidential Information:
- (a) is known to the other party before disclosure under these Terms and Conditions and is not subject to any other obligation of confidentiality;
  - (b) is or becomes publicly known through no act or default of the other party; or
  - (c) is obtained by the other party from a third party in circumstances where the other party has no reason to believe that there has been a breach of an obligation of confidentiality.
- 22.5 The restrictions in this Clause 22 do not apply to the extent that any Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of either party on any recognised stock exchange.
- 22.6 Upon the termination of the Agreement, each party must immediately cease to use the other party's Confidential Information.
- 22.8 The provisions of this Clause 22 shall continue in force indefinitely following the termination of the Agreement.

## **24. Data protection**

- 24.1 Each party shall comply with the Data Protection Laws with respect to the processing of the Customer Personal Data.
- 24.2 The Customer warrants to the Provider that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with the Agreement.
- 24.3 The Customer shall only supply to the Provider, and the Provider shall only process, in each case under or in relation to the Agreement, the Personal Data of data subjects falling within the categories specified in Part 1 of Schedule 6 (Data processing information) and of the types specified in Part 2 of Schedule 6 (Data processing information); and the Provider shall only process the Customer Personal Data for the purposes specified in Part 3 of Schedule 6 (Data processing information).
- 24.4 The Provider shall only process the Customer Personal Data during the Term and for not more than 90 days following the end of the Term, subject to the other provisions of this Clause 24.
- 24.5 The Provider shall only process the Customer Personal Data on the documented instructions of the Customer (including with regard to transfers of the Customer Personal Data to any place outside the European Economic

Area), as set out in these Terms and Conditions or any other document agreed by the parties in writing.

- 24.6 Notwithstanding any other provision of these Terms and Conditions, the Provider may process the Customer Personal Data if and to the extent that the Provider is required to do so by applicable law. In such a case, the Provider shall inform the Customer of the legal requirement before processing, unless that law prohibits such information on important grounds of public interest.
- 24.7 The Provider shall ensure that persons authorised to process the Customer Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 24.8 The Provider and the Customer shall each implement appropriate technical and organisational measures to ensure an appropriate level of security for the Customer Personal Data.
- 24.9 The Provider must not engage any third party to process the Customer Personal Data without the prior specific or general written authorisation of the Customer. The Provider is hereby authorised by the Customer, as at the Effective Date, to engage those third parties identified in, or falling within the processor categories specified in, Part 5 of Schedule 6 (Data processing information) to process the Customer Personal Data. In the case of a general written authorisation, the Provider shall inform the Customer at least 14 days in advance of any intended changes concerning the addition or replacement of any third party processor, and if the Customer objects to any such changes before their implementation, then the Customer may terminate the Agreement on 7 days' written notice to the Provider, providing that such notice must be given within the period of 7 days following the date that the Provider informed the Customer of the intended changes. The Provider shall ensure that each third party processor is subject to equivalent legal obligations as those imposed on the Provider by this Clause 24.
- 24.10 The Provider shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist the Customer with the fulfilment of the Customer's obligation to respond to requests exercising a data subject's rights under the Data Protection Laws.
- 24.11 The Provider shall assist the Customer in ensuring compliance with the obligations relating to the security of processing of personal data, the notification of personal data breaches to the supervisory authority, the communication of personal data breaches to the data subject, data protection impact assessments and prior consultation in relation to high-risk processing under the Data Protection Laws.
- 24.12 The Provider shall make available to the Customer all information necessary to demonstrate the compliance of the Provider with its obligations under this Clause 24 and the Data Protection Laws.
- 24.13 The Provider shall, at the choice of the Customer, delete or return all of the Customer Personal Data to the Customer after the provision of services

relating to the processing, and shall delete existing copies save to the extent that applicable law requires storage of the relevant Personal Data.

24.14 The Provider shall allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer in respect of the compliance of the Provider's processing of Customer Personal Data with the Data Protection Laws and this Clause 24. The Provider may charge the Customer for any work performed by the Provider at the request of the Customer pursuant to this Clause 24.14, except where such works are necessary to ensure the Provider's compliance with data protection legislation.

24.15 If any changes or prospective changes to the Data Protection Laws result or will result in one or both parties not complying with the Data Protection Laws in relation to processing of Personal Data carried out under these Terms and Conditions, then the parties shall use their best endeavours promptly to agree such variations to these Terms and Conditions as may be necessary to remedy such non-compliance.

## **26. Acknowledgements and warranty limitations**

26.1 The Customer acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of these Terms and Conditions, the Provider gives no warranty or representation that the Hosted Services will be wholly free from defects, errors and bugs.

26.2 The Customer acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of these Terms and Conditions, the Provider gives no warranty or representation that the Hosted Services will be entirely secure. The provider warrants that appropriate technical controls are in place in line with industry standards to protect systems against security vulnerabilities.

26.3 The Customer acknowledges that the Hosted Services are designed to be compatible only with that software and those systems specified as compatible in the Hosted Services Specification; and the Provider does not warrant or represent that the Hosted Services will be compatible with any other software or systems.

26.4 The Customer acknowledges that the Provider will not provide any legal, financial, accountancy, taxation or any other professional advice under these Terms and Conditions or in relation to the Hosted Services; and, except to the extent expressly provided otherwise in these Terms and Conditions, the Provider does not warrant or represent that the Hosted Services or the use of the Hosted Services by the Customer will not give rise to any legal liability on the part of the Customer or any other person.

## **28. Limitations and exclusions of liability**

28.1 Nothing in these Terms and Conditions will:

- (a) limit or exclude any liability for death or personal injury resulting from negligence;

- (b) limit or exclude any liability for fraud or fraudulent misrepresentation;
- (c) limit any liabilities in any way that is not permitted under applicable law; or
- (d) exclude any liabilities that may not be excluded under applicable law.

28.2 The limitations and exclusions of liability set out in this Clause 28 and elsewhere in these Terms and Conditions:

- (a) are subject to Clause 28.1; and
- (b) govern all liabilities arising under these Terms and Conditions or relating to the subject matter of these Terms and Conditions, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in these Terms and Conditions.

28.3 Neither party shall be liable to the other party in respect of any losses arising out of a Force Majeure Event.

28.4 Neither party shall be liable to the other party in respect of any loss of profits or anticipated savings.

28.5 Neither party shall be liable to the other party in respect of any loss of revenue or income.

28.6 Neither party shall be liable to the other party in respect of any loss of use or production.

28.7 Neither party shall be liable to the other party in respect of any loss of business, contracts or opportunities.

28.8 Neither party shall be liable to the other party in respect of any loss or corruption of any data, database or software;

28.9 Neither party shall be liable to the other party in respect of any special, indirect or consequential loss or damage.

28.10 The liability of each party to the other party under the Agreement in respect of any event or series of related events shall not exceed the total amount paid and payable by the Customer to the Provider under the Agreement in the 12 month period preceding the commencement of the event or events.

28.11 The aggregate liability of each party to the other party under the Agreement shall not exceed the total amount paid and payable by the Customer to the Provider under the Agreement.

## **29. Force Majeure Event**

29.1 If a Force Majeure Event gives rise to a failure or delay in either party performing any obligation under the Agreement (other than any obligation to make a payment), that obligation will be suspended for the duration of the Force Majeure Event.

29.3 A party whose performance of its obligations under the Agreement is affected by a Force Majeure Event must take reasonable steps to mitigate the effects of the Force Majeure Event.

### **30. Termination**

30.1 Either party may terminate the Agreement by giving to the other party not less than 30 days' written notice of termination after the end of the Minimum Term.

30.2 Either party may terminate the Agreement immediately by giving written notice of termination to the other party if:

- (a) the other party commits any breach of the Agreement, and the breach is not remediable;
- (b) the other party commits a breach of the Agreement, and the breach is remediable but the other party fails to remedy the breach within the period of 30 days following the giving of a written notice to the other party requiring the breach to be remedied;

30.3 Either party may terminate the Agreement immediately by giving written notice of termination to the other party if:

- (a) the other party:
  - (i) is dissolved;
  - (ii) ceases to conduct all (or substantially all) of its business;
  - (iii) is or becomes unable to pay its debts as they fall due;
  - (iv) is or becomes insolvent or is declared insolvent; or
  - (v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
- (b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
- (c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement)

30.4 The Provider may terminate the Agreement immediately by giving written notice to the Customer if:

- (a) any amount due to be paid by the Customer to the Provider under the Agreement is unpaid by the due date and remains unpaid upon the date that that written notice of termination is given; and

- (b) the Provider has given to the Customer at least 30 days' written notice, following the failure to pay, of its intention to terminate the Agreement in accordance with this Clause 30.4.

### **31. Effects of termination**

- 31.1 Upon the termination of the Agreement, all of the provisions of these Terms and Conditions shall cease to have effect, save that the following provisions of these Terms and Conditions shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 5.10, 12.11, 21.2, 21.4, 22, 24.1, 24.3, 24.4, 24.5, 24.6, 24.7, 24.8, 24.9, 24.10, 24.11, 24.12, 24.13, 24.14, 24.15, 28, 31, 35, 36, 37, 38, 39, 40, 41 and 42.
- 31.2 Except to the extent that these Terms and Conditions expressly provides otherwise, the termination of the Agreement shall not affect the accrued rights of either party.
- 31.3 Within 30 days following the termination of the Agreement for any reason:
  - (a) the Customer must pay to the Provider any Charges in respect of Services provided to the Customer before the termination of the Agreement; and
  - (b) the Provider may, at its discretion, refund to the Customer any Charges paid by the Customer to the Provider in respect of Services that were to be provided to the Customer after the termination of the Agreement, without prejudice to the parties' other legal rights.

### **33. Notices**

- 33.1 Any notice given under these Terms and Conditions must be in writing, whether or not described as "written notice" in these Terms and Conditions.
- 33.2 Any notice given by the Customer to the Provider under these Terms and Conditions must be:
  - (a) sent by email using the relevant contact details set out in the Services Order Form; or
  - (b) submitted using the Provider's online contractual notification facility.
- 33.3 Any notice given by the Provider to the Customer under these Terms and Conditions must be sent by email using the relevant contact details set out in the Services Order Form.
- 33.4 The addressee and contact details set out in the Services Order Form may be updated from time to time by a party giving written notice of the update to the other party in accordance with this Clause 33.
- 33.5 A party receiving from the other party a notice by email must acknowledge receipt by email promptly, and in any event within 5 Business Days following receipt of the notice.

33.6 A notice will be deemed to have been received at the relevant time set out below or, where such time is not within Business Hours, when Business Hours next begin after the relevant time set out below:

- (e) in the case of notices sent by email, at the time of the sending of an acknowledgement of receipt by the receiving party; and
- (f) in the case of notices submitted using an online contractual notification facility, upon the submission of the notice form.

#### **34. Subcontracting**

- 34.1 Subject to any express restrictions elsewhere in these Terms and Conditions, the Provider may subcontract any of its obligations under the Agreement.
- 34.2 The Provider shall remain responsible to the Customer for the performance of any subcontracted obligations.
- 34.3 Notwithstanding the provisions of this Clause 34 but subject to any other provision of these Terms and Conditions, the Customer acknowledges and agrees that the Provider may subcontract to any reputable third party hosting business the hosting of the Platform and the provision of services in relation to the support and maintenance of elements of the Platform.

#### **35. Assignment**

- 35.1 The Customer hereby agrees that the Provider may assign, transfer or otherwise deal with the Provider's contractual rights and obligations under these Terms and Conditions.
- 35.2 The Customer must not assign, transfer or otherwise deal with the Customer's contractual rights and/or obligations under these Terms and Conditions without the prior written consent of the Provider.

#### **36. No waivers**

- 36.1 No breach of any provision of the Agreement will be waived except with the express written consent of the party not in breach.
- 36.2 No waiver of any breach of any provision of the Agreement shall be construed as a further or continuing waiver of any other breach of that provision or any breach of any other provision of the Agreement.

#### **37. Severability**

- 37.1 If a provision of these Terms and Conditions is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions will continue in effect.
- 37.2 If any unlawful and/or unenforceable provision of these Terms and Conditions would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect.

#### **38. Third party rights**



38.1 The Agreement is for the benefit of the parties, and is not intended to benefit or be enforceable by any third party.

38.2 The exercise of the parties' rights under the Agreement is not subject to the consent of any third party.

### **39. Variation**

39.1 The Agreement may not be varied except by means of a written document signed by or on behalf of each party.

### **40. Entire agreement**

40.1 The Services Order Form, the main body of these Terms and Conditions and the Schedules shall constitute the entire agreement between the parties in relation to the subject matter of the Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

40.2 Neither party will have any remedy in respect of any misrepresentation (whether written or oral) made to it upon which it relied in entering into the Agreement.

40.3 The provisions of this Clause 40 are subject to Clause 28.1.

### **41. Law and jurisdiction**

41.1 These Terms and Conditions shall be governed by and construed in accordance with English law.

41.2 Any disputes relating to the Agreement shall be subject to the non-exclusive jurisdiction of the courts of England.

### **42. Interpretation**

42.1 In these Terms and Conditions, a reference to a statute or statutory provision includes a reference to:

(a) that statute or statutory provision as modified, consolidated and/or re-enacted from time to time; and

(b) any subordinate legislation made under that statute or statutory provision.

42.2 The Clause headings do not affect the interpretation of these Terms and Conditions.

42.3 References in these Terms and Conditions to "calendar months" are to the 12 named periods (January, February and so on) into which a year is divided.

42.4 In these Terms and Conditions, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

## **SCHEDULE 1 (ACCEPTABLE USE POLICY)**

### **1. Introduction**

- 1.1 This acceptable use policy (the "**Policy**") sets out the rules governing:
  - (a) the use of the website at <https://lineup.ninja>, any successor website, and the services available on that website or any successor website (the "**Services**"); and
  - (b) the transmission, storage and processing of content by you, or by any person on your behalf, using the Services ("**Content**").
- 1.2 References in this Policy to "you" are to any customer for the Services and any individual user of the Services (and "your" should be construed accordingly); and references in this Policy to "us" are to Lineup Ninja Ltd. (and "we" and "our" should be construed accordingly).
- 1.3 By using the Services, you agree to the rules set out in this Policy.
- 1.4 We will ask for your express agreement to the terms of this Policy before you upload or submit any Content or otherwise use the Services.
- 1.5 You must be at least 18 years of age to use the Services; and by using the Services, you warrant and represent to us that you are at least 18 years of age.

### **2. General usage rules**

- 2.1 You must not use the Services in any way that causes, or may cause, damage to the Services or impairment of the availability or accessibility of the Services.
- 2.2 You must not use the Services:
  - (a) in any way that is unlawful, illegal, fraudulent or harmful; or
  - (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.
  - (c) in connection with activities that promote hate, prejudice or oppression.
  - (d) in connection with activities that may knowingly result in severe environmental damage.
- 2.3 You must ensure that all Content complies with the provisions of this Policy.

### **3. Unlawful Content**

- 3.1 Content must not be illegal or unlawful, must not infringe any person's legal rights, and must not be capable of giving rise to legal action against any person (in each case in any jurisdiction and under any applicable law).
- 3.2 Content, and the use of Content by us in any manner licensed or otherwise authorised by you, must not:

- (a) be libellous or maliciously false;
- (b) be obscene or indecent;
- (c) infringe any copyright, moral right, database right, trade mark right, design right, right in passing off, or other intellectual property right;
- (d) infringe any right of confidence, right of privacy or right under data protection legislation;
- (e) constitute negligent advice or contain any negligent statement;
- (f) constitute an incitement to commit a crime, instructions for the commission of a crime or the promotion of criminal activity;
- (g) be in contempt of any court, or in breach of any court order;
- (h) constitute a breach of racial or religious hatred or discrimination legislation;
- (i) be blasphemous;
- (j) constitute a breach of official secrets legislation; or
- (k) constitute a breach of any contractual obligation owed to any person.

3.3 You must ensure that Content is not and has never been the subject of any threatened or actual legal proceedings or other similar complaint.

#### **4. Graphic material**

- 4.1 Content must be appropriate for all persons who have access to or are likely to access the Content in question, and in particular for children.
- 4.2 Content must not depict violence in an explicit, graphic or gratuitous manner.
- 4.3 Content must not be pornographic.

#### **5. Factual accuracy**

- 5.1 Content must not be untrue, false, inaccurate or misleading.
- 5.2 Statements of fact contained in Content and relating to persons (legal or natural) must be true; and statements of opinion contained in Content and relating to persons (legal or natural) must be reasonable, be honestly held and indicate the basis of the opinion.

#### **6. Negligent advice**

- 6.1 Content must not consist of or contain any legal, financial, investment, taxation, accountancy, medical or other professional advice, and you must not use the Services to provide any legal, financial, investment, taxation, accountancy, medical or other professional advisory services.

- 6.2 Content must not consist of or contain any advice, instructions or other information that may be acted upon and could, if acted upon, cause death, illness or personal injury, damage to property, or any other loss or damage.

## **7. Etiquette**

- 7.1 Content must be appropriate, civil and tasteful, and accord with generally accepted standards of etiquette and behaviour on the internet.
- 7.2 Content must not be offensive, deceptive, threatening, abusive, harassing, menacing, hateful, discriminatory or inflammatory.
- 7.3 Content must not be liable to cause annoyance, inconvenience or needless anxiety.
- 7.4 You must not use the Services to send any hostile communication or any communication intended to insult, including such communications directed at a particular person or group of people.
- 7.5 You must not use the Services for the purpose of deliberately upsetting or offending others.
- 7.6 You must not unnecessarily flood the Services with material relating to a particular subject or subject area, whether alone or in conjunction with others.
- 7.7 You must ensure that Content does not duplicate other content available through the Services.
- 7.8 You must ensure that Content is appropriately categorised.
- 7.9 You should use appropriate and informative titles for all Content.
- 7.10 You must at all times be courteous and polite to other users of the Services.

## **8. Marketing and spam**

- 8.1 You must not use the Services for any purpose relating to the marketing, advertising, promotion, sale or supply of any product, service or commercial offering with the exception of the event that is being managed via the Services and related offerings, or products, services or commercial offerings by sponsors of that event.
- 8.2 Content must not constitute or contain spam, and you must not use the Services to store or transmit spam - which for these purposes shall include all unlawful marketing communications and unsolicited commercial communications.
- 8.3 You must not send any spam or other marketing communications to any person using any email address or other contact details made available through the Services or that you find using the Services.

- 8.4 You must not use the Services to promote or operate any chain letters, Ponzi schemes, pyramid schemes, matrix programs, "get rich quick" schemes or similar letters, schemes or programs.

## **10. Monitoring**

- 10.1 You acknowledge that we may actively monitor the Content and the use of the Services.

## **11. Data mining**

- 11.1 You must not conduct any systematic or automated data scraping, data mining, data extraction or data harvesting, or other systematic or automated data collection activity, by means of or in relation to the Services.

## **12. Hyperlinks**

- 12.1 You must not link to any material using or by means of the Services that would, if it were made available through the Services, breach the provisions of this Policy.

## **13. Harmful software**

- 13.1 The Content must not contain or consist of, and you must not promote or distribute by means of the Services, any viruses, worms, spyware, adware or other harmful or malicious software, programs, routines, applications or technologies.
- 13.2 The Content must not contain or consist of, and you must not promote or distribute by means of the Services, any software, programs, routines, applications or technologies that will or may have a material negative effect upon the performance of a computer or introduce material security risks to a computer.

## **SCHEDULE 6 (DATA PROCESSING INFORMATION)**

### **1. Categories of data subject**

All identified and identifiable natural persons.

### **2. Types of Personal Data**

Name, identification number, location data, online identifier, cultural factor, social identity factor, physical factor, physiological factor, genetic factor, mental factor, economic factor, browser, operating system, IP address,

### **3. Purposes of processing**

For the delivery, maintenance and support of the Hosted Services as defined in the Services Order Form

### **5. Sub-processors of Personal Data**

Network & hosted system services suppliers, payment processors, accountancy providers, data analytics providers, service monitoring and support desk providers, customer relationship management providers.