

The Partner's use of the Services and/or Software shall be subject at all times to these Conditions together with the Order Form, any applicable Addendum and any other terms and conditions incorporated by reference.

The Partner should read these Conditions carefully before signing the Order Form. The Partner should pay particular attention to Conditions 6, 7, 10, 11, 12 and 14. Where there is a conflict between any terms of the order form and the Conditions, the Order Form shall take precedence (unless the contrary intention appears).

1. INTERPRETATION

1.1 The following definitions and rules of interpretation (unless context requires otherwise) shall apply to the Agreement.

"Addendum" any terms varying or adding to the Conditions or otherwise agreed in writing, including the applicable terms incorporated into these Conditions.

"Agreement" the agreement made pursuant to these Conditions (consisting of the Order Form, these Conditions and any Addendum) between GOLF and the Partner.

"BRS GOLF" means BRS Golf Limited (NI606497), whose office is at City Quays 1, 7 Clarendon Road, Northern Ireland, BT1 3BG, United Kingdom.

"Conditions" these terms and conditions.

"Commission Fees" (where applicable) as defined in the Order Form, meaning the fees payable to BRS GOLF for the supply of the Software and/or Services.

"Data Protection Legislation" all laws relating to the processing of personal data, privacy and security, including, without limitation, the UK Data Protection Act 1998, the UK GDPR, the EU General Data Protection Regulation 2016/679, the EU Privacy and Electronic Communications Directive 2002/58/EC, as implemented in each jurisdiction, and all amendments, or all other applicable or replacement international, regional, federal or national data protection laws.

"Personal Data" means any information that relates to an individual person and that, alone or in combination with other data, can be used to identify, contact, or precisely locate an individual person, or other information that constitutes "personal data" under applicable Data Protection Law.

Terms such as "data controller", "data processor", and "personal data breach" shall have the meanings (or reasonable equivalents) ascribed to them in the applicable Data Protection Legislation.

"Platform(s)" the website(s), apps, tools, or channels to which GOLFNOW operate that enables participating Partners to make their Golf Course(s)'s tee times available for reservation to Golfers on the Platforms, and GOLFNOW advertises such tee times (and where applicable Trade Times) to Golfers.

"Effective Date" the date the Agreement comes into effect as defined in Condition 3.2.

"Go Live Date" the date that the Services and/or Access to the Software commences. "GOLFNOW" means GolfNow, LLC, an Arizona Limited Liability Company, whose office is at 7580 Golf Channel Drive, Orlando FL 32819, United States.

"GOLF" means GOLFNOW and/or BRS GOLF collectively or individually as the context requires otherwise.

"Golfer" means (as the context requires otherwise) a visitor of the Platforms or a customer (visitor or member) of the Partner's Golf Course.

"Golf Affiliate" as defined in Condition 16.

"Golf Course" the specific golf courses that are operated by the Partner and to which the Services and/or Software will be delivered.

"Hardware" any hardware that GOLF supplies to the Partner for the provision of receiving or accessing the Services and/or Software.

"Order Form" the Partner's order for Services and/or Software.

"Partner" the company or other type of organisation, listed as "Partner" in the Order Form or the owner of the Golf Course(s) requesting the Software and/or Services.

"Services" any services agreed to be supplied by GOLF to the Partner in the Agreement and includes (where applicable) any Hardware as set out in the Order Form.

"Software" the software to be supplied by GOLF as set out in the Order Form.

"Total Payment" the Total Payment for the Services and Software as set out in the Order Form or as otherwise stated.

"Tee Time Distribution Services" the services that enable participating Partners to make their golf course(s)'s tee times available for reservation to Golfers, as set out in the Tee Time Distribution Terms.

"Trade Times" (where applicable) as defined in the Order Form and set out in Condition 7.

1.2 Any words following the terms "including", "include", "in particular", "for example" or any similar expression shall, be deemed to be followed by the words "without limitation", shall be construed as illustrative, and shall not limit the sense of the words, description, definition, phrase or term preceding such terms.

1.3 Headings do not affect the interpretation of the Conditions.

2. CONTRACTING PARTIES AND APPLICABLE TERMS

2.1 The Partner is contracting with GOLFNOW and/or BRS GOLF (known hereafter as GOLF, unless the context requires otherwise) for the provision of Software and/or Services, as set out in an Order Form subject to these Conditions and/or any Addendum terms incorporated by reference. For example:

(a) GOLFNOW provides G1 Technology, Preferred Marketing Partner Services, Plus Tool Kit, Tee Time Distribution Services, GOLFNOW Booking Engines, Website Development and GNC Marketing Services; and

(b) BRS GOLF provides the Technology Modules, on-site/off-site in person training, the BRS Members App, Payments Solution, Admin App and Customer Support Services.

2.2 For the avoidance of doubt, and unless otherwise stated, when the Partner requests:

(a) Software and/or Services (including those at Condition 2.1 (a) and (b) above) and pays for such by way of Trade Times the contracting party will be GOLFNOW; and

(b) Tee Time Distribution Services and pays for such by way of Commission Fee, the contracting party will be BRS GOLF.

(c) Software and/or Services (including those at Condition 2.1 (a) and (b) above) and pays for such by way of cash the contracting party will be BRS GOLF

2.3 These Conditions govern the Partner's access and use of Software and/or Services. In addition, and where applicable, the following terms apply and are incorporated by reference (each becoming an Addendum):

- [Tee Time Distribution Terms](#)
- [ADMIN APP Licence Agreement](#)
- [PAYMENTS Agreement](#)

3. APPLICATION

3.1 The Acceptance of an Order Form by the Partner shall be deemed to be an offer, subject to the Conditions, to purchase the Services and access to the Software from GOLF.

3.2 No Order Form shall be deemed to be accepted by GOLF until the earlier of GOLF signing the Order Form and sending an electronic copy to the nominated email address of the Partner or GOLF commencing or delivering any part of the Software or Services. It is only at this point that a legally binding agreement has been entered into (**Effective Date**).

3.3 The Services will commence and the access to the Software will commence as soon as possible after the Effective Date (**Go Live Date**). However, any date or time for delivery given by GOLF shall be an estimate only and, in any event, time is not of the essence.

3.4 Unless otherwise agreed, the Partner may only cancel the Agreement between the Effective Date and the Go Live Date, if GOLF agree in writing and the Partner pays a reasonable cancellation charge. On or after the Go Live Date, the Agreement may only be terminated in accordance with Condition 7.

3.5 Unless otherwise agreed, no terms or conditions of the Partner shall form part of the Agreement and any attempt by the Partner to exclude, vary or limit any Conditions shall be void.

3.6 Website content, brochures, frequently asked questions documents, training materials, descriptive matter and any marketing or advertising material are produced for information purposes only. They shall not form part of the Agreement or have any contractual force.

4. SERVICES & HARDWARE

4.1 GOLF shall provide the Services (which may include supplying Hardware), in consideration of the price being paid in accordance with Condition 8, as expressly identified in the Order Form.

4.2 GOLF shall use reasonable care and skill to perform the Services and shall use its commercially reasonable endeavours to complete its obligations under the Agreement, but time will not be of the essence in the performance of such obligations.

4.3 GOLF shall notify the Partner in advance of any Services updates and will provide appropriate training and/or materials to Partner concerning all updates.

- 4.4 Where GOLF provides any Hardware to the Partner, GOLF warrants that such Hardware will be: (a) of satisfactory quality, fit for their specific purpose; and (b) free from material defects in design, material and workmanship.
- 4.5 Subject to Conditions 4.6 and 4.7 inclusive, where the Hardware is faulty or the Partner has any issues, GOLF's sole liability to the Partner will be to repair or replace such Hardware.
- 4.6 Before any repair or replacement is made under Condition 4.5, the Partner shall: (a) notify GOLF promptly after the Partner discovers the fault or issue; and (b) give GOLF a reasonable opportunity, after receiving notice, to examine the relevant Hardware.
- 4.7 If the Partner fails to notify GOLF in accordance with Condition 4.6(a) or, following the inspection by GOLF, it is discovered that the fault or issue has arisen as a result of the Partner's negligence or failure to comply with the Agreement or failure to follow GOLF's oral or written instructions as to the storage, installation, use or maintenance of the Hardware, or the Partner makes further use (without permission of GOLF) of the Hardware after giving notice under Condition 4.6(a) or the Partner has altered, modified, mishandled or attempted to repair the Hardware, then the Partner will be liable to pay for any repair or replacement of the Hardware.
- 4.8 Unless stated otherwise, the risk in any Hardware supplied shall pass upon delivery to the Partner's premises, and shall only cease when the Agreement is terminated and the Hardware has been returned to GOLF in accordance with Condition 8.3(d). Title to the Hardware, unless otherwise agreed, shall remain with GOLF at all times.

5. SOFTWARE

- 5.1 Where agreed by the Parties, GOLF shall apply the latest version of the GOLF Services to the marketing and administration of Partner tee times.
- 5.2 GOLF grants the Partner a limited, non-exclusive, non-transferable, revocable licence to utilise the Software detailed in the Order Form. Any licence to the Software shall remain effective until the Agreement is terminated (howsoever caused) in accordance with Condition 8.
- 5.3 GOLF warrants that it is the owner (except in relation to any third party or open source software, as set out in any applicable licence terms) of the Software or otherwise has the right to grant the Partner the license granted herein for the purposes of delivering the Services and/or access to the Software.
- 5.4 Partner may use the Software for the purpose of accessing the Services and as set out in these Conditions or any applicable Addendum terms and shall not sell, sublicense, lend, or otherwise transfer or provide access to the Software to any Third Party without the express written consent of GOLF, as set out in Condition 6.6 and 6.7 inclusive.
- 5.5 The Partner may not reverse engineer, decompile, disassemble, or customise the Software, including but not limited to, creating any software interface with the Software for the purpose of selling or marketing tee times through the internet or any internet site, without the express written consent of GOLF.
- 5.6 GOLF's prior written consent is required for the creation of an interface with the Software and this consent will be subject to execution of a separate agreement.

6. PARTNER'S OBLIGATIONS

- 6.1 Partner warrants that all the information provided to GOLF is true and accurate and acknowledges that GOLF is relying upon such information in relation to the provision of the Services (including any Hardware) and/or Software.
- 6.2 Partner agrees to co-operate fully with GOLF and provide any assistance required to supply the Services and/or access to the Software, in particular, the Partner (where applicable) shall do the following at its own expense:
- (a) Comply with any Addendum terms and conditions (in particular those set out at condition 2.3;
- (b) Pay any invoices promptly and on time;
- (c) Honour all Trade Times and any tee times reserved via the Platform in accordance with the Tee Time Distribution Terms;
- (d) provide GOLF with access to all of the internal and external systems (including third-party systems licensed to Partner) necessary for GOLF to provide the Services and/or Software;
- (e) not to do anything, or omit to do anything, which could or would detrimentally affect the performance of the Services and/or access to the Software;
- (f) keep and maintain any Hardware in good condition and working order;
- (g) provide GOLF and/or its agents with access at all reasonable times or as requested by GOLF to the Partner's premises, to allow GOLF to provide the Services and/or access to the Software.
- 6.3 (If applicable) Where Services (including Hardware) and/or Software is supplied in conjunction with the Partner's existing equipment, the Partner shall be entirely responsible for ensuring that such equipment is in all

respects suitable and adequate for the purpose of receiving the Services and/or Software. Where GOLF reasonably considers that the equipment is not suitable, then GOLF may terminate the Agreement and its sole liability to the Partner will be a full refund for any payments made for Services or Software that the Partner has not received.

SECURITY

The licences and access to the Services and Software under this Agreement is for the Partner's benefit only.

The Partner shall:

- ensure the number of persons using the Services and Software is limited to those who need access (**Users**), and shall keep a complete and accurate record of the Partner's Users and disclose such record to GOLF upon request;
- ensure its Users keep their account credentials up to date and passwords secure and maintain confidentiality of their account username and password at all times; and
- notify GOLF as soon as it becomes aware of any unauthorised use of the Software and Services by any person other than the Partner or its authorised representatives.

Without prejudice to any of its rights or remedies, where the Partner fails to comply with Conditions 6.5 (a to c inclusive) or GOLF reasonable believes the Partner to be in breach or in potential breach of any of Conditions 6.5 (a to c inclusive), GOLF may suspend or cease access to any or all Users, without any liability to the Partner.

THIRD PARTY ACCESS

Where the Partner requires any third party (including subcontractors, consultants or any other non-employed individual, volunteer or business) ("**Third Party**") to access the licensed Software and/or Services provided by GOLF (including any reports, files or other data) under the Agreement, then the Partner should obtain the written permission from GOLF before providing such access to such Third Party.

Where applicable, there may be additional fees and the Partner may need to enter into an Addendum, before GOLF can grant the Third Party with access.

PAYMENT AND PAYMENT TERMS

Depending on which Software and/or Services the Partner requests, the price overall will be contained within an Order Form, but may be subject to other payment terms, as contained in the Addendum terms as set out in Condition 2.3 (or as otherwise notified by GOLF).

TRADE TIMES

Trade Times will be sold on the Platforms and are subject to the Tee Time Distribution Terms, which are hereby incorporated by reference.

Where applicable, it is agreed that the Trade Times constitute payment in full by the Partner to GOLFNOW for the supply of the Software and/or Services. Therefore, GOLFNOW will collect and keep the entire revenue sold for Trade Times, including any applicable VAT, GST, sales, use or similar tax (**Taxes**).

Without prejudice to GOLFNOW's rights, where Trade Times are the agreed consideration for the Software and/or Services, each Party will work collaboratively in good faith to ensure that the Trade Times are posted at a time that works commercially for GOLFNOW in its discretion.

COMMISSION FEES

Where Commission Fees are applicable, the Commission Fee is calculated on the net value of the tee time sold, excluding any booking fees (which are paid directly by the Golfer) or Taxes.

BRS GOLF will collect the gross revenue (i.e. before deduction of BRS GOLF's Commission Fee) on the Partner's behalf, which represents consideration for the Partner's supply to its Golfers. The Partner should therefore apply its own usual VAT treatment to this gross revenue and remittance from BRS GOLF.

Where applicable and unless otherwise agreed, BRS GOLF will remit any payments owed to the Partner on a monthly basis.

BRS GOLF will make any such payments to the bank account nominated by the Partner from time to time. The Partner is responsible to ensure that they provide the correct bank details. Time for any payments due to the Partner are not of the essence.

CASH PAYMENTS

- 7.9 Any payments for Services and/or Software to be paid by the Partner in cash (**Cash Payments**), will be set out in the Order Form or an invoice from BRS GOLF and/or GOLFNOW (as applicable). Unless otherwise agreed, the Partner shall pay any invoice within thirty (30) days. On some occasions, access to Software and/or Services may require advance payment from the Partner.
- 7.10 All amounts payable by Partner to GOLF in relation to Cash Payments shall be exclusive of any applicable Taxes. For the avoidance of doubt, if any amounts payable by Partner to GOLF are subject to Taxes payable by GOLF, GOLF may invoice and charge such Taxes to Partner and Partner shall promptly pay the amount thereof to GOLF.

NON-PAYMENT

- 7.11 Without prejudice to any of its other remedies, if the Partner fails: to make the Trade Times available to GOLF; pay the applicable Commission Fees; or pay a Cash Payment invoice on time, in accordance with the Agreement, GOLF may do all or any of the following:
- (a) treat the Agreement as repudiated by the Partner;
- (b) without notice suspend or cancel the performance of the Services and/or access to the Software under the Agreement, until the Partner pays any amount owed;
- (c) appropriate any payment made by the Partner under any other Agreement with GOLF to pay for any outstanding amounts as GOLF may, in its sole discretion, think fit;
- (d) charge interest at the annual rate of eight percent (8%) above the base rate of Barclays Bank Plc;
- (e) claim interest under Late Payment of Commercial Debts (Interest) Act 1998.
- (f) In relation to Trade Times only, the Partner will pay to GOLF the greater of: (i) three hundred pounds (£300) per month for each remaining month until the end of the current Term; or (ii) the aggregate monthly value of Trade Times sold in the preceding twelve (12) months, for the remaining months of the Term.
- 7.12 On termination of the Agreement (howsoever caused), the rights of GOLF in this Condition 7 shall remain in effect.

PRICE INCREASES

- 7.13 All prices are contained in an Order Form or are as otherwise provided by GOLF from time-to-time and are subject to change at the discretion of GOLF. GOLF will notify the Partner of any such price change (increase or decrease), which shall not take effect until the end of the current Term as set out in any such notice to the Partner.

ADVERTISEMENTS AND MARKETING

- 7.14 GOLF will place advertisements across the Software and Services (including but not limited to, the Technology Modules, Golfer booking pages and Golfer booking confirmation emails) it delivers to the Partner. In placing advertisements, GOLF is able to keep the costs of its Software and Services to a minimum and allow it to maintain and continue to invest in the development of the Software and Services it provides to the Partner (and other customers).
- 7.15 GOLF Will not deliver any advertising content that is indecent, obscene, pornographic material, hate speech, illegal subject matter or activities or other content which does not meet GOLF's quality and standards as in effect from time to time.
- 7.16 GOLF will take, and / or enable Partner to take, all reasonable measures necessary to obtain from Golfers appropriate consents in relation to any personalised advertisements, if and as required by applicable Data Protection Legislation.
- 7.17 GOLF will retain any and all revenue obtained from advertisements.
- 7.18 Partner further agrees to take all reasonable measures necessary to request from Golfers valid consent to receive electronic marketing communications from GOLF.

8. TERM AND TERMINATION

- 8.1 Unless otherwise agreed and set out in an Order Form, the Agreement takes effect on the Effective Date and shall continue for one (1) year from the Go Live Date (**Initial Term**). Upon expiry of the Initial Term, the Agreement shall automatically renew for one (1) year term (**Renewal Term**) and again at the end of each Renewal Term, unless terminated pursuant to Conditions 8.2 to 8.3 inclusive, or by either Party giving at least thirty (30) days' notice to the other, prior to the end of the Initial Term or each subsequent Renewal Term.

- 8.2 Without affecting any other right or remedy available to it, either Party may terminate this Agreement immediately by giving notice to the other if the other Party:
- (a) commits a material breach of any term of the Agreement which is irremediable or (if such breach is remediable) fails to remedy such breach within thirty (30) days' of receiving written notice of such breach;
- (b) repeatedly breaches any of the terms of the Agreement;
- (c) ceases, suspends, or threatens to cease or suspend, to carry on its business or payment of its debts; and/or
- (d) is subject to a bankruptcy or winding up order or similar action.
- 8.3 Upon termination of this Agreement (howsoever caused), the Partner shall: delete and return all Software (including all copies), and sign a statement certifying same;
- (b) have no further rights to use GOLF's trademarks or other intellectual property in any way whatsoever;
- (c) not be entitled to a refund or compensation for any payments made before the moment of termination of the Agreement; and
- (d) (if applicable) return to GOLF within fourteen (14) days upon termination, all Hardware in its possession. Where the Partner fails to do so, GOLF and/or their agents may, at the Partner's expense, enter the Partner's premises to recover the Hardware.
- 8.4 Within six (6) months of termination of the Agreement (howsoever caused) the Partner may instruct GOLF to; provide a copy of; or to require GOLF to promptly delete, the Partner Data.
- 8.5 If the Partner fails to inform GOLF as provided under Condition 8.4, this shall result in GOLF permanently deleting the Partner's Data, within and up to twelve (12) months post termination of the Agreement, in accordance with GOLF's internal data destruction policy.

CUSTOMER SUPPORT SERVICES AND TRAINING

GOLF shall provide Partner appropriate levels of training (including access to remote training and on-line resources), additional in-person and/or online webinar training may be provided for an additional fee. Telephone, online live chat and email support shall be provided to Partner during normal business hours (9am to 5:00pm – Monday to Friday including Irish and UK bank and public holidays, except 25 December or as otherwise notified) through GOLF's Customer Support Services published phone numbers and email addresses.

10. LIMITED WARRANTIES AND REMEDIES

Both Parties represent and warrant that:

(a) they have the authority to enter into this Agreement and that their signatories are duly authorised and empowered to sign this Agreement on their behalf; and

(b) they will comply with all applicable laws, ordinances, statutes, regulations and rules, and that they have the power to settle fully and completely all claims, causes of action, demands, charges and liabilities arising out of or relating to this Agreement.

10.2 Partner represents and warrants to GOLF that any intellectual property provided to GOLF by Partner (including without limitation, any photographs, drawings, or works of art, Trade Marks) do not violate the rights of any third party. Partner agrees to indemnify and keep GOLF indemnified for any alleged or actual breach of this warranty.

10.3 GOLF will provide the Services and the Software in a professional and workmanlike manner and free from any unreasonable defects, and GOLF will use commercially reasonable means to fix any defect in the Software and/or Services that may arise. Partner and its authorised users shall use the Software and Services only in accordance with this Agreement. Aside from these warranties or as set out in these Conditions, to the extent permissible by law, the Software and Services are provided without warranty of any kind, either express or implied, including but not limited to any implied warranty of merchantability or fitness for a particular purpose or use.

10.4 With respect to malfunctioning Software, GOLF's entire liability and Partner's exclusive remedy shall be the repair or replacement of the Software.

11. LIMITATION OF LIABILITY

Nothing in this Agreement shall limit or exclude either Party's liability for:

(a) death or personal injury caused by its negligence; (b) fraud or fraudulent misrepresentation; or (c) any other liability that cannot be excluded by applicable law.

11.2 In no event shall either Party be liable for any special, incidental, indirect, consequential, exemplary or punitive damages (including, without limitation, any damages based on loss of profits, loss of use, business interruption or loss or corruption of data), even if such Party has been advised of the possibility of such damages. The foregoing limitations shall

- apply regardless of the cause or the form of action (whether breach of contract, breach of warranty, negligence, strict liability or otherwise).
- 11.3 GOLP's total liability to the Partner in respect of all other losses arising out of or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the Total Payment paid by the Partner in the preceding twelve (12) months.
- 12. PERSONAL DATA**
- GOLF AS DATA PROCESSOR**
- 12.1 Unless otherwise specified in an Order Form or in 12.2 and 12.3 below, the Parties acknowledge and agree that GOLP shall act as a processor for any Golfer personal data it receives from and/or accesses on Partners' systems (**Partner Data**) in order to deliver the Software and/or Services. Where this is the case, GOLP shall not copy, sell or reuse Partner Data save as expressly permitted in this Agreement and GOLP's [Data Processing Agreement](#), as updated and notified to Partner from time to time, shall be incorporated into the Agreement by reference.
- GOLF AS DATA CONTROLLER**
- 12.2 For the avoidance of doubt, GOLP is the data controller of all personal data obtained directly and independently from Golfers who are visitors on the Platforms, and personal data processed by GOLP for the purpose of sending marketing to Golfers (**GOLF Data**). GOLP shall process GOLF Data in line with its privacy policy at www.nbcuniversal.com/privacy.
- 12.3 Partner agrees that GOLP may process Partner Data to generate non-personal data by means of aggregation and/or anonymisation, and to use that data (along with any other similar data (e.g. anonymous survey results, general usage data or other information generated by GOLP under this Agreement) for its own commercial purposes.
- 13. PROPERTY**
- 13.1 The following shall remain the sole and exclusive property of GOLP:
- (a) the GOLP Software and Services (including any of GOLP's enhancements or upgrades thereto), and all other software and materials developed, conceived, originated, prepared, generated or furnished by GOLP under this Agreement; and
- (b) all copyrights, trademarks, patents, trade secrets and any other intellectual property and proprietary rights in and to the foregoing.
- 13.2 Partner grants GOLP a licence to use its name, logo, Trade Marks or other mark for publicity and for the provision of delivering the Services and/or Software.
- 14. INDEMNITY**
- 14.1 Partner shall be liable to pay GOLP (on written demand) and indemnify GOLP against, all reasonable costs, expenses and losses sustained or incurred by GOLP (including, but not limited to, any direct, indirect or consequential losses, loss of profit, loss of reputation, damage to property, loss of opportunity to deploy resources elsewhere, legal costs on an indemnity basis) arising directly or indirectly from the Partner's fraud, negligence or failure to comply, or unreasonable delay in complying, with any of terms of the Agreement.
- 15. FORCE MAJEURE**
- 15.1 Neither Party will be liable to the other for any failure or delay or for the consequences of any failure or delay in performance of the Services or Software, if it is due to a force majeure event,, which means any event beyond the reasonable control of a Party including without limitation, acts of God, war, industrial disputes, protests, fire, flood, storm, an act of terrorism, national emergencies, loss of infrastructure, telecoms and electricity supply. The Party to such event shall, as soon as practicable, give notice of the event to the other Party, such notice to include a reasonable forecast of the duration of the force majeure event. If such delay or failure continues for at least one hundred (100) days, either Party shall be entitled to terminate the Agreement on notice to the other.
- 16. NO ASSIGNMENT**
- 16.1 This Agreement shall be binding upon GOLP and Partner, and their respective successors and assigns; provided, however, that neither Party shall assign this Agreement or any of its rights or obligations hereunder, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed.
- 16.2 Notwithstanding Condition 16.1, without Partner's consent, GOLP may assign all or part of its rights under this Agreement to, any of its current or future: (a) divisions, affiliates or subsidiaries; (b) parent company; or (c) ultimate parent company's divisions, affiliates or subsidiaries, ("**GOLF Affiliates**")
- 16.3 GOLP has the right to subcontract any of obligations to any GOLP Affiliate. Partner acknowledges some of the Services and/or Software is owned by and supplied by GOLP Affiliates. Where such Services and/or Software are provided under this Agreement, GOLP acts as agent to the specific GOLP Affiliate providing such under licence.
- 16.4 A sale of substantially all of the stock or assets of a Party, or the reorganisation or merger of a Party, shall not constitute an assignment of this Agreement.
- 16.5 Any assignment or transfer in violation of this Condition 16 shall be void and of no force or effect.
- CHANGE OF OWNERSHIP – PARTNER GOLF COURSE**
- 16.6 Where the Partner Golf Course has a change of ownership, whereby the legal entity that owns the Golf Course and is known as the Partner under the Agreement is to change, then the Agreement will automatically terminate. Any outstanding payment will be made by the Partner in accordance with Conditions 7 (including in particular Condition 7.10(f)). The new entity will be free to contract with GOLP in its own right, and may, subject to proof of agreement with the Partner, continue to use the same systems GOLP has provided to the Partner previously and/or continue the obligations (including payment obligations under Condition 7).
- 17. CONFIDENTIALITY**
- 17.1 This Agreement and its terms and conditions are confidential and shall not be disclosed by any Party, in particular to a Third Party, without the prior written consent of the other Party, except: (a) to a Party's Affiliates and its respective directors, employees, and legal advisors on a "need to know" basis only; or (b) as required to do so by law or by any governmental or regulatory authority having or a court of competent jurisdiction. Each Party will cause its affiliates and their respective directors, employees, and legal advisors to comply with the provisions of this Condition 17.
- 18. GENERAL**
- 18.1 The Agreement shall constitute the entire understanding of the Parties and supersedes and extinguishes any and all prior understandings and agreements, whether written or oral, relating to its subject matter.
- 18.2 GOLP reserve the right to amend these Conditions at any time, to the extent permitted by applicable law.
- 18.3 Failure or delay by GOLP to enforce, or partially enforce, any provision of the Agreement shall not be construed as a waiver of any of its rights under the Agreement. Any waiver by GOLP of any breach of, or any default under, any provision of the Agreement by the Partner shall be in writing and shall not be deemed to be a waiver of any subsequent breach or default and shall in no way affect the other provisions of the Agreement.
- 18.4 If any Condition is found by any court to be wholly or partly illegal, invalid, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, unenforceability or unreasonableness be deemed severable and the remaining Conditions, and the remainder of such Condition, shall continue in full force and effect. In the event that such court decides that such Condition is not severable, the parties agree to substitute such Condition with a legal, valid, enforceable and reasonable Condition, which achieves, to the greatest extent possible, the same commercial effect as the original Condition.
- 18.5 No provisions of the Agreement are enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to the Agreement.
- 18.6 The Parties hereby acknowledge and agree that GOLP is an independent contractor and not an employee, agent, joint venture or partner of Partner or any of its affiliates.
- 18.7 All notices sent by the Partner to GOLP must be sent to GOLP at its registered address or email address as detailed in the Order Form). GOLP may send notices to the Partner at the email or address as detailed in the Order Form.
- 18.8 The formation, construction, performance, validity and all aspects of the Agreement, including any dispute or claim arising out of or in connection with it or its subject matter (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law. The parties agree that the courts of England & Wales shall have the non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter.