

## PURCHASE ORDER TERMS AND CONDITIONS

From time to time, Carnival Cruise Line, a division of Carnival Corporation ("Buyer"), either for its own account or as agent for one of its affiliates, may offer or agree to purchase various products ("Products") and/or services ("Services") from outside vendors ("you" or "Seller"), on a non-exclusive basis and pursuant to a purchase order submitted by Buyer (each, an "Order"). If there is an emergency on a weekend or outside regular business hours, the Order may be given verbally. Otherwise, all Orders must be in writing. A Seller receiving a verbal Order must make arrangements on the next business day with Buyer for receipt of a written Order.

In the event Seller is purchasing Products, and Services ancillary to those Products, the first set of terms and conditions below ("Terms and Conditions 1") will apply to all Orders when there is not a written and executed Product Supply Agreement ("PSA") in place between Seller and Buyer. If there is a PSA in place, then the Agreement shall govern the sale of Products by Seller to Buyer.

In the event Seller is purchasing standalone services, the second set of terms and conditions below ("Terms and Conditions 2") will apply to all Orders when there is not a written and executed Master Services Agreement in place between Seller and Buyer ("MSA"). If there is an MSA in place, then the MSA shall govern the sale of services by Seller to Buyer.

### TERMS AND CONDITIONS 1

#### 1. Seller's Obligations

##### 1.1. Products.

1.1.1. Buyer may offer or agree to purchase the Products from Seller on a non-exclusive basis pursuant to one or more purchase orders submitted by Buyer (each, an "Order"). The price in each Order is in USD. The Buyer may, prior to Seller having finished shipment of the Order, unilaterally by an Order amendment make changes within the general scope of the Order to the shipping or packaging instructions, the technical requirements, the delivery dates, the delivery destination, the quantity of Products or other terms of the Order. Seller shall comply with any and all Order amendments without delay and the parties shall subsequently agree to an equitable adjustment to the Order price to reflect any increased or decreased costs incurred due to the amendment.

1.1.2. Order Process and Conformity of Order. Seller shall confirm each Order by return facsimile, e-mail or e-commerce trade acceptance confirmation to Buyer (a "Confirmation") within 1 business day of receipt by Seller. Each Order will be governed by, issued under, and incorporate the terms of, this Agreement and be in either the form which is attached hereto as Exhibit A, or as otherwise agreed to by the parties. To the extent there is any conflicts between the terms of this Agreement and of any Order, the terms in this Agreement will control, unless the Order specifically identifies such conflict and requires that the Order control, in which case the terms of the Order will control for that Order only. Any additional or different terms or conditions (other than additional warranties given by Seller) which may appear in any communication from Seller, including without limitation any printed form of Seller, are hereby expressly objected to by Buyer and shall not be effective or binding unless specifically in each case agreed to in writing by Buyer via initialing of the additional or different terms or conditions. The foregoing applies

notwithstanding Buyer's acceptance of Products or Buyer's execution of any forms or other writings provided by Seller incident to such acceptance. It is understood and agreed that no changes to any Order made by Seller in any Confirmation shall be deemed effective unless the Confirmation is countersigned by Buyer and, absent such countersignature, the terms of the Order as provided by Buyer shall be fully binding on the Seller.

1.1.3. Delivery. TIME IS OF THE ESSENCE IN THE DELIVERY OF ALL PRODUCTS AND SERVICES. Buyer's schedules are based upon the delivery dates shown on the face of an Order. Buyer may cancel any Order without penalty if delivery is not made by the date and time specified in the Order. No change in the scheduled delivery date will be permitted, unless Buyer has otherwise agreed in writing to such change. Buyer's acceptance of Products after the scheduled delivery date shall not be deemed to be a waiver of Buyer's rights with respect to such late delivery, nor shall it be deemed a waiver of Seller's obligation to comply with future scheduled delivery dates and times. The Products shall be delivered in the quantities and on the dates or on expiry of the periods specified in the Order to the place(s) named therein at the risk of the Seller, and under Seller's insurance, but in no event shall the Products be shipped before the earliest shipping date specified on the face of the Order. Upon delivery of the Products, Buyer shall sign a Proof of Delivery ("POD"), it being understood that signing a POD only signifies that a shipment was received by Buyer or its agents and not that the Products have been accepted. Title to the Products shall pass to the Buyer on the earlier of payment by Buyer to Seller of the Products or Buyer's signing of the POD. Transfer of such title shall not in any way prejudice Buyer's rights of rejection. If any or all of the Products are not delivered on the date(s) specified in the Order, the Buyer shall be entitled to accept or reject any such Products and return rejected Products at Seller's risk and expense without prejudice to any other of its rights. Buyer shall also be entitled to recover from the Seller any monies paid by the Buyer in respect of such returned Products together with any additional expenditure reasonably incurred by the Buyer in obtaining other products in replacement.

1.1.4. Packaging. The Products shall be properly packed and secured in such manner as to reach their destination such that upon arrival they conform in all respect with the Order, and a packing slip shall accompany each parcel. All invoices, packages, shipping notices, instruction manuals and other written documents affecting the Order shall contain the applicable Order number. Each parcel must have a packing list indicating all contents and a commercial invoice affixed to the outside of the package. All Products delivered must contain all documents required by applicable laws, including sanitary certificates, certificates of origin and Material Safety Data Sheets if applicable, affixed to the outside of, as well as contained within, the parcel. Seller agrees to transmit via electronic delivery document, an invoice or proforma invoice and all applicable certificates - including, if applicable but without limitation, Material Safety Data Sheets, and U.S. Coast Guard, flag state and/or Classification Society certifications - to Buyer at least 24 hours before shipping any Products.

1.1.5. Inspection and Quality Control. Buyer shall inspect and accept or reject the Products as promptly as practicable after delivery, regardless of prior payment, provided that failure to inspect, accept or reject Products shall neither impose liability on Buyer nor relieve Seller from responsibility for Products that are not in accordance with this Agreement. Buyer shall promptly notify Seller in the event that Products are rejected. Products rejected by Buyer for any valid reason shall be held, transported and/or stored at Seller's risk and expense. Seller shall provide and maintain inspection and quality control systems, typical and customary in the industry, covering the Products. Buyer and Seller shall each maintain records of all inspections and tests and Buyer and Seller shall make such records available to the other during performance of any Order and for one year thereafter. Deliveries must be accompanied by all certifications, test results and

other documentation of the type and in the form required by applicable law, industry standards or by the rules or regulations of entities or organizations who have jurisdiction over Buyer.

1.1.6. Compliance with Laws. Seller shall ensure that the design, manufacture, construction, supply and quality of Products comply in all respects with any relevant statute, statutory rule, order, directive or statutory license, consent or permit which may be in force at the time in the territory in which (i) the Products are delivered and utilized and (ii) if applicable, the flag state of the Buyer vessel. Seller will ensure that the Products and all supporting literature and documentation comply with all statutory requirements and regulations relating to the sale of the Products. To the extent applicable, the Seller will, without limitation to the above, ensure that the Products comply with MARPOL 73/78 (issued by the International Maritime Organization).

1.1.7. Warranties and Covenants. In addition to those warranties customarily made by Seller, Seller warrants and covenants that (a) the Products conform to the specifications in the Order and are merchantable and fit for the particular purposes for which such are ordinarily employed; (b) all Products delivered under any Order will be new (unless otherwise specified by Buyer) and free from defects in design, materials, performance and workmanship and will conform to all applicable specifications, drawings, samples and descriptions and will be merchantable and safe for use as intended or such other purposes as have been specified by the Buyer; (c) any Products delivered pursuant to an Order shall be provided free and clear of all liens, claims or encumbrances of any kind or nature whatsoever at all times; and (d) Buyer's use of the Products covered by any Order will not result in any claim of infringement, or actual infringement of any patent, trademark, copyright, franchise or other intellectual property right. Seller warrants that it has not granted priority of supply status to any other person. Seller shall advise the Buyer in the event any Product has experienced failure in service or is the subject of any safety warning or recall. Inspection, test, acceptance or use of or the payment for the Products furnished under an Order shall not affect the Seller's obligation under these warranties. Seller shall be liable for all damages both to Buyer and to its customers incurred as a result of any defect or breach of warranty in any Products covered by any Order. The warranties of Seller in this Section shall survive the delivery of Products and are fully enforceable thereafter. Seller's warranties in this Section are part consideration for any Order; payment by Buyer is conditional on such warranties remaining in effect; and no modification or other change of such warranties shall be valid unless agreed to in writing by Buyer. Seller's warranties shall run to Buyer, its successors, assigns and customers, and users of products and services provided by Buyer. Seller agrees promptly to replace, rectify or correct defects in any Products provided pursuant to this Agreement or an Order without expense to Buyer, when notified of such nonconformity by Buyer. In the event of failure of Seller to promptly rectify, correct defects in or replace nonconforming Products, Buyer, after reasonable notice to Seller, may make such corrections or replace such Products performed and charge Seller for the cost incurred by Buyer in doing so; provided, however, that Buyer is under no affirmative obligation to do so and shall not be responsible for any of its actions or omissions to act in connection therewith. A breach of warranty shall be deemed to accrue, not when the Products are tendered, but when the actual breach is discovered.

1.2. Representations and Warranties. Seller hereby represents and warrants that: (a) it is a duly formed legal entity in good standing in the jurisdiction of its formation, (b) it is qualified to (i) transact business and provide the Products in all locations or states where such Products are being delivered; (c) it has the required corporate authority to enter into and perform this Agreement and each Order; (d) the execution and delivery of the Agreement and each Order have been duly authorized, this Agreement and each Order constitutes its legally binding obligation, enforceable in accordance with its terms, and neither this Agreement nor any Order violates any law, statute or regulation and does not breach any other agreement or covenant to which it is a

party or violate any applicable laws, rules, regulations or other governmental regulations; (e) it has obtained and shall maintain in full force and effect such federal, state and local authorizations as are necessary to operate and to otherwise perform its obligations under this Agreement and will comply with all applicable federal, state and local laws in the performance of its obligations hereunder; (f) it is qualified to provide the Products required by and requested by Buyer; (g) it has or will secure all necessary consents, permissions, clearances, authorizations and waivers required to provide the Products; and (h) it is financially solvent, able to pay its debts and possessed of sufficient working capital to provide the Products in accordance with this Agreement.

1.3. Health, Environmental, Safety and Security Policy and Standards. Seller will comply with and meet all of the Buyer's health, environmental, safety and security policies and requirements in addition to any applicable laws, flag State requirements, local regulations, and other environmental requirements. Buyer is ISO 14001:2015 certified and therefore takes proactive steps to consider its operational impacts on the environment and implement initiatives to protect the environment from harm and degradation; Buyer encourages Seller to do the same. Whenever there is more than one product that would satisfy Buyer's technical requirements, Seller will offer the most environmentally friendly of the alternative products unless Buyer otherwise directs. Any applicable cost changes will be negotiated between the Buyer and Seller. Seller acknowledges that it has received and read Buyer's Health Environmental, Safety and Security Policy Statement ("HESS Policy"). Seller shall also provide a statement to Buyer that any Products provided to Buyer comply with the EU Regulation No. 1257/2013 and the Hong Kong Convention.

1.4. Business Partner Code of Conduct. Seller acknowledges that Buyer has established a Business Partner Code of Conduct and Ethics that can be found at [https://www.carnivalcorp.com/wp-content/uploads/2025/02/Carnival-Business-Partner\\_Code\\_of\\_Conduct\\_01\\_20\\_25\\_w-links.pdf](https://www.carnivalcorp.com/wp-content/uploads/2025/02/Carnival-Business-Partner_Code_of_Conduct_01_20_25_w-links.pdf) or otherwise obtained upon request by Seller. The Buyer's Business Partner Code of Conduct and Ethics is incorporated by reference into this Agreement. Seller shall fully comply with the requirements set out in Buyer's Business Partner Code of Conduct and Ethics and shall use all reasonable efforts to ensure compliance with the same by its employees, sub-contractors, agents and representatives engaged in the supply of the Deliverables and/or Services. A failure by Seller to comply with its obligations pursuant to this clause shall constitute a material breach of this Agreement entitling Buyer to terminate this Agreement immediately upon written notice to Seller.

In connection with the supply of the Products, Seller shall at all times comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force, including but not limited to the UK Modern Slavery Act 2015. Seller acknowledges that Buyer publishes a statement pursuant to the Modern Slavery Act 2015 that can be found at <https://carnivalsustainability.com/modern-slavery-act>. Seller hereby confirms its commitment to adopting practices that support the requirements and principles set out in Buyer's Modern Slavery Statement.

1.5. Seller Staff; Background Checks.

1.5.1. In the event Seller's employee must enter Buyer's premises to provide the Products or services related to the Products, Seller at its expense, must conduct a background check for each such employee, as well as for the employees of its subcontractors, who will provide Products or Product related services to Buyer onboard any Buyer vessel(s) or on Buyer's premises (collectively "**Seller Employees**"). The minimum background check process shall include, but not be limited to, the following checks:

- 1.5.1.1. Social Security Number (SSN) Trace, if applicable;
- 1.5.1.2. Criminal Records (County and State Criminal Felony and Misdemeanor, National Criminal Database, Federal Criminal);
- 1.5.1.3. National Sex Offender Registry; and
- 1.5.1.4. OFAC screening.

1.5.2. The background check must be conducted prior to a Seller Employee boarding a Buyer vessel or entering Buyer's premises. Buyer retains the right to require, subject to applicable law,: (i) more regular background checks of Seller Employees; and (ii) that a Seller certify that such background checks have been completed and that the applicable Seller Employee has satisfactorily passed such background checks. If at any time, it is discovered that any Seller Employee has a criminal record that includes a felony or misdemeanor, Seller is required to inform Buyer and Buyer will assess the circumstances surrounding the conviction, time frame, nature, gravity and relevancy of the conviction to the job duties to determine whether the Seller Employee is fit to provide the services associated with the Products. Buyer may withhold consent at its sole discretion. Failure of Seller to comply with the terms of this paragraph may result in the termination of this Agreement and any Order.

#### 1.6. Anti-Corruption Obligations.

1.6.1. Seller represents, warrants, covenants, and agrees it shall comply with (and will not cause Buyer to be in breach of) all and any applicable laws, rules, regulations and other directives relating to anti-corruption and anti-money laundering, including laws enacted to comply with the *UN Convention Against Corruption* and the *OECD Convention*, administrative requirements, and policies, including without limitation, the *U.S. Foreign Corrupt Practices Act*, *UK Bribery Act 2010*, Chinese laws regarding anti-corruption and anti-bribery (hereinafter referred to collectively as "**Anti-corruption Laws**") and Buyer's Anticorruption Policy & Guidelines, and Seller acknowledges having read and understood such documents.

1.6.2. Seller represents, warrants, covenants, and agrees that it has not and will not pay, offer, promise, or authorize the payment of any money or anything of value (including gifts, samples, hospitality, sponsorships, etc.): (1) directly to any Government Official (defined below) or any other person; or (2) or indirectly or to any person knowing that all or some portion of such money or thing of value will be offered, given or promised to a Government Official or any other person, for the purpose of:

- 1.6.2.1. influencing any act, decision, or failure to act by a Government Official or any other person in his or her official or employment-related capacity;
- 1.6.2.2. inducing such Government Official or any other person to use his or her influence with a Government (defined below), Government Entity (defined below) or employer to affect any act or decision of the Government, Government Entity or business (including corporations);
- 1.6.2.3. securing any improper advantage; or
- 1.6.2.4. assist Buyer or Seller in obtaining, retaining, or directing business.

1.6.3. Seller represents, warrants, covenants, and agrees that it and its owners, officers or directors have not been found guilty of any criminal law or held liable for violating any anticorruption or government procurement law or regulation, testified or provided information in connection with any Government investigation relating to the same, or suspended or debarred from any government procurement activities.

1.6.4. Seller represents, warrants, covenants, and agrees that its owners, officers, directors or employees expected to be significantly involved in the performance of services for Buyer under this Agreement are not (1) officials of a political party; or (2) current officials or employees of any government agency or government-owned enterprise (including officers, directors, employees, or other persons engaged by the customer or any of its affiliates).

1.6.5. Seller represents, warrants, covenants, and agrees that to the extent Seller employs, retains, hires, or utilizes any sub-company, distributor, agent, consultant, or other third party in connection with the performance of this Agreement, Seller shall incorporate appropriate compliance-related contractual clauses and obligations in all agreements with such parties in a manner consistent with the clauses in this Article, conduct reasonable pre-retention anti-corruption due diligence into such parties, and monitor all operations and payments to such third parties to help reasonably ensure compliance with the applicable laws, including, without limitation, Anti-corruption Laws and Buyer's Anticorruption Policy & Guidelines.

1.6.6. For the purposes of this Anticorruption Clause, the term "**Seller**" shall mean Seller's officers, directors, owners, controlling shareholders, employees, subsidiaries, parents, and affiliates. Furthermore, the term "**Government Official**" shall mean and include any official or employee of a national, provincial, or local government department, agency, or instrumentality, as well as any official in the judiciary, legislature, or military, anyone acting in an official capacity for any Government, or any immediate family member of such persons. "**Government**" or "**Government Entity**" means (1) any agency, instrumentality, subdivision or other body of any federal, regional, or municipal government; (2) any commercial or similar entities that the government controls or owns (including any state-owned and state-operated companies, enterprises, entities, or organizations); (3) any international organizations such as the United Nations or the World Bank; and (4) and any political party.

1.6.7. At all times while this Agreement is in effect and for at least two years following its expiration or termination, Seller shall keep and maintain its books, records and accounts in reasonable detail to accurately, completely and fairly reflect its activities and transactions under this Agreement, including the recipients and nature of every payment or expenditure in connection with performance of this Agreement.

1.6.8. Upon written notice of no less than fourteen (14) days to Seller, Buyer or its designee shall have the right at any reasonable time during normal business hours to inspect and copy the accounts, books, records and other information of Seller that are related to this Agreement. Seller shall promptly comply with all reasonable instructions given by Buyer with respect to the audit.

1.6.9. In the event that Buyer reasonably believes in its sole discretion that Seller has breached this Article, the Anti-corruption Laws and/or Buyer's Policy & Guidelines, Buyer may suspend any of its obligations under this Agreement (including, without limitation, payment obligations) with immediate effect for a reasonable period during which Buyer investigates such a possible breach. Furthermore, all obligations of payment to Seller by Buyer shall be immediately extinguished and Buyer shall have the right to demand the return of all funds already paid to Seller, except to the extent that Seller can provide reasonable assurances that all or some portion of the funds were not used to make a payment in disrespect of this Clause.

1.6.10. In the event that Buyer reasonably determines in its sole discretion that Seller has breached this Article, the Anti-corruption Laws and/or Buyer's Policy & Guidelines, Buyer may terminate this Agreement upon written notice to Seller with immediate effect and without any liability on Buyer.



1.6.11. Additionally, Seller shall comply with all applicable laws set forth on Exhibit B applicable to the particular Products or Services and jurisdictions as indicated therein.

1.7. Anti-Bribery Obligations.

1.7.1. Each party warrants not to pay any commission, remuneration, brokerage, directly or indirectly off-the-books to, or provide any presents or treatment to, or reach any arrangement aforementioned with the employees, managers or staffs of the other party or any third party, except for advertisement gifts of small price in accordance with business practices, including the Buyer's Business Partner Code of Conduct and Ethics.

1.7.2. Gifts may be offered or accepted as long as they are compliant with the Buyer's Business Partner Code of Conduct and Ethics and:

- 1.7.2.1. Infrequent occurrences between the giver and recipient;
- 1.7.2.2. Not solicited;
- 1.7.2.3. Of modest price; and
- 1.7.2.4. Not in the form of cash or checks.

1.7.3. If any party violates the provision of this Section 1.11, it is deemed a serious violation. The observant party has the right to notify the party in breach in writing to terminate the Agreement, simultaneously retain the right to take further legal measures, and the party in breach shall bear all the losses to the observant party.

1.8. ADA Compliance. Seller represents and warrants to Buyer that, to the extent applicable, the Products comply with the requirements imposed by the Americans with Disabilities Act (42 U.S.C. Art. 12101 et seq.) (the "**ADA**"), any applicable foreign, state or local accessibility laws, and any regulations, generally recognized industry guidelines, and relevant interpretations promulgated pursuant thereto effective from time-to-time during the term of this Agreement. The obligation to comply with ADA requirements expressly includes compliance with the most current generally recognized guidelines for website and mobile app accessibility (currently, the World Wide Web Consortium's Web Content Accessibility Guidelines 2.1 at Levels A and AA) as well as any applicable website and mobile app accessibility laws, regulations, and/or standards which may be promulgated by an applicable federal, state, local government entity and/or industry authority, and effective at any time during the term of this Agreement or the applicable Order.

1.9. Sanctions. Seller shall fully comply with all relevant economic sanctions, trade embargoes and restrictions, and import and export control laws, as set forth in the terms and obligations accessible at: <https://www.carnivalcorp.com/vendors-suppliers/sanctions-and-trade-control-compliance-clauses/>. These terms and obligations may be revised from time to time. It is imperative that Seller regularly review the linked content to ensure ongoing full compliance with the same by its employees, sub-contractors, agents and representatives engaged in the supply of the Deliverables and/or Services. A copy of these terms and obligations can be provided by Buyer upon request.

1.10. Additional Operating Companies. Buyer may provide notice to Seller that any subsidiary, division, branch or operating company of Carnival Corporation and/or Carnival plc (an "**Additional Operating Buyer**") is to join in this Agreement and benefit and be subject to the terms and conditions set forth herein. Such notice

will reference this Agreement, contain any and all applicable information of such Additional Operating Buyer (e.g., legal name, address for billing and notice, etc.) and will be executed by Buyer and the Additional Operating Buyer. Upon delivery of such notice to Seller, the Additional Operating Buyer will be deemed to be a party to this Agreement. Alternatively, in lieu of such notice, an Additional Operating Buyer may place an Order with Seller, with such Order expressly incorporating the terms of this Agreement. Upon the full execution thereof, such Additional Operating Buyer will be deemed to be a party to this Agreement. In the event an Additional Operating Buyer joins this Agreement, it will be solely responsible for its actions (or inactions) hereunder, including, without limitation, making payments, and handling all general operational matters relating to this Agreement and any Order to which it is a party. It is a condition of this Agreement and Seller expressly agrees that none of Carnival Corporation, Carnival plc or any other subsidiary or affiliate of Buyer is responsible for any matter hereunder relating to any other Additional Operating Buyer and Seller shall look solely to the Additional Operating Buyer in question for recourse with regard to any matters relating to such Additional Operating Buyer's acts or omissions under this Agreement and any Order to which it is a party. Seller hereby waives any legal right or other right to recourse from Carnival Corporation, Carnival plc and any other affiliate or subsidiary of Buyer in connection with any and all matters relating to an Additional Operating Buyer in connection with this Agreement and any Order to which such Additional Operating Buyer is a party. For the purpose of this Subsection, the term "**Buyer**" refers to the Carnival Corporation or Carnival plc entity executing an Order (i.e., Carnival Corporation, Carnival plc, or an Additional Operating Buyer).

## **2. Relationship of the Parties**

2.1. No Joint Venture. Nothing in this Agreement shall be construed as creating a partnership, principal-agent, or employer-employee relationship between Buyer and Seller. Seller shall not represent that it is an employee, partner or agent of Buyer and it shall not have any authority to bind Buyer in any manner.

2.2. Independent Contractor Status. Seller acknowledges and agrees that it is an independent contractor whose employees and agents are not employees or agents of Buyer for any purpose, including but not limited to federal, state or local unemployment insurance laws, old age benefits, social security law, workmen's compensation law, tax laws or any other industrial law, and are not eligible for any of the benefits to which employees of Buyer are eligible. Seller does not have any authority, express or implied, to assume or create any obligations on behalf of Buyer and should not use or display Buyer's name or any other trademark, service mark or trade name owned or claimed by Buyer or its affiliates without Buyer's prior written consent. Seller is solely and exclusively liable for the payment of all required federal, state and local income, employment, unemployment and other such taxes applicable to Seller, its agents or employees.

## **3. COMPENSATION**

3.1. Compensation. Buyer shall pay Seller in the amounts and as set forth in each Order from time to time.

3.2. Expenses. Only if specifically set forth in an Order, Buyer shall pay for all reasonable and documented travel and other related expenses paid to a third party that are directly related to Seller's performance hereunder, which shall be reimbursed in accordance with Buyer's standard, applicable travel and expense reimbursement policies. Unless otherwise agreed by Buyer, all travel and lodging arrangements will be directly made through Buyer. It is Buyer's policy not to pay for consultant or contractor travel time.



3.3. Payment. Seller will invoice Buyer at the frequency set forth in the applicable Order. Unless otherwise expressly specified in an applicable Order, invoices are payable within sixty (60) days from Buyer's receipt of Seller's invoice that conforms to the terms herein. Buyer may withhold payment or tender partial payment in the event of: (i) a good faith dispute as to the calculation of an invoice or payment amount being claimed by Seller; (ii) an incomplete invoice; or (iii) an unreasonably late invoice. Buyer will give prompt written notice to Seller of a disputed invoice stating the details of any such dispute; provided, however, that failure to provide such notice promptly will not be considered a waiver of Buyer's rights hereunder. All invoices must detail the applicable Order number, description of Products shown on the Order, and include original bills of lading or air, surface or rail receipts. Buyer reserves the right to request from Seller additional documentation in order to substantiate any given invoice.

3.4. Audit. Seller shall keep accurate and complete records of all matters relevant to or as required by this Agreement. In addition to the audit rights set forth in Section 1.6, Buyer or its duly authorized representative shall have continuing access to inspect Seller's relevant books and records at any reasonable time or times upon prior notice to Seller in order: (i) to verify the amounts invoiced by Seller hereunder; and (ii) to ensure compliance by Seller with its obligations hereunder. If any inspection reveals an overpayment by Buyer, Seller shall promptly reimburse to Buyer the overpayment amount together with any interest thereon, accruing at a rate equal to the lesser of one percent (1%) per month or the highest rate of interest allowed by applicable law. Buyer's rights referred to above shall be exercised at the discretion of Buyer. In the event that any such inspection discloses an overpayment equivalent to five percent (5%) or more of the total amount charged to Buyer during the period covered by such inspection, Seller shall reimburse Buyer its reasonable and documented costs and expenses incurred in connection with the inspection (including enforcing the collection of the overpaid amount).

3.5. Taxes.

3.5.1. Unless otherwise stated, Seller's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, but not limited to, value-added, sales and use, or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction. Buyer agrees to pay amounts equal to any federal, state, or local sales, use, excise, privilege, value added, goods and services or other taxes that, under applicable law, are solely Buyer's legal liability and relate to payments made by it for Products provided by Seller hereunder (collectively, "**Taxes**"). If Seller has the legal obligation to pay or collect Taxes for which Buyer is responsible under this paragraph, the appropriate amount shall be invoiced to and paid by Buyer, unless Buyer provides Seller with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Seller is responsible for taxes based on its employees, wages, net income, property or net worth and other similar taxes imposed in lieu of or in addition to income taxes.

3.5.2. **VAT Requirements Applicable to All EU Sellers.** The Seller, if a trader registered for VAT in any of the EU countries, may zero rate/exempt the Products on invoices provided the following points are adhered to: (i) The purchase order states on the face that the Products ordered are destined for consumption onboard or repairs to a ship and are therefore zero rated/exempt for VAT purposes under Article 148 of the EC Sixth Directive on VAT; (ii) the Seller retains the original purchase order as proof of ability to zero rate/exempt the Products; (iii) the Seller makes a similar statement to that on the face of the purchase order under Section i), above, on the delivery note and sales invoice; (iv) the Products are delivered to the ship either directly or through a freight forwarder, or are addressed and delivered to the Master of the named ship c/o the Buyer or the Buyer's agent; and (v) a receipt is obtained by the Seller, from and signed by the Master or responsible.

3.5.3. **VAT Requirements Applicable to All UK Sellers.** The Seller, if a trader registered for VAT in the United Kingdom, may zero rate the Products on invoices provided the following points are adhered to: (i) The purchase order states on the face that the Products ordered are destined for consumption onboard or repairs to a ship and are therefore zero rated for VAT purposes under VAT Act 1994, Schedule 8, Group 8; (ii) the Seller retains the original purchase order as proof of ability to zero rate the Products; (iii) the Seller makes a similar statement to that on the face of the purchase order under Section i), above, on the delivery note and sales invoice; (iv) the Products are delivered to the ship either directly or through a freight forwarder, or are addressed and delivered to the Master of the named ship c/o the Buyer or the Buyer's agent; and (v) a receipt is obtained by the Seller, from and signed by the Master or responsible officer.

#### **4. PROTECTION OF CONFIDENTIAL INFORMATION**

##### **4.1. Confidential Information.**

4.1.1. Each party expressly agrees and understands that the other party owns and/or controls information and material which is not generally available to third parties and which such other party considers confidential ("**Confidential Information**") including, as it pertains to Buyer, the Confidential Information of Carnival Corporation, Carnival plc and the respective subsidiaries, internal branches, divisions, and affiliates of Carnival Corporation and Carnival plc (collectively, "**Carnival Corporation & plc**"). Confidential Information includes, without limitation, any information of any nature and in any form (whether oral, written, electronic, visual, or otherwise) disclosed by a party (the "**Disclosing Party**"), or which is otherwise learned by the receiving party (the "**Receiving Party**") in connection with this Agreement, which relates in any way to the Disclosing Party's (and/or, in the case of Buyer, any member of Carnival Corporation & plc's) business or operations, including, without limitation, Disclosing Party's current or contemplated operations, finances, personnel matters, accounting data, markets, strategies, customers and customer information, expansion plans, pricing plans, market analyses, market projections, consulting and sales methods and techniques, the identity of suppliers of goods and/or services or competitors, software or hardware products, trade secrets, other non-public intellectual property, and the terms and existence of this Agreement.

4.1.2. The following shall not be considered Confidential Information: (i) information that was already known to the Receiving Party without obligation of confidentiality prior to disclosure of it to the Receiving Party by the Disclosing Party; (ii) information that is disclosed to the Receiving Party by a third party who does not have any legal, fiduciary or contractual obligation of confidentiality to the Disclosing Party, or in the case of Buyer as the Disclosing Party, any member of Carnival Corporation & plc; (iii) information that is in the public domain or hereafter enters the public domain through no fault of the Receiving Party; or (iv) information that has been independently developed by the Receiving Party without use, directly or indirectly, of the Confidential Information.

4.1.3. The Receiving Party shall hold the Confidential Information in strict confidence and protect the Confidential Information from disclosure using the same care it uses to protect its own Confidential Information of like importance, but not less than reasonable care. The Confidential Information shall only be revealed to the Receiving Party's employees, affiliates, directors, officers, partners, owners, agents, independent contractors, auditors, attorneys, consultants, and/or advisors (collectively, "**Representatives**"), who need to know the Confidential Information for the provision or receipt of the Products, as applicable and who are informed of the confidential nature of the Confidential Information, and who agree to be bound by

the confidentiality provisions of this Agreement. The Receiving Party agrees to be responsible for any breach of this Agreement by any of its Representatives.

4.1.4. In the event that the Receiving Party or anyone to whom the Receiving Party transmits the Confidential Information pursuant to this Agreement receives a request of any type in any judicial or administrative proceeding or from any governmental or regulatory authority or otherwise becomes legally compelled to disclose any of the Confidential Information, the Receiving Party shall provide the Disclosing Party with notice of such event promptly upon the Receiving Party obtaining knowledge thereof (provided that the Receiving Party is not otherwise prohibited by law from giving such notice), so that the Disclosing Party may seek a protective order or other appropriate remedy. The Receiving Party further agrees that: (i) to the extent practicable and allowable under law, it will continually consult with the Disclosing Party on the advisability of taking steps to resist or narrow such request or compulsion; and (ii) if it must disclose any of the Confidential Information pursuant to applicable law or legal process and no injunction has been granted restraining such disclosure, it may do so without violating this Agreement provided that it furnishes only: (a) that portion of the Confidential Information which its counsel advises in writing is legally required and in a manner reasonably designed to preserve its confidential nature and exercises its reasonable efforts to obtain reliable assurance that the Confidential Information will be treated as confidential; or (b) such Confidential Information to which the Disclosing Party agrees in writing.

4.1.5. Upon termination or expiration of this Agreement, or earlier if required by the Disclosing Party, any Confidential Information in any form, and in the case of Buyer as the Disclosing Party, the Buyer Information, as defined below, in the Receiving Party's possession, shall be either, at the Disclosing Party's written instruction, (i) promptly returned to the Disclosing Party or its duly authorized Representative, or (ii) destroyed under the Disclosing Party's supervision (or the Receiving Party shall furnish the Disclosing Party with an affidavit of such destruction sworn to by a representative of the Receiving Party). The confidentiality obligations set forth herein shall continue during the term of this Agreement and survive and continue in full force and effect for five (5) years from the date of termination hereof, except with respect to Buyer trade secrets, for which Seller's obligations of confidentiality and non-use with respect thereto shall be perpetual.

4.2. Injunctive Relief. Because a party's breach of this Article may cause the other party irreparable harm for which money is inadequate compensation, each party agrees that the non-breaching party will be entitled to seek temporary and permanent injunctive relief to enforce this Article 4, in addition to damages and other available remedies. If any action is necessary to enforce this Article 4, the prevailing party shall be entitled to recover its reasonable attorneys' fees.

4.3. Survival. Notwithstanding anything to the contrary all provisions contained in Article 5 shall survive the expiration or earlier termination of the Agreement.

## **5. INSURANCE AND INDEMNIFICATION**

### **5.1. Insurance**

5.1.1. Seller agrees to obtain and maintain, at its own expense,: (a) Workers' Compensation/Employer's Liability insurance covering its employees in accordance with applicable legislation; (b) Commercial General Liability insurance including contractual liability, products and completed operations for bodily injury and property damage for at least \$5,000,000 on a per occurrence basis covering claims arising out of or in

connection with Seller's operations or the actions of its employees and independent contractors; (c) Automobile Liability insurance for bodily injury and property damage in the amount of at least \$1,000,000 if automobiles are to be used in the performance of this Agreement; and (d) Professional Liability insurance in the amount of \$5,000,000 covering errors and omissions of Seller and breach of contract by Seller. Said policy shall also cover liability arising from doing business on the web including coverage for corruption, loss or theft of data.

5.1.2. The required insurance coverage shall be placed with an insurance company or companies reasonably acceptable to Buyer and have a rating equivalent to a current A. M. Best Buyer guide of A- or better. Buyer shall be named as an additional insured party under each such insurance policy (with the exception of Workers' Compensation), any "other insurance clause" shall be deleted from each such policy, and the insurance under each such policy shall be primary. If Seller's operations under the performance of this Agreement will be performed on or about a vessel, any marine exclusions or territorial limits shall be removed by endorsement from each such insurance policy. The policies will include an endorsement waiving the insurer's right of recovery and subrogation against Buyer. Seller's insurance policies shall provide for thirty (30) days' prior written notice to Buyer from the insurer in the event of any modification, cancellation or termination. Seller shall furnish Buyer a certificate of insurance, evidencing the coverage described herein, within ten (10) days after execution of this Agreement.

5.2. Indemnification. Seller shall defend, indemnify and hold Buyer, including its directors, officers, employees, agents and affiliates, harmless from and against all claims, losses, expenses, damages, causes of action and liabilities of every kind and nature, including without limitation reasonable attorney's fees (without waiver of Seller's obligation to indemnify Buyer hereunder) arising from, in connection with or relating to, directly or indirectly, (i) any actual or alleged failure of Seller, or the Products delivered under this Agreement, to comply with any applicable international, federal, state or local laws, orders, rules, standards or regulations; (ii) any actual manufacturing, design or performance defects (including, without limitation, latent defects) in the Products including, without limitation, liabilities sounding in the nature of tort or product liability; (iii) any alleged or actual infringement or violation of any patent or registered design, copyright, trademark, trade name, license or other proprietary right of any third party relating to the sale, manufacture or use of Products (iv) any breach or alleged breach of this Agreement or any Order, (v) any personal injury or death caused by Seller; and/or (v) acts or omissions attributable to Seller, its officers, agents, employees and subcontractors. Buyer may be represented by and actively participate through its own counsel in any such suit, claim, demand or proceeding if it so desires, at Buyer's cost.

## **6. MISCELLANEOUS**

6.1. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to choice of law principles, and all disputes and matters whatsoever arising under, or connection with or incident to these Terms and Conditions and each Order shall be litigated, if at all, in and before the courts of competent jurisdiction in Miami-Dade County, Florida.

6.2. Entire Agreement. This Agreement, along with each Order issued hereunder, constitutes the entire, final and complete agreement between Buyer and Seller with respect to the subject matter hereof and supersedes all prior and contemporaneous negotiations, agreements, understandings and arrangements, both oral and written, between Buyer and Seller with respect to such subject matter. This Agreement may not be modified in any way, except by a written instrument executed by each of the parties.

6.3. Severability. The invalidity of any one or more of the words, phrases, sentences, clauses or sections contained in this Agreement shall not affect the enforceability of the remaining portions of this Agreement or any part hereof. If any restriction contained in this Agreement is held by any court to be unenforceable or unreasonable, a lesser restriction (but the maximum permitted by such court) shall be enforced in its place and remaining restrictions contained herein shall be enforceable independently of each other.

6.4. Waiver. It is understood and agreed that no failure or delay by a party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

6.5. Notice. All notices given under this Agreement shall be (i) in writing; and (ii) either sent by (a) certified mail, postage prepaid, return receipt requested or hand-delivered (including delivery by a reputable, international commercial courier or overnight delivery service), which will be deemed received three business days after mailing with respect to certified mail, and upon receipt of evidence of delivery with respect to hand-delivery; or (b) email, which will be deemed received upon sending, unless the party sending the notice receives a failure to send notification. In the event the notifying party receives a failure to send notification for notice by email, notice shall be provided in accordance with subsection (a) of this Section 6.5. Notices shall be sent to the addresses set forth below, unless different or additional addresses are provided by the applicable party in writing from time to time.

6.5.1. **Notice to Buyer**: Notices to Buyer shall be sent to the information below:

***Invoice Notice***

AP Department  
Carnival Cruise Line  
3655 NW 87th Ave  
Miami, FL 33178

***Other Notices***

Legal Department  
Carnival Cruise Line  
3655 NW 87th Ave  
Miami, FL 33178

6.6. Counterparts and Signatures. This Agreement, including a facsimile or photocopy hereof, may be signed in counterpart, by hand or secure electronic signature, each of which shall be an original, with the same effect as if the signature were an original signature upon the same instrument.

6.7. Section Headings. The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of any or all of the provisions of this Agreement.

6.8. Assignments. Neither this Agreement nor any rights or obligations hereunder may be assigned or delegated by Seller (including through use of any subcontractors) without Buyer's written consent, and any attempt to do so shall be null and void. If Seller shall cause any part of the services related to the Products to be performed by a subcontractor, the provisions of this Agreement shall apply to such subcontractor and its officers, agents or employees in all respects as if they were employees of Seller, and Seller shall not thereby be discharged from any of its obligations and liability hereunder, but shall be liable hereunder for all related acts and omissions of the subcontractor, its officers, agents and employees, as if they were employees of Seller operating under the terms of this Agreement.

6.9. Attorneys' Fees. In connection with any litigation arising from this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred, including, but not limited to, reasonable attorneys' fees for such litigation and any subsequent appeals.

6.10. Buyer's Rights and Remedies Cumulative. The rights and remedies of Buyer provided herein and all other rights and remedies at law or in equity shall be, to the extent permitted by law, cumulative and not exclusive of any other right or remedy now or hereafter available at law or in equity. Neither asserting a right nor employing a remedy shall be deemed to waive any other right or employment of any other remedy available to Buyer hereunder.

6.11. Advertising. No identification of Buyer or any Carnival Corporation & plc entity, brand or division, or use of any of their names, marks, codes, drawings, specifications or other references to Buyer or any Carnival Corporation & plc entity, brand or division may be used in any of Seller's advertising, marketing or promotional activities or customer lists without Buyer's prior written consent, which shall only be provided in Buyer's sole discretion and subject to the terms of a separate license agreement.

6.12. Force Majeure. Neither party shall be liable to the other party for delay or failure in the performance of its obligations hereunder, resulting from the occurrence of an Event of Force Majeure (as defined below). An "**Event of Force Majeure**" is any event beyond a party's reasonable control that renders performance of a party's obligations under this Agreement impossible, inadvisable, or commercially impracticable; and shall include, but not be limited to, acts of God, epidemics, pandemics, disease outbreaks, public health crises, quarantine; acts, recommendations, or orders of any civil or military authority; unforeseeable strikes or labor disputes; riots, war, fire, accidents, explosions, floods, earthquakes, unusually severe weather, or other natural disasters; collision, delay in sailing, prolongation of voyage, voyage deviation; or any act, omission, fault or negligence of any Buyer guest. The party experiencing the Event of Force Majeure may delay performance of their obligations under this Agreement for a reasonable period of time coinciding with the duration of the Event of Force Majeure. In the event that an Event of Force Majeure persists for a period of sixty (60) days or more, either party may terminate all or any portion of this Agreement and/or the applicable Order(s) immediately upon notice to the other party without liability for such termination.



## **SCHEDULE 1**

### **COMPLIANCE WITH LAWS/REPRESENTATIONS**

*I. FOR ALL PRODUCTS/SERVICES BEING DELIVERED OR PERFORMED INTO OR IN THE UNITED STATES OR ANY OF ITS TERRITORIES:*

SELLER SHALL COMPLY WITH ALL APPLICABLE FEDERAL, STATE, LOCAL AND INTERNATIONAL LAWS AND GOVERNMENTAL REGULATIONS, INCLUDING WITHOUT LIMITATION THE FEDERAL OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (“OSHA”), INTERNATIONAL STANDARDS ORGANIZATION (“ISO”) ISO 9000 AND 9001, THE FEDERAL HAZARDOUS SUBSTANCE LABELING ACT (“FHSLA”), THE PUBLIC HEALTH SECURITY AND BIOTERRORISM PREPAREDNESS AND RESPONSE ACT OF 2002 (“BIOTERRORISM ACT”), THE UYGHUR FORCED LABOR PREVENTION ACT, AND ANY OTHER LAWS, RULES, STANDARDS AND REGULATIONS APPLICABLE TO THE PRODUCTS, SERVICES AND ANY ORDER. SELLER CERTIFIES THAT ALL PRODUCTS AND SERVICES FURNISHED UNDER ANY ORDER WILL CONFORM TO AND COMPLY WITH SUCH LAWS, RULES, STANDARDS AND REGULATIONS. IN ITS PERFORMANCE UNDER THIS AGREEMENT, NEITHER SELLER NOR ANYONE INVOLVED IN FULFILLING THE ORDER ON BEHALF OF SELLER SHALL ENGAGE IN ANY CONDUCT THAT WOULD BE CONSTRUED UNDER THE LAWS OF THE UNITED STATES OF AMERICA AS CONSTITUTING DISCRIMINATION OR HARASSMENT ON THE BASIS OF RACE, SEX, RELIGION, AGE, NATIONAL ORIGIN, CREED, COLOR, DISABILITY, MARITAL STATUS OR SEXUAL ORIENTATION. SELLER IS HEREBY NOTIFIED THAT IT MAY BE SUBJECT TO THE PROVISIONS OF 41 CFR SECTION 60-1.4, 41 CFR SECTION 60-250.4 AND SECTION 60-741.4 WITH RESPECT TO AFFIRMATIVE ACTION PROGRAM AND PLAN REQUIREMENTS.

*II. FOR CONSUMABLE PRODUCTS BEING DELIVERED INTO OR IN THE UNITED STATES OR ANY OF ITS TERRITORIES:*

Prior Notice of Food Imports. To the extent that Buyer is acting as importer of record or consignee for any foods into the United States, then in accordance with the Bioterrorism Act and all applicable regulations promulgated thereunder, Seller will provide active, regular, and timely assistance to Buyer and its agents, including Buyer’s carriers, freight forwarders, Customs brokers, or importers of record, in complying with FDA’s Prior Notice of Import Food regulation (“the prior notice rule”), when such assistance is required by Buyer. Such assistance may include, but shall not be limited to, providing Buyer or its agents, with respect to each distinct shipment of food to the United States, sufficient information for electronic prior notice to be transmitted to FDA in accordance with the time deadlines and other requirements imposed by the prior notice rule. When required by Buyer, such information will include, but not be limited to:

- (a) the name, address, and FDA registration number, when applicable, of the manufacturer, grower (if known), and foreign shipper of each food item imported into the United States under the Order;
- (b) the country from which each article of food imported under the Order is shipped;
- (c) the country in which each article of food imported under the Order was manufactured or grown (the FDA Country of Production);
- (d) the common or usual name of each imported article of food contained in the shipment to the U.S.;
- (e) the quantity of each imported article of food, described from the largest container to the smallest package size, and the manufacturer’s lot and sub-lot number, if required;
- (f) the anticipated first U.S. port, date, and time of arrival, as arranged with the carrier;

- (g) the name and country of the carrier;
- (h) any airway bill or bill of lading numbers associated with the imported food shipment; and
- (i) the anticipated shipping information, as requested by Buyer or Buyer's agent, identifying the vessel, flight, car, truck, container, or other conveyance identifiers.

SELLER OR ITS SUPPLIERS MAY BE SUBJECT TO 21 CFR PART 1 WITH RESPECT TO REGISTRATION OF A FOOD ESTABLISHMENT OR SUBMISSION OF PRIOR NOTICE OF FOOD IMPORTS. SELLER HEREBY WARRANTS THAT IT AND SELLER'S SUPPLIERS ARE NOT SUBJECT TO A DEBARMENT ORDER UNDER SECTION 306 OF THE FEDERAL FOOD, DRUG AND COSMETIC ACT AND THAT ITEMS SOLD UNDER THIS AGREEMENT HAVE NOT BEEN PREVIOUSLY REFUSED ADMISSION INTO THE UNITED STATES OR REJECTED BY THE U.S. FOOD AND DRUG ADMINISTRATION (FDA) OR ANY OTHER FEDERAL OR STATE AGENCY.

Seller shall provide its HACCP to Buyer and update Buyer with any changes or failures. Seller shall maintain proper HACCP and proper food sanitation, storing, temperature and handling procedures at all times. In the event of HACCP failures, Seller promptly shall advise Buyer and cease the affected shipment. Seller shall advise Buyer of any and all failures or claims against the distributor, seller or manufacturer of Products sold by the Seller to Buyer.

SELLER SHALL ALSO PROVIDE ASSISTANCE IN EXPORTING FOOD PRODUCTS OUTSIDE OF UNITED STATES BY PROVIDING ALL REQUIRED CERTIFICATES AND COMPLIANCE WITH IMPORTING COUNTRY REGULATIONS. SELLER WILL EXPORT, UNLESS ADVISED BY BUYER, ALL GOODS "SHIP STORES IN TRANSIT".

III. *For consumable Products being delivered into or in the United Kingdom or any of its territories : see attached Food and Beverage Supply Requirements document.*

*For all Chemical Products:*

- (a) The term "Hazardous Material" generally means any material that poses substantial or potential threats to employees, public health or the environment and generally exhibits one or more of these characteristics: flammable, oxidizing, corrosive, toxic, radioactive or harmful to the environment. Official designation of material as "hazardous" is based on relevant federal, state, provincial or local laws or regulations or other legislation applicable at the point of delivery of the material to Buyer.
- (b) The Seller shall list all constituents of the substance supplied regardless of the hazard, and identify those that are classified as hazardous materials, as defined in paragraph (a) of this clause, to be delivered under this contract. The constituents shall be properly identified and include any applicable identification number, such as a CAS (Chemical Abstract Services) registry or an EC (European Commission) number. This information shall also be included on the Material Safety Data Sheet(s) (as defined below) submitted under this contract.
- (c) This list shall be updated during the performance of the contract whenever the Seller determines that any other material to be delivered under this contract is hazardous.
- (d) The Seller agrees to submit, for each item supplied, a Material Safety Data Sheet (a "Material Safety Data Sheet"), meeting the requirements of European Regulation No. 1907/2006/EC Annex II, for all materials identified in paragraph (b) of this clause. A current Material Safety Data Sheet must be supplied with each batch of substances at the time of delivery to the person in charge of the receipt of those substances. Data shall be submitted to Buyer, whether or not the Seller is the actual manufacturer of these items. Failure to deliver the required Material Safety Data Sheet(s) may result in delay of payments to the Seller, in the Seller being considered non-responsive and in breach of this contract.

- (e) If there is a change in the composition, formulary or a revision of the item(s) which renders the data incomplete or inaccurate as submitted under paragraph (d) of this clause, the Seller shall promptly notify Buyer and resubmit the data.
- (f) Neither the requirements of this clause nor any act or failure to act by Buyer shall relieve the seller of any responsibility or liability for the safety of Buyer or subcontractor personnel or property.
- (g) Nothing contained in this clause shall relieve the Seller from complying with applicable federal, state, provincial or local laws or regulations or other legislation (including the obtaining of licenses and permits) in connection with hazardous materials.
- (h) Buyer has the right in the data furnished under this contract, to use, duplicate and disclose any data to which this clause is applicable in the course of its operations.

## TERMS AND CONDITIONS 2

### 1. SERVICES

1.1 Scope; Statement of Work. Seller is being retained by Buyer to perform services from time to time on an independent contractor basis, as will be set forth in one or more Statements of Work issued hereunder from time to time (each a “**Order**”) (collectively, the “**Services**”). Each Order will be governed by, issued under, and incorporate the terms of, this Agreement and be in either the form which is attached hereto as Exhibit A or as otherwise agreed to by the parties. To the extent there are any conflicts between the terms of this Agreement and of any Order, the terms of this Agreement will control unless the Order specifically identifies such conflict and requires that the Order control, in which case the terms of the Order will control for that Order only. Unless specifically agreed to in writing by Buyer, any terms in Seller’s quotation, acceptance, invoice, or any other form or documentation supplied by or on behalf of Seller which are in addition to or different from the terms of this Agreement (other than additional warranties given by Seller) are hereby expressly objected to by Buyer and rejected. The parties acknowledge that this Agreement constitutes neither an authorization nor commitment by Buyer for any Services, or volume of Services, to be performed (or Deliverables (as defined herein) to be delivered) by Seller for Buyer unless authorized by a signed Order, nor for any minimum volume of business or fees. Unless otherwise expressly provided herein and/or in any applicable Order, this Agreement is intended to be non-exclusive.

1.2 Representations and Warranties. Seller hereby represents and warrants that: (a) it is a duly formed legal entity in good standing in the jurisdiction of its formation, and it is qualified to transact business, provide Deliverables and perform the Services in all locations or states where the ownership of its properties or nature of its operations requires such qualification and locations required in an Order; (b) it has the required corporate authority to enter into and perform this Agreement and each Order; (c) the execution and delivery of the Agreement and each Order have been duly authorized, this Agreement and each Order constitutes its legally binding obligation, enforceable in accordance with its terms, and neither this Agreement nor any Order violates any law, statute or regulation and does not breach any other agreement or covenant to which it is a party or violate any applicable laws, rules, regulations or other governmental regulations; (d) it has obtained and shall maintain in full force and effect such federal, state and local authorizations as are necessary to operate and to otherwise perform its obligations under this Agreement and will comply with all applicable federal, state and local laws in the performance of its obligations and the Services hereunder; (e) it is qualified to perform the Services required by and requested by Buyer, and the Services will be rendered in a competent and workmanlike manner, diligently to completion and in accordance with the terms of each Order and applicable specifications, drawings, samples and descriptions; (f) all of its personnel will hold all applicable certifications and qualifications necessary to provide the Services, and will act professionally and in accordance with: (i) generally accepted industry standards (at a minimum); (ii) all applicable international, federal, state and local laws and regulations (including possession of all required federal, state and local licenses, permits and other documentation required to perform the Services); and (iii) Buyer’s on-site administrative and security policies and procedures generally; (g) time shall be of the essence in connection with performance of its obligations under this Agreement; (h) it has or will secure all necessary consents, permissions, clearances, authorizations and waivers required to perform the Services; and (i) it is financially solvent, able to pay its debts and possessed of sufficient working capital to complete the Services in accordance with this Agreement.

1.3 No Joint Venture. Nothing in this Agreement shall be construed as creating a partnership, principal-agent, or employer-employee relationship between Buyer and Seller. Seller shall not represent that it is an employee, partner or agent of Buyer and it shall not have any authority to bind Buyer in any manner.

1.4 Independent Contractor Status. The parties agree that Seller shall be treated as an independent contractor of Buyer and shall not be considered an employee of Buyer. Buyer shall not furnish a salary, sick pay, vacation, insurance coverage, retirement benefits, workers’ compensation insurance or any other benefit



to Seller or any of its employees or agents. The parties agree that Buyer shall not be responsible for payment of any federal, state or local taxes or contributions required for Unemployment Insurance or Social Security in connection with the Services rendered by Seller or the terms of this Agreement and Seller shall indemnify Buyer for any damages, judgments or costs incurred as a result of Seller's failure to make such payments or contributions. Seller agrees that it is responsible for maintaining compliance with all applicable employment laws with regard to any employees it retains in connection with this Agreement. Seller warrants that its employment practices do not discriminate against any person based upon their status as a member of a protected class, including, but not limited to, his/her race, color, religion, national origin, sex, disability, or age. Seller agrees to indemnify Buyer for any damages, judgments or costs incurred as a result of Seller's violation of any federal, state, or local laws related to the terms of this Agreement.

1.5 Network Security. To the extent given access to Buyer systems in order to fulfill its Services, Seller will be subject to Buyer's network security policy, which is as follows as of the date hereof (but subject to change upon prior notice to Seller). Seller will have access to Buyer systems through Buyer designated user-ids and passwords only. Seller shall notify Buyer immediately of user terminations or changes in job functions so that access privileges can be modified by Buyer accordingly. Seller is responsible for all use of and access to the Buyer network system by its employees and permitted subcontractors, and Buyer maintains the right to monitor all user activity and revoke access due to noncompliance to its security policies. It is agreed by Seller that the Seller network security policy will only allow authorized users access and will deny all unauthorized access. The Seller servers are protected by an industry standard firewall. Additionally, the security policy mandates the presence of industry standard antivirus software on every desktop. To the extent Buyer requires Seller to implement different firewall or antivirus software for the Services, then Seller will implement the same, upon mutual agreement between Buyer and Seller for the additional cost. Seller will use Microsoft windows operating system version authorized by Buyer on workstations for loading the emulator software provided by Buyer to access Buyer applications. Seller will perform any upgrades required to the Windows OS, if and when required for the applicable Services being provided. Seller must notify Buyer immediately upon its knowledge of any security breaches including, but not limited to, unauthorized access and virus infections. In case there is any non-compliance of the terms hereof, the same will be rectified by Seller at Seller's cost.

1.6 Tools, Labor, Materials and Supplies. Unless otherwise provided in an Order, Seller shall provide, at its expense, all tools, materials, supplies, labor, and equipment necessary to perform the Services under this Agreement. Seller shall be solely responsible for the security of all tools, materials, supplies, and equipment brought on to any Buyer or third-party premises.

1.7 Acceptance and Warranties. Buyer reserves the right to inspect the Services at any time prior to acceptance. Seller warrants that the Services will be provided free from defects in performance, will conform to all requirements described in any Order issued in connection with this Agreement and the quality and performance standards established thereunder, and will be fit and sufficient for the purposes expressed in, or reasonably inferred from this Agreement. Seller warrants that all goods, materials, equipment, accessories, product and other items, tangible or intangible, provided by Seller under or in connection with any Services or this Agreement, including, without limitation, all Deliverables, shall: (a) be of good quality and workmanship and free from all defects, latent or patent, in design, materials and workmanship; (b) conform to all specifications, drawings, samples, and other descriptions furnished, specified, or adopted by Buyer; (c) be merchantable and suitable, sufficient, and fit for their intended and particular purpose; (d) be free of all liens, claims and encumbrances of any nature; and (e) with respect to the method(s) used to create all Deliverables and the Deliverables themselves, not infringe on any patent, trademark, copyright or any other intellectual property right. References in this Agreement to Services shall be deemed to include any and all Deliverables, whether associated with such Services or otherwise. None of the remedies available to Buyer for the breach of any warranty of Seller may be limited, except to the extent agreed upon by Buyer in a separate written agreement specifically designating such limitation. Buyer's inspection, acceptance of and/or payment for Services shall not constitute a waiver by it of any warranties of Seller and such warranties shall survive



inspection, testing, acceptance, and use, either by Buyer or Buyer's customers. All Services and Deliverables shall be subject to Buyer's reasonable satisfaction and approval and any specific acceptance criteria that may be set forth in an Order. In addition to any other remedies set forth in a Order or elsewhere herein, if Buyer, at any time in its discretion, determines that the applicable Service or Deliverable is unacceptable, Buyer may, upon notice to Seller, require Seller, at Seller's sole expense, to remedy the deficient Service or Deliverable to Buyer's reasonable satisfaction or to meet the agreed upon acceptance criteria in the applicable Order. Alternatively, Buyer may terminate the applicable Order and receive a refund of all payments made under such Order. The above warranty shall run to Carnival Corporation & plc (as hereinafter defined in Section 4.1(A) below) and their customers and other users of Seller's products. Seller agrees to replace or correct defects in any Service or Deliverable not conforming to such warranties promptly, without expense to Buyer or Buyer's customers, when notified of such nonconformity by Buyer. A new warranty shall be established for and shall apply to any such replacement or corrected Deliverable. All of the foregoing warranties expressly and explicitly extend to the future performance of Deliverables. It is understood and agreed that in no event shall Seller remove, alter, modify, change, stop, slow down, interfere with or in any way cause the Services or Deliverables to do or not to do any function or task of which Buyer has not been expressly advised. In other words, the Services and Deliverables shall contain no commands (or be susceptible to commands from a remote or local site) which will cause the Services or Deliverables to interfere with, impede, prohibit, preclude or not undertake or conclude the task(s) for which Buyer will use the Services or Deliverables.

1.8 Seller Staff; Background Checks. Buyer reserves the right to approve all of Seller's personnel performing Services and/or providing Deliverables under any Order. In the event that a member of Seller's staff does not perform to Buyer's reasonable satisfaction, Seller shall promptly remove such staff member and replace the staff member with a similarly qualified staff member. All Services will be coordinated with Buyer's designated representative, as specified in the applicable Order. Seller shall use its best efforts to cooperate with Buyer personnel and any other third parties that Buyer hires to perform services related to the corresponding Order.

Seller, at its expense, must conduct a background check for each of its employees, as well as for the employees of its subcontractors, who will provide Services to Buyer onboard any Buyer vessel(s) or on Buyer's premises (collectively "**Seller Employees**"). The minimum background check process shall include, but not be limited to, the following checks:

1. Social Security Number (SSN) Trace, if applicable;
2. Criminal Records (County and State Criminal Felony and Misdemeanor, National Criminal Database, Federal Criminal);
3. National Sex Offender Registry; and
4. OFAC screening.

The background check must be conducted prior to a Seller Employee boarding a Buyer vessel or entering Buyer's premises. Buyer retains the right to require, subject to applicable law,: (i) more regular background checks of Seller Employees; and (ii) that a Seller certify that such background checks have been completed and that the applicable Seller Employee has satisfactorily passed such background checks. If at any time, it is discovered that any Seller Employee has a criminal record that includes a felony or misdemeanor, Seller is required to inform Buyer and Buyer will assess the circumstances surrounding the conviction, time frame, nature, gravity and relevancy of the conviction to the job duties to determine whether the Seller Employee is fit to provide the Services. Buyer may withhold consent at its sole discretion. Failure of Seller to comply with the terms of this paragraph may result in the termination of this Agreement and any Order.

1.9 Business Partner Code of Conduct. Seller acknowledges that Buyer has established a Business Partner Code of Conduct and Ethics that can be found at [https://www.carnivalcorp.com/wp-content/uploads/2025/02/Carnival-Business-Partner Code of Conduct 01 20 25 w-links.pdf](https://www.carnivalcorp.com/wp-content/uploads/2025/02/Carnival-Business-Partner%20Code%20of%20Conduct%2001%2020%2025%20w-links.pdf) or otherwise obtained upon request by Seller. The Buyer's Business Partner Code of Conduct and Ethics is incorporated by



reference into this Agreement. Seller shall fully comply with the requirements set out in Buyer's Business Partner Code of Conduct and Ethics and shall use all reasonable efforts to ensure compliance with the same by its employees, sub-contractors, agents and representatives engaged in the supply of the Deliverables and/or Services. A failure by Seller to comply with its obligations pursuant to this clause shall constitute a material breach of this Agreement entitling Buyer to terminate this Agreement immediately upon written notice to Seller.

In connection with the supply of the Products, Seller shall at all times comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force, including but not limited to the UK Modern Slavery Act 2015. Seller acknowledges that Buyer publishes a statement pursuant to the Modern Slavery Act 2015 that can be found at <https://carnivalsustainability.com/modern-slavery-act>. Seller hereby confirms its commitment to adopting practices that support the requirements and principles set out in Buyer's Modern Slavery Statement.

#### 1.10 Anti-Corruption Obligations.

- a) Seller represents, warrants, covenants, and agrees it shall comply with (and will not cause Buyer to be in breach of) all and any applicable laws, rules, regulations and other directives relating to anti-corruption and anti-money laundering, including laws enacted to comply with the *UN Convention Against Corruption* and the *OECD Convention*, administrative requirements, and policies, including without limitation, the *U.S. Foreign Corrupt Practices Act*, *UK Bribery Act 2010*, Chinese laws regarding anti-corruption and anti-bribery (hereinafter referred to collectively as "**Anti-corruption Laws**") and Buyer's Anticorruption Policy & Guidelines, and Seller acknowledges having read and understood such documents.
- b) Seller represents, warrants, covenants, and agrees that it has not and will not pay, offer, promise, or authorize the payment of any money or anything of value (including gifts, samples, hospitality, sponsorships, etc.): (1) directly to any Government Official (defined below) or any other person; or (2) or indirectly or to any person knowing that all or some portion of such money or thing of value will be offered, given or promised to a Government Official or any other person, for the purpose of:
  - i. influencing any act, decision, or failure to act by a Government Official or any other person in his or her official or employment-related capacity;
  - ii. inducing such Government Official or any other person to use his or her influence with a Government (defined below), Government Entity (defined below) or employer to affect any act or decision of the Government, Government Entity or business (including corporations);
  - iii. securing any improper advantage; or
  - iv. assist Buyer or Seller in obtaining, retaining, or directing business.
- c) Seller represents, warrants, covenants, and agrees that it and its owners, officers or directors have not been found guilty of any criminal law or held liable for violating any anticorruption or government procurement law or regulation, testified or provided information in connection with any Government investigation relating to the same, or suspended or debarred from any government procurement activities.
- d) Seller represents, warrants, covenants, and agrees that its owners, officers, directors or employees expected to be significantly involved in the performance of services for Buyer under this Agreement are not (1) officials of a political party; or (2) current officials or employees of any government agency or government-owned enterprise (including officers, directors, employees, or other persons engaged by the customer or any of its affiliates).

- e) Seller represents, warrants, covenants, and agrees that to the extent Seller employs, retains, hires, or utilizes any sub-company, distributor, agent, consultant, or other third party in connection with the performance of this Agreement, Seller shall incorporate appropriate compliance-related contractual clauses and obligations in all agreements with such parties in a manner consistent with the clauses in this Article, conduct reasonable pre-retention anti-corruption due diligence into such parties, and monitor all operations and payments to such third parties to help reasonably ensure compliance with the applicable laws, including, without limitation, Anti-corruption Laws and Buyer's Anticorruption Policy & Guidelines.
- f) For the purposes of this Anticorruption Clause, the term "**Seller**" shall mean Seller's officers, directors, owners, controlling shareholders, employees, subsidiaries, parents, and affiliates. Furthermore, the term "**Government Official**" shall mean and include any official or employee of a national, provincial, or local government department, agency, or instrumentality, as well as any official in the judiciary, legislature, or military, anyone acting in an official capacity for any Government, or any immediate family member of such persons. "**Government**" or "**Government Entity**" means (1) any agency, instrumentality, subdivision or other body of any federal, regional, or municipal government; (2) any commercial or similar entities that the government controls or owns (including any state-owned and state-operated companies, enterprises, entities, or organizations); (3) any international organizations such as the United Nations or the World Bank; and (4) any political party.
- g) At all times while this Agreement is in effect and for at least two years following its expiration or termination, Seller shall keep and maintain its books, records and accounts in reasonable detail to accurately, completely and fairly reflect its activities and transactions under this Agreement, including the recipients and nature of every payment or expenditure in connection with performance of this Agreement.
- h) Upon written notice of no less than fourteen (14) days to Seller, Buyer or its designee shall have the right at any reasonable time during normal business hours to inspect and copy the accounts, books, records and other information of Seller that are related to this Agreement. Seller shall promptly comply with all reasonable instructions given by Buyer with respect to the audit.
- i) In the event that Buyer reasonably believes in its sole discretion that Seller has breached this Article, the Anti-corruption Laws and/or Buyer's Policy & Guidelines, Buyer may suspend any of its obligations under this Agreement (including, without limitation, payment obligations) with immediate effect for a reasonable period during which Buyer investigates such a possible breach. Furthermore, all obligations of payment to Seller by Buyer shall be immediately extinguished and Buyer shall have the right to demand the return of all funds already paid to Seller, except to the extent that Seller can provide reasonable assurances that all or some portion of the funds were not used to make a payment in disrespect of this Clause.
- j) In the event that Buyer reasonably determines in its sole discretion that Seller has breached this Article, the Anti-corruption Laws and/or Buyer's Policy & Guidelines, Buyer may terminate this Agreement upon written notice to Seller with immediate effect and without any liability on Buyer.

#### 1.11 Anti-Bribery Obligations.

- a) Each party warrants not to pay any commission, remuneration, brokerage, directly or indirectly off-the-books to, or provide any presents or treatment to, or reach any arrangement aforementioned with the employees, managers or staffs of the other party or any third party,

except for advertisement gifts of small price in accordance with business practices, including the Buyer's Business Partner Code of Conduct and Ethics.

- b) Gifts may be offered or accepted as long as they are compliant with the Buyer's Business Partner Code of Conduct and Ethics and:
  - i. Infrequent occurrences between the giver and recipient;
  - ii. Not solicited;
  - iii. Of modest price; and
  - iv. Not in the form of cash or checks.
- c) If any party violates the provision of this Section 1.11, it is deemed a serious violation. The observant party has the right to notify the party in breach in writing to terminate the Agreement, simultaneously retain the right to take further legal measures, and the party in breach shall bear all the losses to the observant party.

1.12 ADA Compliance. Seller represents and warrants to Buyer that, to the extent applicable, the Services and/or Deliverables comply with the requirements imposed by the Americans with Disabilities Act (42 U.S.C. Art. 12101 et seq.) (the "ADA"), any applicable foreign, state or local accessibility laws, and any regulations, generally recognized industry guidelines, and relevant interpretations promulgated pursuant thereto effective from time-to-time during the term of this Agreement. The obligation to comply with ADA requirements expressly includes compliance with the most current generally recognized guidelines for website and mobile app accessibility (currently, the World Wide Web Consortium's Web Content Accessibility Guidelines 2.1 at Levels A and AA) as well as any applicable website and mobile app accessibility laws, regulations, and/or standards which may be promulgated by an applicable federal, state, local government entity and/or industry authority, and effective at any time during the term of this Agreement or the applicable Order. In the event that Seller provides additional work effort and/or work product to Buyer that is not covered by a separate written agreement, this Section 1.12 will extend to such work effort and/or work product.

1.13 Sanctions. Seller shall fully comply with all relevant economic sanctions, trade embargoes and restrictions, and import and export control laws, as set forth in the terms and obligations accessible at: <https://www.carnivalcorp.com/vendors-suppliers/sanctions-and-trade-control-compliance-clauses/>. These terms and obligations may be revised from time to time. It is imperative that Seller regularly review the linked content to ensure ongoing full compliance with the same by its employees, sub-contractors, agents and representatives engaged in the supply of the Deliverables and/or Services. A copy of these terms and obligations can be provided by Company upon request.

## **2 Compensation**

2.1 Compensation. Buyer shall pay Seller in the amounts and as set forth in each Order from time to time.

2.2 Expenses. Only if specifically set forth in a Order, Buyer shall pay for all reasonable and documented travel and other related expenses paid to a third party that are directly related to Seller's performance hereunder, which shall be reimbursed in accordance with Buyer's standard, applicable travel and expense reimbursement policies. Unless otherwise agreed by Buyer, all travel and lodging arrangements will be directly made through Buyer. It is Buyer's policy not to pay for consultant or contractor travel time.

2.3 Payment. Seller will invoice Buyer at the frequency set forth in the applicable Order. Unless otherwise expressly specified in an applicable Order, invoices are payable within sixty (60) days from Buyer's receipt of Seller's invoice that conforms to the terms herein. Buyer may withhold payment or tender partial payment in the event of: (i) a good faith dispute as to the calculation of an invoice or payment amount being

claimed by Seller; (ii) an incomplete invoice; or (iii) an unreasonably late invoice. Buyer will give prompt written notice to Seller of a disputed invoice stating the details of any such dispute; provided, however, that failure to provide such notice promptly will not be considered a waiver of Buyer's rights hereunder. For time and material engagements, Seller shall deliver to Buyer, upon request, reports required in the applicable Order(s) within the agreed to timeframe. Such reports shall clearly provide all information necessary to permit Buyer to monitor the costs and processes associated with the provision of Services. For fixed price engagements, Seller shall provide, with each invoice, a complete summary of all tasks, accomplishments and Deliverables associated with said invoice, in the format as requested by Buyer to the individual(s) designated by Buyer in a Order.

2.4 Audit. Seller shall keep accurate and complete records of all matters relevant to or as required by this Agreement. In addition to the audit rights set forth in Section 1.10, Buyer or its duly authorized representative shall have continuing access to inspect Seller's relevant books and records at any reasonable time or times upon prior notice to Seller in order: (i) to verify the amounts invoiced by Seller hereunder; and (ii) to ensure compliance by Seller with its obligations hereunder. If any inspection reveals an overpayment by Buyer, Seller shall promptly reimburse to Buyer the overpayment amount together with any interest thereon, accruing at a rate equal to the lesser of one percent (1%) per month or the highest rate of interest allowed by applicable law. Buyer's rights referred to above shall be exercised at the discretion of Buyer. In the event that any such inspection discloses an overpayment equivalent to five percent (5%) or more of the total amount charged to Buyer during the period covered by such inspection, Seller shall reimburse Buyer its reasonable and documented costs and expenses incurred in connection with the inspection (including enforcing the collection of the overpaid amount).

2.5 Taxes. Unless otherwise stated, Seller's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, but not limited to, value-added, sales and use, or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction. Buyer agrees to pay amounts equal to any federal, state, or local sales, use, excise, privilege, value added, goods and services or other taxes that, under applicable law, are solely Buyer's legal liability and relate to payments made by it for Services provided by Seller hereunder (collectively, "**Taxes**"). If Seller has the legal obligation to pay or collect Taxes for which Buyer is responsible under this paragraph, the appropriate amount shall be invoiced to and paid by Buyer, unless Buyer provides Seller with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Seller is responsible for taxes based on its employees, wages, net income, property or net worth and other similar taxes imposed in lieu of or in addition to income taxes.

### **3 PROTECTION OF CONFIDENTIAL INFORMATION AND INTELLECTUAL PROPERTY**

#### **3.1 Confidential Information**

- A. Each party expressly agrees and understands that the other party owns and/or controls information and material which is not generally available to third parties and which such other party considers confidential ("**Confidential Information**") including, as it pertains to Buyer, the Confidential Information of Carnival Corporation, Carnival plc and the respective subsidiaries, internal branches, divisions, and affiliates of Carnival Corporation and Carnival plc (collectively, "**Carnival Corporation & plc**"). Confidential Information includes, without limitation, any information of any nature and in any form (whether oral, written, electronic, visual, or otherwise) disclosed by a party (the "**Disclosing Party**"), or which is otherwise learned by the receiving party (the "**Receiving Party**") in connection with this Agreement, which relates in any way to the Disclosing Party's (and/or, in the case of Buyer, any member of Carnival Corporation & plc's) business or operations, including, without limitation, Disclosing Party's current or contemplated operations, finances, personnel matters, accounting data, markets, strategies, customers and customer information, expansion plans, pricing plans, market analyses, market projections, consulting and sales methods and techniques, the identity of suppliers of goods and/or services or

competitors, software or hardware products, trade secrets, other non-public intellectual property, and the terms and existence of this Agreement.

- B. The following shall not be considered Confidential Information: (i) information that was already known to the Receiving Party without obligation of confidentiality prior to disclosure of it to the Receiving Party by the Disclosing Party; (ii) information that is disclosed to the Receiving Party by a third party who does not have any legal, fiduciary or contractual obligation of confidentiality to the Disclosing Party, or in the case of Buyer as the Disclosing Party, any member of Carnival Corporation & plc; (iii) information that is in the public domain or hereafter enters the public domain through no fault of the Receiving Party; or (iv) information that has been independently developed by the Receiving Party without use, directly or indirectly, of the Confidential Information.
- C. The Receiving Party shall hold the Confidential Information in strict confidence and protect the Confidential Information from disclosure using the same care it uses to protect its own Confidential Information of like importance, but not less than reasonable care. The Confidential Information shall only be revealed to the Receiving Party's employees, affiliates, directors, officers, partners, owners, agents, independent contractors, auditors, attorneys, consultants, and/or advisors (collectively, "**Representatives**"), who need to know the Confidential Information for the provision or receipt of the Services, as applicable and who are informed of the confidential nature of the Confidential Information, and who agree to be bound by the confidentiality provisions of this Agreement. The Receiving Party agrees to be responsible for any breach of this Agreement by any of its Representatives.
- D. In the event that the Receiving Party or anyone to whom the Receiving Party transmits the Confidential Information pursuant to this Agreement receives a request of any type in any judicial or administrative proceeding or from any governmental or regulatory authority or otherwise becomes legally compelled to disclose any of the Confidential Information, the Receiving Party shall provide the Disclosing Party with notice of such event promptly upon the Receiving Party obtaining knowledge thereof (provided that the Receiving Party is not otherwise prohibited by law from giving such notice), so that the Disclosing Party may seek a protective order or other appropriate remedy. The Receiving Party further agrees that: (i) to the extent practicable and allowable under law, it will continually consult with the Disclosing Party on the advisability of taking steps to resist or narrow such request or compulsion; and (ii) if it must disclose any of the Confidential Information pursuant to applicable law or legal process and no injunction has been granted restraining such disclosure, it may do so without violating this Agreement provided that it furnishes only: (a) that portion of the Confidential Information which its counsel advises in writing is legally required and in a manner reasonably designed to preserve its confidential nature and exercises its reasonable efforts to obtain reliable assurance that the Confidential Information will be treated as confidential; or (b) such Confidential Information to which the Disclosing Party agrees in writing.
- E. Upon termination or expiration of this Agreement, or earlier if required by the Disclosing Party, any Confidential Information in any form, and in the case of Buyer as the Disclosing Party, the Buyer Information, as defined below, in the Receiving Party's possession, shall be either, at the Disclosing Party's written instruction, (i) promptly returned to the Disclosing Party or its duly authorized Representative, or (ii) destroyed under the Disclosing Party's supervision (or the Receiving Party shall furnish the Disclosing Party with an affidavit of such destruction sworn to by a representative of the Receiving Party). The confidentiality obligations set forth herein shall continue during the term of this Agreement and survive and continue in full force and effect for five (5) years from the date of termination hereof, except with respect to trade secrets and other legally protected information such as Personal Data, as defined below, or payment card industry



data, for which the Receiving Party's obligations of confidentiality and non-use with respect thereto shall be perpetual.

- F. In addition, Seller agrees that unless specifically noted in an Order, all material prepared for Buyer under this Agreement (including each Order hereto), which may include, but not be limited to, inventions, business methods, programs, processes, discoveries, improvements, developments, designs, software programs, systems, specifications, documents or abstracts, or summaries thereof or any other material, and any derivative works thereof, developed, prepared, produced or created by Seller, its employees or agents under or as a result of this Agreement, including any works in progress, in whatever form or media, and all rights in patent, copyright, trademark or other intellectual property right, or trade secret, that may subsist therein (the "**Deliverables**" and, collectively with the Buyer's and/or Carnival Corporation & plc's Confidential Information, the "**Buyer Information**") shall from the time of creation be and remain the sole property of Buyer and be solely for Buyer's benefit, and Buyer shall have full ownership, proprietary and intellectual property rights therein, whether or not Buyer uses such Deliverable(s). Buyer shall be, for all purposes, the "author" of the Deliverables within the meaning of the applicable copyright laws. Seller agrees that during the term of this Agreement and at all times thereafter, (i) Seller shall not use any Buyer Information for its own use or for any purpose other than the specific purpose of completing the Services contemplated in this Agreement; and (ii) Seller shall not disclose any Buyer Information to any other person or entity, except as expressly permitted herein.
- G. Seller further acknowledges that any and all Deliverables shall be considered "Work for Hire" as such term is defined under applicable law and the exclusive property of Buyer. To the extent such Deliverables may not be deemed a "Work for Hire" under applicable law, Seller hereby assigns to Buyer all of Seller's right, title and interest in such work. Seller shall execute and deliver to Buyer such instruments of transfer and take such other action that Buyer may reasonably request, including, without limitation, executing and filing, at Buyer's expense, copyright applications, assignments and other documents required for the protection of Buyer's rights to such work. Seller warrants and covenants that the Services and Deliverables provided to Buyer under this Agreement: (i) may, in all respects, be copyrighted by Buyer; (ii) will not violate any patent, copyright, trade secret or other property right of any other party; (iii) are not subject, in whole or in part, to any interest or any claim, proprietary or otherwise, of any other person; and (iv) that in developing such Deliverables, Seller shall not have utilized any confidences, trade secrets or copyright-protected information or material of any prior employer, or any other person or entity.

3.2 Injunctive Relief. Because a party's breach of this Article may cause the other party irreparable harm for which money is inadequate compensation, each party agrees that the non-breaching party will be entitled to seek temporary and permanent injunctive relief to enforce this Article 4, in addition to damages and other available remedies. If any action is necessary to enforce this Article 4, the prevailing party shall be entitled to recover its reasonable attorneys' fees.

3.3 Right to Perform Services for Others. Seller shall have the unencumbered right to use the general knowledge, know how, experience or the skill (and for the avoidance of doubt without the aid of written materials of any type produced in connection herewith) gained while providing Services under this Agreement for the purpose of executing projects for other Seller clients, subject to Seller maintaining the confidentiality of the Buyer Confidential Information; provided, however, that Seller shall not, either directly or indirectly, permit any of its employees that work on any matter for Buyer hereunder to work for or provide any services to any cruise line other than those of Carnival Corporation & plc (a) while any such employee is providing Services hereunder; and (b) for a period of two years from the time such employee has completed his or her last assignment hereunder, unless in each instance Seller has received the prior written consent of Buyer, which may be withheld by Buyer in its sole discretion.



### 3.4 PCI DSS Compliance.

- A. This Section 4.4 is applicable if and to the extent Buyer provides Seller with customer Cardholder Data, as defined below, or in the event Seller engages in payment card transactions (i.e., processing, storing, and/or transmitting cardholder data on behalf of Buyer) as a part of the services provided to Buyer, or services requiring access to or receipt of information relating to credit card payment processing for Buyer's customers. For purposes of this Section 4.4, the term "**Cardholder Data**" refers to the number assigned by the card issuer that identifies the cardholder's account and/or other cardholder personal information. Seller and its contractors shall at all times, comply with the most up to date Payment Card Industry ("**PCI**") Data Security Standard ("**DSS**") requirements for Cardholder Data that are stipulated in the Payment Card Industry standard based on the PCI organization founded by American Express, Discover Financial Services, JCB, MasterCard Worldwide, and Visa International. The DSS requirements can be found at <https://www.pcisecuritystandards.org/tech/index.htm> (collectively, the "**PCI DSS Requirements**").
- B. Seller acknowledges and agrees that Cardholder Data may only be used for assisting in completing a card transaction, for fraud control services, for loyalty programs, as specifically agreed to by the underlying credit card company or as required by applicable law. In the event of a breach or intrusion of, or otherwise unauthorized access to, Cardholder Data stored at or for Seller, Seller shall immediately notify the applicable credit card company and Buyer's General Counsel, in the manner required in the PCI DSS Requirements, and provide the applicable credit card company and the acquiring financial institution and their respective designees reasonable, limited access to Seller's and its contractors' facilities and all pertinent records to conduct a supervised review of Seller's and its contractors' compliance with the PCI DSS Requirements. Seller must attest to their PCI Service Provider Compliance status on an annual basis and provide formal documentation to Buyer in the form of an Attestation of Compliance ("**AOC**"). Buyer may request proof of such compliance at which time Seller shall provide proof within one (1) month. Seller shall perform regular reviews of its security, availability, and processing integrity. Seller must remain in good standing with PCI DSS compliance; for any identified gaps Seller shall develop remediation plans to address the issue(s). Ownership of all applicable PCI DSS Requirements must be assigned to either Buyer or Seller in a Matrix, as defined below, using the AOC most current version that can be found in the PCI website at: <https://www.pcisecuritystandards.org/>.
- C. Seller shall maintain appropriate business continuity procedures and systems to ensure security of Cardholder Data in the event of a disruption, disaster or failure of Buyer's or Seller's primary data systems. Seller and its successors and assigns shall comply with the PCI DSS Requirements after termination of this Agreement for so long as Buyer Cardholder Data remains in its possession.
- D. In the event that there are any amendments or restatements of the PCI DSS Requirements during the term of this Agreement, Seller shall notify Buyer if it is unable to comply with such amendments or restatements by its next scheduled compliance certification. Upon receipt of such notice and until Seller provides notice that it is again able to comply with the latest PCI DSS Requirements, Buyer may refuse to allow its customers to use payment cards as a method of payment for charges by Buyer with respect to Seller. However, in such event, Buyer in its sole option may work with Seller to establish timeframes for compliance. Additionally, if Seller can provide evidence of another certification such as a completed and passed SSAE 16 audit, Buyer may leverage such certification to attest to Seller's compliance. If Seller cannot provide attestation of any certification, Buyer may request that Seller provide a roadmap or remediation project plan to become compliant. Seller acknowledges that it is responsible for the security of Buyer Cardholder Data that it processes, transmits, and stores. Buyer will determine the PCI DSS responsibilities for Seller regardless of capacity through a PCI DSS responsibility matrix ("**Matrix**"),

which shall be completed at the time of Seller's onboarding with Buyer. The Matrix is intended for use by Buyer and Seller for use in audits for PCI compliance. The Matrix describes, in accordance with PCI DSS Requirement 12.8.5 and other PCI DSS requirements, the actions Seller must take in order to maintain its own PCI compliance when Cardholder Data and other sensitive data is shared with or passing through Buyer's systems.

3.5 Survival. Notwithstanding anything to the contrary all provisions contained in Article 4 shall survive the expiration or earlier termination of the Agreement.

3.6 Data Privacy and Security Addendum. Seller agrees and acknowledges that: (i) the Data Privacy and Security Addendum to Agreement (the "**DPSA**"), is attached hereto as Exhibit A and incorporated herein by reference; (ii) Buyer may be providing Seller with, or giving Seller access to, Personal Data (as defined in the DPSA) and/or Seller may be collecting Personal Data from Data Subjects (as defined in the DPSA) on behalf of Buyer; (iii) to the extent Seller collects, receives, processes or accesses Personal Data under this Agreement, Seller will fully comply with the terms of the DPSA; (iv) all Personal Data (as defined in the DPSA) is and shall remain at all times the exclusive property of Buyer; and (v) the Seller Pre-Qualification Checklist certified by Seller prior to execution of this Agreement and annually thereafter is incorporated herein by reference.

#### **4 INSURANCE AND INDEMNIFICATION**

4.1 Insurance. Seller agrees to obtain and maintain, at its own expense,: (a) Workers' Compensation/Employer's Liability insurance covering its employees in accordance with applicable legislation; (b) Commercial General Liability insurance including contractual liability and for bodily injury and property damage for at least \$2,000,000 on a per occurrence basis covering claims arising out of or in connection with Seller's operations or the actions of its employees and independent contractors; (c) Automobile Liability insurance for bodily injury and property damage in the amount of at least \$1,000,000 if automobiles are to be used in the performance of this Agreement; and (d) Professional Liability insurance in the amount of \$5,000,000 covering errors and omissions of Seller and breach of contract by Seller. Said policy shall also cover liability arising from doing business on the web including coverage for corruption, loss or theft of data.

The required insurance coverage shall be placed with an insurance company or companies reasonably acceptable to Buyer and have a rating equivalent to a current A. M. Best Buyer guide of A- or better. Buyer shall be named as an additional insured party under each such insurance policy (with the exception of Workers' Compensation), any "other insurance clause" shall be deleted from each such policy, and the insurance under each such policy shall be primary. If Seller's operations under the performance of this Agreement will be performed on or about a vessel, any marine exclusions or territorial limits shall be removed by endorsement from each such insurance policy. The policies will include an endorsement waiving the insurer's right of recovery and subrogation against Buyer. Seller's insurance policies shall provide for thirty (30) days' prior written notice to Buyer from the insurer in the event of any modification, cancellation or termination. Seller shall furnish Buyer a certificate of insurance, evidencing the coverage described herein, within ten (10) days after execution of this Agreement.

4.2 Indemnification. Seller shall indemnify Buyer and its officers, directors, employees, affiliates, successors and assigns against, and hold them harmless from, any and all third-party claims, liabilities, judgments, costs (including, without limitation, court costs and reasonable attorneys' fees), damages and/or expenses of any kind, including those incurred as a result of third-party claims, arising out of or in connection with: (a) the Services; (b) the negligent or willful acts or omissions of Seller, its employees, independent contractors and/or agents; (c) any breach of this Agreement (including, without limitation, any representation or warranty contained herein) by Seller, its employees, independent contractors and/or agents; (d) any property damage, bodily injury, personal injury, advertising injury and wrongful death caused directly or indirectly by Seller or its employees, independent contractors and/or agents; (e) any failure to comply with applicable law in the performance of Services and/or the provision of Deliverables under this Agreement; and

(f) any infringement or violation by Seller of any patent or registered or unregistered design, copyright, trademark, trade name, license or other proprietary or intellectual property right of any third party in connection with the Services and/or Deliverables. With respect to indemnification under clause (f), Seller shall at its option and expense either (i) procure for Buyer the right to continue to use the Services or Deliverables provided as contemplated hereunder; (ii) replace or modify the Services or Deliverables provided to make their use hereunder functionally equivalent but non-infringing; or (iii) require Buyer to discontinue use of those Services or Deliverables and promptly return to Buyer a full refund of all charges allocable to the Services provided which resulted in the infringement. Notwithstanding anything to the contrary this Section 5.2 shall survive the termination of this Agreement.

## **5 MISCELLANEOUS**

5.1 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to choice of law principles, and all disputes and matters whatsoever arising under, or connection with or incident to these Terms and Conditions and each Order shall be litigated, if at all, in and before the courts of competent jurisdiction in Miami-Dade County, Florida.

5.2 **Entire Agreement.** This Agreement, along with each Order issued hereunder, constitutes the entire, final and complete agreement between Buyer and Seller with respect to the subject matter hereof and supersedes all prior and contemporaneous negotiations, agreements, understandings and arrangements, both oral and written, between Buyer and Seller with respect to such subject matter. This Agreement may not be modified in any way, except by a written instrument executed by each of the parties.

5.3 **Severability.** The invalidity of any one or more of the words, phrases, sentences, clauses or sections contained in this Agreement shall not affect the enforceability of the remaining portions of this Agreement or any part hereof. If any restriction contained in this Agreement is held by any court to be unenforceable or unreasonable, a lesser restriction (but the maximum permitted by such court) shall be enforced in its place and remaining restrictions contained herein shall be enforceable independently of each other.

5.4 **Waiver.** It is understood and agreed that no failure or delay by a party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

5.5 **Notice.** All notices given under this Agreement shall be (i) in writing; and (ii) either sent by (a) certified mail, postage prepaid, return receipt requested or hand-delivered (including delivery by a reputable, international commercial courier or overnight delivery service), which will be deemed received three business days after mailing with respect to certified mail, and upon receipt of evidence of delivery with respect to hand-delivery; or (b) email, which will be deemed received upon sending, unless the party sending the notice receives a failure to send notification. In the event the notifying party receives a failure to send notification for notice by email, notice shall be provided in accordance with subsection (a) of this Section 6.5. Notices shall be sent to the addresses set forth below, unless different or additional addresses are provided by the applicable party in writing from time to time.

- A. **Notice to Buyer:** Notices to Buyer provided under subsection (ii)(a) of Section 6.5 shall be sent to the address first set forth above, Attn: General Counsel. Email notices to Buyer shall be sent to Attn: General Counsel as follows:

***Invoice Notice***

AP Department  
Carnival Cruise Line  
3655 NW 87th Ave  
Miami, FL 33178

***Other Notices***

Legal Department  
Carnival Cruise Line  
3655 NW 87th Ave  
Miami, FL 33178

5.6 Counterparts and Signatures. This Agreement, including a facsimile, electronic version, or photocopy hereof, may be signed in counterpart, by hand or secure electronic signature, each of which shall be an original, with the same effect as if the signature were an original signature upon the same instrument, and each such signature will be deemed to be an original and valid signature.

5.7 Section Headings. The section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of any or all of the provisions of this Agreement.

5.8 Assignments. Neither this Agreement nor any rights or obligations hereunder may be assigned or delegated by Seller (including through use of any subcontractors) without Buyer's written consent, and any attempt to do so shall be null and void. If Seller shall cause any part of the Services to be performed by a subcontractor, the provisions of this Agreement shall apply to such subcontractor and its officers, agents or employees in all respects as if they were employees of Seller, and Seller shall not thereby be discharged from any of its obligations and liability hereunder, but shall be liable hereunder for all related acts and omissions of the subcontractor, its officers, agents and employees, as if they were employees of Seller operating under the terms of this Agreement.

5.9 Attorneys' Fees. In connection with any litigation arising from this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred, including, but not limited to, reasonable attorneys' fees for such litigation and any subsequent appeals.

5.10 Buyer's Rights and Remedies Cumulative. The rights and remedies of Buyer provided herein and all other rights and remedies at law or in equity shall be, to the extent permitted by law, cumulative and not exclusive of any other right or remedy now or hereafter available at law or in equity. Neither asserting a right nor employing a remedy shall be deemed to waive any other right or employment of any other remedy available to Buyer hereunder.

5.11 Advertising. No identification of Buyer or any Carnival Corporation & plc entity, brand or division, or use of any of their names, marks, codes, drawings, specifications or other references to Buyer or any Carnival Corporation & plc entity, brand or division may be used in any of Seller's advertising, marketing or promotional activities or customer lists without Buyer's prior written consent, which shall only be provided in Buyer's sole discretion and subject to the terms of a separate license agreement.

5.12 Force Majeure. Neither party shall be liable to the other party for delay or failure in the performance of its obligations hereunder, resulting from the occurrence of an Event of Force Majeure (as defined below). An "**Event of Force Majeure**" is any event beyond a party's reasonable control that renders performance of a party's obligations under this Agreement impossible, inadvisable, or commercially impracticable; and shall include, but not be limited to, acts of God, epidemics, pandemics, disease outbreaks, public health crises, quarantine; acts, recommendations, or orders of any civil or military authority; unforeseeable strikes or labor disputes; riots, war, fire, accidents, explosions, floods, earthquakes, unusually severe weather, or other natural disasters; collision, delay in sailing, prolongation of voyage, voyage deviation; or any act, omission, fault or negligence of any Buyer guest. The party experiencing the Event of Force Majeure may delay performance of their obligations under this Agreement for a reasonable period of time coinciding with the duration of the Event of Force Majeure. In the event that an Event of Force Majeure persists for a period of sixty (60) days or more, either party may terminate all or any portion of this Agreement and/or the applicable Order(s) immediately upon notice to the other party without liability for such termination.

## Exhibit A

### **Data Privacy and Security Addendum (DPSA) to Agreement**

**“Personal Data”** means any information which will be shared between PROCESSOR and CONTROLLER in connection with performance of this Agreement relating to an identified or identifiable natural person (“Data Subject”); an identifiable natural person is one who can be identified, directly or indirectly, to a particular identifier such as a name, an identification number, location data, an online identifier or one or more factors specific to the physical, physiological, genetic, mental, economic or cultural status or society of that natural person. This information may be in paper, electronic or other form. Personal Data includes, but is not limited to, a Data Subject’s name, address, contact information, credit or debit card numbers, bank account numbers or financial information, social security number, driver’s license number, passport or visa information, e-mail address, user name, password, IP address, transactional information, health or disability information, image, consumer preferences, marital status, salary, occupation or demographic information;

**“Data Protection Requirements”** means all applicable laws, regulations and certification requirements protecting the fundamental rights and freedoms of natural persons and their right to privacy with regard to the processing of Personal Data including, but not limited to:

- (i) the Federal Trade Commission Act (15 U.S.C. §§ 41- 58, as amended);
- (ii) the General Data Protection Regulation (GDPR);
- (iii) the California Consumer Privacy Act of 2018 (Cal. Civ. Code §§ 1798.100-1798.199);
- (iv) the Australian *Privacy Act* 1988 (Cth), National Privacy Principles and *Spam Act* 2003 (Cth)
- (v) the New Zealand *Privacy Act* 1993 (Cth)
- (vi) and any other international, national, local or regional data protection, data privacy or data security laws.

**“Losses”** means all losses, costs, charges, expenses, liabilities, claims, actions, proceedings, fines, penalties, damages and adverse judgments.

PROCESSOR shall provide notice to all guests (“Data Subjects”) of the legitimate interest under which their Personal Data will be transferred to and used by CONTROLLER for CONTROLLER’s business purposes, i.e., for CONTROLLER to provide services to the guest and for CONTROLLER to inform guests regarding future CONTROLLER services which CONTROLLER may provide. PROCESSOR shall:

- (a) comply fully with its obligations under Data Protection Requirements;
- (b) appoint a point of contact for data protection matters and provide CONTROLLER with contact details for the same upon request;
- (c) ensure that its privacy notices are clear and provide sufficient information to guests for them to understand which of their Personal Data shall be processed and/or shared with CONTROLLER and or CONTROLLER authorized subcontractors in connection with their bookings and the purposes for Personal Data sharing including, but not limited to, a notice that PROCESSOR is sharing Personal Data with CONTROLLER and its affiliates, government agencies and authorities and other travel suppliers (who may be based outside the European Economic Area (“EEA”)), who may use such information for their own purposes, including sending marketing information about their products and services, as permitted;
- (d) ensure that all Personal Data that is shared with CONTROLLER is collected, processed and transferred in accordance with Data Protection Requirements; and
- (e) implement, maintain and at all times operate adequate and appropriate technical, administrative, physical and organizational measures to:
  - (i) protect the security, confidentiality, integrity and availability of the Personal Data and
  - (ii) protect against unauthorized or unlawful processing of the Personal Data and accidental loss, destruction or the making vulnerable of, or damage to, the Personal Data.

In the event of any change in Data Protection Requirements, PROCESSOR shall take such steps (including agreeing to additional obligations or executing additional documents) as may be required by CONTROLLER in order to ensure continued compliance with Data Protection Requirements. Further, if PROCESSOR appoints a subprocessor



in respect of any Personal Data processing activities then PROCESSOR shall ensure that, prior to any processing of the Personal Data by a subprocessor, it enters into an agreement with the subprocessor on terms that comply with the requirements of Data Protection Requirements. PROCESSOR shall remain fully responsible for the acts, omissions and defaults of its subprocessor as if those were the acts, omissions and defaults of PROCESSOR.

If PROCESSOR receives any complaint, notice, request (including any Data Subject Rights request) or communication which relates directly or indirectly to the processing of Personal Data by PROCESSOR, PROCESSOR shall immediately notify CONTROLLER in writing at [privacy@CARNIVAL.com](mailto:privacy@CARNIVAL.com) and shall provide full cooperation and assistance in relation to the same. If PROCESSOR discovers or suspects:

- (a) any unauthorized or unlawful access, processing, use or destruction of any Personal Data;
- (b) any Personal Data is disclosed or accessed in breach of Data Protection Requirements;
- (c) any loss, theft, damage, corruption or misappropriation by any means of any Personal Data or media, materials, records or information containing any Personal Data; and/or (d) any other security incident affecting the Personal Data (each a **"Data Incident"**), then PROCESSOR must notify CONTROLLER in writing at [privacy@CARNIVAL.com](mailto:privacy@CARNIVAL.com) no later than 24 hours after the discovery of the Data Incident and provide written details of the nature of the Data Incident including the categories and approximate numbers of data subjects concerned and the categories and approximate number of personal data records concerned, the likely consequences of the Data Incident, and the measures taken or proposed to be taken to address the Data Incident including measures to mitigate possible adverse effects for data subjects. PROCESSOR shall, where relevant, provide full cooperation, information and assistance to CONTROLLER in relation to any Data Incident in accordance with Data Protection Requirements and CONTROLLER's reasonable instructions.

PROCESSOR shall indemnify and keep CONTROLLER indemnified against all Losses that CONTROLLER may suffer, sustain or incur as a result of any breach by PROCESSOR or a subprocessor of the provisions of this DPSA or any act, omission or default of PROCESSOR or any subprocessor. PROCESSOR agrees that such breach may cause immediate and irreparable harm to CONTROLLER for which money damages may not constitute an adequate remedy and, in that event, CONTROLLER may seek injunctive relief in addition to any other remedies CONTROLLER may have.

Upon the termination of the Agreement, PROCESSOR shall promptly return to CONTROLLER all Personal Data in its possession; if CONTROLLER provides written notice to PROCESSOR that it is required to destroy such Personal Data, PROCESSOR shall destroy the Personal Data in its possession. PROCESSOR's responsibilities hereunder shall survive beyond the term of the Agreement until all Personal Data has been returned or deleted pursuant to this paragraph.

While providing Services pursuant to the Agreement, a party may process Personal Data on behalf of the other party. The party processing Personal Data (the "PROCESSOR") on behalf of the other party (the "CONTROLLER") agrees to comply with the provisions of this DPSA with respect to Personal Data submitted to PROCESSOR by or for CONTROLLER or collected and processed by or for CONTROLLER in connection with the services. The DPSA provisions do NOT apply to Personal Data received, obtained or processed by PROCESSOR on its own behalf or on behalf of a CONTROLLER other than a party identified in the agreement or provided to PROCESSOR directly by Data Subjects for use by PROCESSOR on its own behalf.