

SERVICES AGREEMENT

This agreement (the ‘Agreement’) is active from the date the Service Recipient enters its details with the Service Provider to receive Services from the Supplier (the ‘Commencement Date’) between the following parties (each a ‘party’ and together the ‘parties’):

- (1) Secure Play Limited, a company incorporated in terms of the Companies Acts, company number SC470581, having its registered office at Earn House, Earn Avenue, Righhead Industrial Estate, Bellshill, ML4 3LW (“Supplier”); and
- (2) **The Service Recipient** is the entity which contracts via the Supplier’s website to receive Services from the Supplier and may receive further information by email, in writing or in any other form (“Service Recipient”).

**BACKGROUND**

- A The Supplier has agreed to host a fund raising game for the Service Recipient on the Suppliers Site ('Transaction') on the terms of this Agreement between Supplier and Service Recipient (“Services Agreement”).
- B In connection with the Transaction, the Service Recipient wishes to appoint Supplier to provide and manage the Prize Competition, on the understanding the Prize Competitions may be joined by any other Club/Charity/Other entity and are not exclusive to the Service Recipient services involving Definitions and interpretation

**1.1 Definitions**

<b>Agreement Term</b>	means the initial term, together with any extensions agreed in accordance with subclauses herein (Duration);
<b>Authorised Contact</b>	means each authorised representative appointed by each of Service Recipient and Supplier, whose details are set out in clause 12 (Authorised Contacts), or as otherwise notified to the other party in writing;
<b>Bribery Laws</b>	means the Bribery Act 2010 and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption]
<b>Business Day</b>	means a day (other than a Saturday or Sunday or public holiday) on which banks are generally open in Glasgow for non-automated normal business;
<b>Club/Charity/Other entity</b>	Means the Club or Charity or organization which forms the Service Recipient in this Agreement and the Participant in the Prize Competition logs in through the website of the Club/ Charity or Other Entity
<b>Confidential Information</b>	means any and all confidential information, (whether in oral, written or electronic form) including technical or other information imparted in confidence or disclosed by one party to the other or otherwise obtained by one party relating to the other’s business, finance or technology, know-how, Intellectual Property Rights, assets, strategy, products and customers, Suppliers, Participants, including without limitation information relating to management, financial, marketing, technical and other arrangements or

	operations of any person, firm or organisation associated with that party;
<b>Fees</b>	means the fees and other amounts payable under this Agreement for the Services as set out in the Clauses below and in the Charges Schedule;
<b>Force Majeure</b>	means an event or sequence of events beyond a party's reasonable control (which could not reasonably have been anticipated and avoided by a party) preventing or delaying it from performing its obligations hereunder, including war, revolution, terrorism, riot or civil commotion; strikes, lock outs or other industrial action, whether of the affected party's own employees or others; blockage or embargo; acts of or restrictions imposed by government or public authority; explosion, fire; flood, natural disaster, or adverse weather conditions. Force Majeure does not include, without limitation, inability to pay, mechanical difficulties, shortage or increase of price of raw materials, over-commitment or market or other circumstances which may make the terms of this Agreement unattractive to a party;
<b>Fund Raising Platform</b>	Means the Prize Competition software and Suppliers site which Participants log in to and use (after creating the relevant account). Providing the Service Recipient and the Participants with software and connectivity (as long as the participant can connect via some means to the Supplier's Site) to allow real time participation in Prize Competitions, Other Competitions and any other activity processing entries via website or mobile site.
<b>Intellectual Property Rights</b>	means copyright, rights in inventions, patents, know-how, trade secrets, trade marks and trade names, service marks, design rights, database rights and rights in data, semiconductor chip topography rights, rights in all programs and code; rights in game names and questions; logos; brands; all names involved in the Prize competitions; the right to sue for passing off, utility models, domain names and all similar rights and, in each case: (i) whether registered or not; (ii) including any applications to protect or register such rights; (iii) including all renewals and extensions of such rights or applications; (iv) whether vested, contingent or future; and (v) wherever existing;
<b>Key Contracts</b>	means those agreements between Supplier and its suppliers or subcontractors engaged in connection with the provision of the Services, as listed in the Services Schedule;
<b>Participants</b>	People logging in, through the Club, Charity or Other Organisation which they support, to the relevant Club, Charity or Other Organisation
<b>Prize Competition</b>	means a skill based competition resulting in the allocation of a prize or prizes in accordance with these terms and conditions all per the Gambling Commission guidance.

<b>Replacement Supplier</b>	means any third party who provides services to Service Recipient which replace, substitute or succeed the Services (or any part of them);
<b>Services</b>	means the services detailed in the Services Schedule;
<b>Services Agreement</b>	this Agreement between the Supplier and the Service Recipient
<b>Service Recipient Data</b>	means all data, information, and other materials in any form (including derivatives) relating to Service Recipient (and/or its customers) and which may be accessed, generated, collected, stored or transmitted by Supplier (or any Supplier contractor) in the course of the performance of the Services;
<b>Service Recipient Materials</b>	means any Service Recipient policies, software, Service Recipient Data, calculations, algorithms, methods, information and other materials created or supplied by Service Recipient;
<b>Service Standards</b>	means to no lesser standard of care, skill and diligence than that used by Supplier when providing the relevant Services in its own operations, which failing where circumstances justify, a reasonable standard of care, skill and diligence; and
<b>Supplier's Site</b>	means the website Participants are redirected to in order to play or participate in the Competition, Prize Competition or any other activity.
<b>VAT</b>	means: (i) value added tax as defined in the Value Added Tax Act 1994; and (ii) any similar tax in any other jurisdiction.

## 1.2 Interpretation

In this Agreement, unless the context otherwise requires:

- 1.2.1 the singular includes the plural and vice versa;
- 1.2.2 references to subclauses or clauses or Schedules or Appendices (if any) are to subclauses or clauses or Schedules or Appendices of this Agreement, and references to paragraphs are to paragraphs in a Schedule or in an Appendix;
- 1.2.3 references to this Agreement include its Schedules and Appendices;
- 1.2.4 references to persons include individuals, trusts, partnerships, unincorporated bodies, government entities, companies and/or corporations (in each case whether or not having separate legal personality);
- 1.2.5 'including' (or similar words) means including without limitation;
- 1.2.6 clause headings do not affect their interpretation; and
- 1.2.7 references to legislation (including any subsidiary legislation) include any modification or re-enactment thereof.

## 2 Duration

- 2.1 This Agreement commences and takes effect from the Commencement Date and shall continue for as long as the parties contract until the term is brought to an end in terms of this Services Agreement. ("the Agreement Term"), unless terminated earlier in accordance with this Agreement or extended pursuant to the subclauses below.

- 2.2 The duration of this Agreement may be extended by the mutual written agreement of the parties at any time prior to the expiry of the Initial Term, with such further term to be on the same terms and conditions as this Agreement (subject to any amendments to these agreed between the parties in writing).

### **3 Services**

- 3.1 The Supplier shall provide to the Service Recipient the Services for the Term in accordance with the terms of this Agreement, including as set out in the Services Schedule.
- 3.2 The Services provided by Supplier under this Agreement are as stated in the Definition and as provided for on the Supplier's web site.
- 3.3 The parties agree that Supplier is being appointed as an exclusive supplier of the Services and Service Recipient may NOT any time perform any part of the Services itself or procure them from a third party.
- 3.4 The parties acknowledge and agree that:
- 3.4.1 the Supplier shall provide reasonable assistance to and cooperation with any third parties engaged by Service Recipient in connection with the Services; and
- 3.4.2 the Service Recipient shall provide reasonable assistance to and cooperation with the Supplier, its staff and contractors and any third parties engaged by Supplier in connection with the Services, which included providing the Supplier with details of the Participants where necessary, always on the basis this information is kept secure and the Supplier complies with its obligations in terms of Data Security and Data Protection.

### **4 Fees and expenses**

- 4.1 The Fees, payments and expenses for the Services are as set out in the Charges Schedule.
- 4.2 The parties agree that the Fees are fixed for the period of the Services Agreement subject to any other agreement in writing between the parties from the Commencement Date.
- 4.3 Any increase in the Fees shall be discussed and agreed between the parties. If agreement is not reached within Fourteen (14) Business Days of the Supplier notifying Service Recipient of the proposed increase, the Supplier shall be entitled to increase the Fees in line with the increase (if any) in prices as identified by the Retail Prices Index from the date such Fees were last increased, provided that Supplier shall not be entitled to increase the Fees under this clause more than once every twelve (12) months.

## **5 Taxes and duties**

- 5.1 All amounts due under this Agreement are **exclusive** of VAT, sales or other tax applicable which are deducted by the Supplier from the total sums paid by Participants at the end of each Prize Competition, among other deductions.
- 5.2 These shall ensure the Supplier has no liability for tax or duty arising from the Sales, use not based on the Suppliers income and will pay directly to HMRC and take all responsibility for any and all such Tax payable by the Service Recipient.
- 5.3 The Service Recipient indemnifies the Supplier against such taxes, fees and duties payable by the Service Recipient none of which are to be taken as a part of, a deduction from nor an offset against payments due to the Supplier.

## **6 Invoicing and payment**

- 6.1 The Supplier shall provide the Service Recipient with an invoice either in hard copy by post to the Service Recipient's registered office or another place of business and/or electronically to any email address notified by Service Recipient in writing to Supplier for all sums due under this Agreement
- 6.2 The Supplier shall pay to the Service Recipient by BACS/CHAPS/or such other method of electronic method as the Supplier sees fit and such sums will be due and payable to them in terms of the Prize Competition and the total sums paid by Participants to the Supplier under deduction of the Supplier's fees plus VAT and any additional expenses and costs under deduction of the prize monies or equivalent value of the prize(s), reversals, invalidated payments, chargebacks, refunds or other amounts payable by the Service Recipient to the Supplier as deducted from the total monies paid by participants in respect of that Prize Competition. Sums will be due and payable to the Service Recipient by the Supplier within 7 days of all cleared funds being received by the supplier at the end of the Prize Competition or other Competition the sums were subject of. Where Donations are made for charities they will be payable within 1 working of receipt of the cleared funds.
- 6.3 The Service Recipient shall provide the Supplier with confirmation of the bank account the sums are to be paid in to with full details of sort code, account number, bank name and address, bank account holder name and any other details requested from the Supplier and will provide principal bank statement and any other verification the Supplier requires for the Supplier to be satisfied the Service Recipient has the right and title to the bank account of which the details have been provided and that the Service Recipient has the authority to accept funds in to the bank account stated by them. The Service Recipients failure to do so may result in delay of payment or nonpayment by the Supplier any other Amounts, which delay or nonpayment will be at the sole discretion of the Supplier and the Supplier will not be subject to any penalty for such nonpayment nor will the Supplier be subject to any

obligation to make such payments in those circumstances. The Supplier reserves the right to request information and to be given access to information, which information and access will be at its sole discretion, from the Service Recipient to allow the Supplier to check the veracity of the account information provided to it by the Service Recipient to its satisfaction. Any account details provided by the Service Recipient must reflect the Account holder name is held in the Service Recipient's name or an explanation as to why it is not in the name of the Service Recipient must be provided with supporting principal documentation. The Service Recipient's failure to provide information and/or allow the Supplier the necessary access to obtain or check such information may result in delay of payment or nonpayment by the Supplier of any other Amounts, which delay or nonpayment will be at the sole discretion of the Supplier and the Supplier will not be subject to any penalty for such nonpayment nor will the Supplier be subject to any obligation to make such payments in those circumstances.

- 6.4 In the event that the Services Recipient has a dispute as to the amounts due, the Service Recipient agrees to pay the undisputed amounts. Interest shall not accrue on any disputed amounts so long as the Service Recipient pays such amounts within thirty (30) calendar days after resolution of the dispute.

## **7 Interest**

- 7.1 Where sums due are not paid in full by the date referred to in clause 6, the Supplier will not be liable for any interest on such sums nor any penalties, charges nor interest in terms of the Late Payment of Commercial Debts legislation.
- 7.2 Interest in the sum of 4.5% shall accrue on all overdue accounts.

## **8 Supply obligations**

- 8.1 The Service Recipient appoints the Supplier to supply the Services and the Supplier agrees to provide those Services in accordance with this Agreement, including to meet the Service Standards.
- 8.2 Each of Supplier and Service Recipient shall comply with their respective designated responsibilities specified in this Agreement.

## **9 Service Recipient obligations**

- 9.1 The Service Recipient shall provide or procure for Supplier and the Supplier's personnel, contractors and any and all third parties appointed or instructed by the Supplier:
- 9.1.1 reasonable access to the premises and Service Recipient facilities;
  - 9.1.2 reasonable access to Service Recipient software, systems and Service Recipient data; and

9.1.3 relevant information, instructions and assistance, including reasonable access to and cooperation by Service Recipient personnel.

in each case as reasonably necessary for Supplier to perform its obligations under this Agreement.

9.2 The Service Recipient shall not:

9.2.1 Breach this Agreement, or any other Agreement that the Service Recipient has entered into with the Supplier in connection with the Fund Raising Platform Service;

9.2.2 Violate any laws, rules, or regulations applicable to the Suppliers business in relation to a doing with the Fun Raising Platform Service.

9.2.3 Violate any rule, guideline, or bylaw of the Direct Debit Gateway, Payment Gateway or of the Associations (the "Associations Rules"), as they may be amended by the Associations from time to time. Some of the Association Rules are available for Visa, MasterCard, American Express, and Discover.

9.2.4 Fail to provide the Supplier with any information that the Supplier reasonably requests from the Service Recipient or their business activities, or provide the Supplier with false, inaccurate or misleading information;

9.2.5 Refuse to cooperate in a legal investigation or audit that may be required by the Associations or government authorities;

9.2.6 Integrate or use any of the Supplier Fund Raising Platform Service(s) without complying with the Suppliers requirements;

9.2.7 Utilise recurring billing functionality without properly obtaining Your customers' consent to be billed in such a manner;

9.2.8 Submit any Transaction for processing through the Fund Raising Platform Service which does not represent a bona fide, permissible Transaction as outlined in this Agreement and in the Association Rules, or which inaccurately describes the product or service(s) being sold or the charitable donations being made; and

9.2.9 Process Transactions or receive payments on behalf of any other party, or redirect payments to any other party.

9.2.10 Misrepresent a prize or make any false claims in any medium the Service Recipient uses to advertise the Competition.

9.3 The Service Recipient is liable for all claims, expenses, fines and liability incurred by the Supplier arising out of:

9.3.1 any Chargeback, Refund, over-payment, payment error, or other invalid payment the Service Recipient or their customers cause (collectively "Invalidated Payment");

9.3.2 any error, negligence, misconduct or fraud by the Service Recipient, their customers, employees, or someone acting on behalf of the Service Recipient; and

9.3.3 any losses resulting from the Service Recipients failure to comply with the terms of this Agreement, or usage of the Fund Raising Platform Service

In the event of an Invalidated Payment or other liability, the Supplier may deduct the amounts due to the Supplier from the Service Recipients Pay-outs.

#### **9.4 Security of access**

The Service Recipient:

- 9.4.1 shall not allow anyone else to have or use its password details. The Supplier will not be responsible nor liable for any loss or damage arising in the event this clause is breached and the Service Recipient's password details, intentionally or unintentionally, knowingly or otherwise, are disclosed, released or made available to any other party;
- 9.4.2 shall comply with all reasonable instructions the Supplier, its employees, contactors, nominees or third parties instructed by the Supplier may issue regarding account access and security;
- 9.4.3 shall keep all details held by the Supplier up to date and shall intimate any changes to such details immediately in writing to the Supplier. Any loss or damage arising as a result of the Suppliers inability to respond to the Service Recipient due to information held by the Supplier from, on or about the Service Recipient not being accurate or up to date.
- 9.4.4 shall take all reasonable steps to protect the security of the personal electronic device through which the Service Recipient, its staff, contractors, nominees or third parties instructed by the Service Recipient access the Supplier's own payment area on their website and any payment service to which the Service Recipient may be redirected from the Supplier, including but not limited to use of PIN, password protected personally configured device functionality to access the Supplier's payment service.

#### **9.5 Data Security Compliance**

The Service Recipient agree to comply with applicable data privacy and security requirements under the Payment Card Industry Data Security Standard ("Association PCI DSS Requirements") with regards to its use, access, and storage of certain credit card non-public personal information on behalf of the Supplier . Additionally, the Service Recipient agrees to comply with its obligations under any applicable law or regulation as may be in effect or as may be enacted, adopted or determined regarding the confidentiality, use, and disclosure of cardholder information.

### **10 Actions by the Supplier**

10.1 The Service Recipient authorises the Supplier, directly or through third parties, to make any inquiries or take any actions considered necessary to validate the Service Recipient's identity, evaluate their creditworthiness, and verify information that has been provided to us. The Service Recipient authorises the Supplier to obtain financial and credit information, such as obtaining the personal credit report, or the credit report for the Service Recipients directors, officers, and principals. By completing the application to become a Supplier customer, the Service Provider is providing the Supplier with written instructions and authorisation in accordance within current UK legislation to Act to obtain such financial information or credit reports.

10.2 In the event that the Supplier is unsuccessful in receiving satisfactory information to verify the identity of the Service Recipient or determine that



the Service Recipient is creditworthy, the Supplier reserves the right to terminate this Agreement with immediate notice to the Service Recipient, cease to provide access to the Fund Raising Platform Service, and refuse or rescind any payment by the Service Recipients customers.

10.3 The Service Recipient authorises the Supplier, directly or through third parties, to make any inquiries or take any actions it consider necessary to validate the Service Recipient's identity, evaluate its creditworthiness, and verify information that the Service Recipient has provided to the Supplier. The Service Recipient authorise the Supplier to obtain financial and credit information, such as credit reports, including that for directors, officers, and principals of the Service Recipient. By completing an application to become a customer of the Supplier, the Service Recipient will provide, on request, to the Supplier authorisation in accordance within current UK legislation to obtain such financial information or credit reports as are deemed necessary by the Supplier.

10.4 In the event:

10.4.1 the Supplier is unsuccessful in receiving satisfactory information for it to verify the Service Recipient's identity

10.4.2 the Supplier is unsuccessful in receiving satisfactory information for it to verify the Service Recipient is creditworthy

10.4.3 the Supplier determines in the course of the Agreement the Service Recipient's identity was not verified or has changed and cannot be verified;

10.4.4 the Supplier determines in the course of the Agreement the Service Recipient's creditworthiness was or has become unsatisfactory to the Supplier;

the Supplier reserves the right, in the event the Supplier has exercised its discretion as above to commence this Agreement or in the event the Agreement commenced based on other information provided, to terminate this Agreement with immediate notice to the Service Recipient and to cease to provide to the Service Recipient and its employees, agents, Participants, nominees and all other parties associated with the Service Recipient access to the Supplier's Fund Raising Platform Services, and to refuse or rescind any payment by the Service Recipient's Participants.

10.5 If the Supplier believes:

10.5.1 that any transactions carried out in accordance with this Agreement for the Service Provider pose or may pose an unacceptable level of risk;

10.5.2 that the Service Recipient has or may have breached the terms of this Agreement;

10.5.3 that the Service Recipient's account has or may have been compromised;

the Supplier may take various actions without notice to the Service Recipient to avoid liability.

10.6 In the event the Supplier believes one of the events referred to in clause 10.5 above has occurred the Supplier may take various actions without notice to the Service Recipient to avoid liability, including but not limited to:

- 10.6.1 suspending or limiting the Service Recipient's ability to use the Supplier's Fund Raising Platform Services;
- 10.6.2 refusing to process any transaction;
- 10.6.3 reversing any transaction already processed or refunding same;
- 10.6.4 withholding the Service Recipient's pay-outs in lieu of all sums due and payable and which may become due and payable to the Supplier by the Service Recipient;
- 10.6.5 contacting the Service Recipient's Participants and those who may not yet have participated in any prize Competition or other Competition or activity but who have set up a log in on the Supplier's website to verify transactions and reduce potential fraud and disputes.

Where possible, the Supplier will provide the Service Recipient with advance notice of the Supplier's actions and resolution steps, however, advance notice will not be provided if there is an immediate need to take action such as a security threat, potential fraud, or illegal activity.

#### **10.7 Reserves and pay outs:**

- 10.7.1 The Supplier may place a reserve on a portion of the Service Recipient's pay-out, at its sole discretion and with no notice to the Service Recipient, in the event that the Supplier believes there is a level of risk associated with the Service Recipient's business which may impact on the Service Recipient's ability to make payment for sums due or which may become due to the Supplier.
- 10.7.2 In the event the Supplier places a reserve on the Service Recipient's pay-outs, the Supplier will confirm to the Service Recipient the levels and terms of the reserve. Regardless of other terms and conditions of the reserve, the funds held by the Supplier in the reserve are security interest and the Supplier has an absolute lien and right of set off in respect of the funds held in the reserve against any sums due or which may become due by the Service Recipient to the Supplier.  
The terms may require that;
  - 10.7.2.1 a certain percentage of the Service Recipient's pay-outs are held for a period of time;
  - 10.7.2.2 that a fixed amount of the Service Recipient's pay-outs are withheld and set off against all sums due and which may become due by the Service Recipient to the Supplier until such time as the total sums are paid;
  - 10.7.2.3 such other restrictions that the Supplier at its discretion, determines are necessary.
- 10.7.3 The Supplier may change the terms of the Reserve at any time at its sole discretion and any such change will be intimated to the Service Recipient in writing. The Supplier may hold a reserve as long as it deems necessary. The Service Recipient remains responsible and liable for payment of all and any funds due or which may become due by the Service Recipient to the Supplier and release by the Supplier of any reserve does not affect this liability nor the Supplier's right to demand payment and take action for recovery of sums due or becoming due by the Service Recipient to the Supplier.
- 10.7.4 If a Service Recipient ceases to use the Services provided by the Supplier, the Supplier may, at the Supplier's sole discretion, require to allow any Prize Competitions or other Services which have commenced to run their course, although

at their sole discretion the Supplier will cease accepting entries from the Service Recipient's Participants, and thereafter a period will be necessary to allow the Supplier to complete payments, reserves, charge back and deductions to the Service Recipient.

## **11 Service Changes**

11.1 Service Recipient shall provide Supplier with no less than 30 days' prior written notice of any reduction in or termination of the Services (or any part of them), with exception to:

11.1.1 the length of each Prize Competition;

11.1.2 the prize(s) for each Prize Competition;

11.1.3 the terms and condition associated with each Prize Competition, that being the general terms and conditions of the Supplier and any terms and conditions specific to a Prize Competition; and

11.1.4 any other privacy policies; policies and/or terms and conditions of the Supplier,

which the Supplier can change at its absolute discretion and the prize.

In the event there are fewer Participants in the Prize Competition resulting in the cost of the Supplier's gross fees, costs and any other expenses and the value of the prize(s) for that Prize Competition, the Service Recipient shall be responsible to the Supplier for the shortfall, which shortfall shall be deducted from a later Prize Competition income or shall be due and payable immediately on request to the Supplier by the Service Recipient.

11.2 The Supplier shall provide Service Recipient with such receipts or other evidence of actual payment of such costs and expenses as Service Recipient may reasonably require.

11.3 If the Service Recipient markets the details of the Prize Competition to its database, supporters or others, the Service Recipient shall allow the Supplier to approve such marketing before it is released, which approval will be provided within 15 working days and which approval will not be unreasonably withheld.

## **12 Authorised Contacts**

12.1 For the purposes of this Agreement Supplier's Authorised Contact is:

Name:	Brian Durham
Position:	
Address:	Secure Play Limited, Earn House, Earn Avenue, Righead Industrial Estate, Bellshill, ML4 3LW
Telephone:	0345 3690102
Email:	<a href="mailto:help@secureplay.co.uk">help@secureplay.co.uk</a>

- 12.2 For the purposes of this Agreement Service Recipient's Authorised Contact details have to be provided via email or the Supplier's website. The details which have to be provided are as follows:

Full Name:	
Position:	
Address:	
Telephone:	
Mobile:	
Email:	
Fax:	

### **13 Warranties**

- 13.1 The Supplier warrants and represents to Service Recipient that Supplier has the right, power and authority to enter into this Agreement, to grant to Service Recipient the services contemplated in this Agreement and to supply the Services.
- 13.2 All other warranties and representations as to the Services, whether statutory or implied, are hereby expressly excluded to the fullest extent permitted by law. This does not exclude any liability for fraudulent misrepresentation.
- 13.3 The Supplier will not be liable under this clause or be required to remedy any problem arising from or caused by Service Recipient's use of the Services in a manner other than as directed by Supplier.
- 13.4 The Service Recipient warrants and represents to Supplier that Service Recipient has the right, power and authority to enter into this Agreement and to receive the Services and that there is/will be no other Agreement the Service Recipient has entered in to nor will enter in to which conflicts with the terms of, nor the Service Recipients obligations in this Agreement.
- 13.5 The Service Recipient warrants that the Service Recipient is authorized to conduct business within the UK.

### **14 Limits on liability**

- 14.1 Subject to the following subclauses, in no event shall the aggregate liability (whether in contract, tort (including negligence) or otherwise) and in respect of all claims, losses and damages arising under or in connection with this Agreement exceed £50,000 for the Service Provider with no limit for the Supplier.

The above limits on liability shall apply in respect of any indemnities provided by either party under this Agreement, except for the indemnities in clause 19 (Confidential Information) and/or a party's liability for a breach of their obligations.

14.2 In no circumstances shall a the Supplier's liability to the Service Recipient in contract, tort (including negligence), misrepresentation (whether innocent or negligent), breach of statutory duty or otherwise arising under or in connection with this Agreement extend to any:

14.2.1 loss of profits;

14.2.2 loss of business opportunity;

14.2.3 loss of goodwill;

14.2.4 loss of data;

14.2.5 loss of anticipated savings; or

14.2.6 any special, indirect or consequential loss or damage whatsoever.

14.3 Notwithstanding the limitations and exclusions of liability set out in this Agreement, neither party excludes or limits any liability for:

14.3.1 personal injury (including sickness and death) to the extent that such injury results from the negligence or wilful default of a party or its employees; or

14.3.2 fraud or fraudulent misrepresentation; or

14.3.3 any other liability to the extent the same cannot be excluded or limited by law.

## **15 Insurance**

Supplier must for the duration of this Agreement Term maintain appropriate insurance cover with a reputable insurance company against all relevant liabilities and indemnities that may arise under this Agreement, and will provide to Service Recipient upon request sufficient evidence of such insurance cover

## **16 Force Majeure**

16.1 A party will not be liable if delayed in or prevented from performing its obligations hereunder due to Force Majeure, provided that it:

16.1.1 promptly notifies the other of the Force Majeure event and its expected duration, and

16.1.2 uses reasonable endeavours to minimise the effects of that event.

16.2 If, due to Force Majeure, a party:

16.2.1 is unable to perform a material obligation, or

16.2.2 is delayed in or prevented from performing its obligations for a continuous period of more than NINETY (90) days,

the other party may, within a further ten (10) days terminate this Agreement on notice, otherwise this Agreement shall continue in full force and effect.

## **17 Intellectual Property Rights**

17.1 The Supplier retains all its Intellectual Property Rights and does not assign any such rights to the Service Recipient nor allow the Service Recipient to use any of the Supplier's Intellectual Property Rights except with the Supplier's specific prior written consent.

17.2 The Service Recipient grants a licence to the Supplier to use the Service Recipient's branding, logos and other such information and Intellectual Property Rights including, but not limited to: use on in the Supplier's Site; use on the Suppliers own website; use in the Supplier's marketing materials; use in customer listings; use in interviews and press releases; and generally use as is deemed necessary by the Supplier to enable the Supplier provide the Services to the Service Recipient and fulfil its obligations under this Agreement.

## **18 Participant Data**

18.1 All Participant data is owned by the Service Recipient, which the Service Recipient will have provided for in its terms and conditions or other agreement with the Participants.

18.2 The Service Recipient grants the Supplier a licence to use, redistribute, reproduce, electronically distribute, and display Participant data, which can be assigned to a nominee of the Supplier, is irrevocable throughout the Term of the Agreement and for any period after termination of the Agreement necessary for the Supplier to continue to process the details of Participants already entered into a prize Competition, Competition or any other activity.

18.3 The licence will be used for the following purposes:

18.3.1 providing and improving the Supplier's Fund Raising Platform Service

18.3.2 internal usage, including but not limited to, data analytics and metrics where the Participant data may be anonymised and aggregated with other data

18.3.3 compliance by the Supplier with legislation, regulations and guidance on Data Protection and Data Security as well as Gambling Commission or other licensing body requirement;

18.3.4 compliance with law enforcement agencies by responding to requests for the disclosure of information in accordance with UK laws; and

18.3.5 any other purpose for which consent has been provided by the Participant.

18.4 Any loss, damage or other claim arising out of the Supplier's use of the Participant data caused by the Service Recipient's failure to properly agree or provide for consent for the Service Recipient to use and pass on the Participant's data is the sole responsibility of the Service Recipient and the Supplier bears no costs, loss nor damages nor is it required to pay any claims or other damages as a result of the Service Recipient's failure to do so.

## **19 Confidential Information**

Each party shall maintain the confidentiality of the other party's Confidential Information and shall not without the prior written consent of the other use, disclose, copy or modify the other party's Confidential Information (or permit others to do so) other than as necessary for the performance of its rights and obligations under this Agreement.

19.1 Each party undertakes to:

- 19.1.1 disclose the other party's Confidential Information only to those of its officers, employees, agents and contractors (including Supplier Personnel) to whom and to the extent to which such disclosure is necessary for the purposes contemplated under this Agreement; and
- 19.1.2 to procure that such persons are made aware of and agree in writing to observe the obligations in this clause.
  
- 19.2 Each party shall give notice to the other of any unauthorised misuse, disclosure, theft or loss of the other party's Confidential Information immediately upon becoming aware of the same.
  
- 19.3 The provisions of this clause shall not apply to information which:
  - 19.3.1 is or comes into the public domain through no fault of the recipient, its officers, employees, agents or contractors;
  - 19.3.2 is lawfully received by the recipient from a third party free of any obligation of confidence at the time of its disclosure;
  - 19.3.3 is independently developed by the recipient, without access to or use of such information; or
  - 19.3.4 is required by law, by court or governmental or regulatory order to be disclosed provided that the relevant party, where possible, notifies the other party at the earliest opportunity before making any disclosure.
  
- 19.4 The obligations under this clause shall survive the variation, expiry or termination of this Agreement for a period of five (5) years thereafter.
  
- 19.5 Each party (the 'Indemnifier') shall indemnify and keep indemnified and hold harmless the other (the 'Indemnitee') from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by the Indemnitee arising from or in connection with any breach by the Indemnifier of this clause.

## **20 Anti-bribery**

- 20.1 Each party shall comply with applicable Bribery Laws and the Supplier shall comply with all Service Recipient Policies which specify any specific anti-bribery policies or procedures (if any) but only if the Supplier had been made specifically aware by the Service Recipient of the Service Recipient's policy. Each party shall use all reasonable endeavours to ensure that:
  - 20.1.1 all of that party's personnel;
  - 20.1.2 all of that party's subcontractors; and
  - 20.1.3 all others associated with that party, involved in performing services for or on behalf of that party or otherwise involved with this Agreement so comply.
  
- 20.2 Without limitation to the above sub clause:
  - 20.2.1 neither party shall (directly or indirectly) offer or give or request, agree to receive or accept any bribe, other improper payment or advantage or bribe any UK or foreign public official in breach of applicable Bribery Laws; and

- 20.2.2 each party shall implement, maintain and enforce adequate procedures designed to prevent persons associated with that party engaging in conduct which contravenes the Bribery Act 2010, which Policy is available on request.
- 20.3 Each party shall immediately notify the other as soon as it becomes aware of a breach or possible breach of any of the requirements in the foregoing subclauses.
- 20.4 The expressions 'adequate procedures', 'associated with' and 'foreign public official' shall be construed in accordance with the Bribery Act 2010 and associated guidance published under that Act.

## **21 Termination**

- 21.1 Either party may without prejudice to its other rights and remedies by notice in writing to the other party immediately terminate this Agreement if the other:
  - 21.1.1 is in material or persistent breach of any of its obligations under this Agreement and if that breach is capable of remedy and the other has failed to remedy that breach within [30] days after receiving written notice requiring it to remedy that breach; or
  - 21.1.2 is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986) or becomes insolvent or an order is made or a resolution passed for the administration, winding-up or dissolution of the other (otherwise than for the purposes of a solvent amalgamation or reconstruction) or an administrative or other receiver, manager, liquidator, administrator, trustee or similar officer is appointed over all or any substantial part of the assets of the other or the other enters into or proposes any composition or arrangement with its creditors generally or any analogous event occurs in any applicable jurisdiction.
- 21.2 Either party shall be entitled to terminate this Agreement on not less than one (1) month's written notice to the other.
- 21.3 In the event of termination or expiry of this Agreement, each party shall:
  - 21.3.1 within seven (7) days of such termination return (or, at the other party's option, destroy) all Confidential Information in its possession or under its control and all copies of such information; and
  - 21.3.2 return the property, materials, records and data of the other party within such timeframe as agreed (including under the Transaction Agreements) or otherwise promptly.
- 21.4 Termination of this Agreement for whatever reason shall not operate to affect any provisions that expressly or by implication survive termination.



## **22 Personnel**

22.1 Supplier Personnel shall at all times remain the employees or subcontractors of Supplier and shall remain under the overall control of Supplier. Supplier and Service Recipient acknowledge and agree that Supplier Personnel are not employees of Service Recipient, nor shall anything in this Agreement deem them employees of Service Recipient.

## **23 Dispute resolution**

23.1 If there is a dispute between the parties in relation to any matter under this Agreement, the parties' respective Authorised Contacts shall meet to try to resolve any such dispute and if they fail to do so within a reasonable time, but not more than fourteen (14) days the matter in dispute shall be referred to a senior manager of Supplier and Service Recipient respectively, for them to try to resolve the matter in dispute, failing which the provisions of clause 29 (Governing law and jurisdiction) shall apply.

## **24 Compliance with law**

24.1 Each party shall comply and shall (at its own expense unless expressly agreed otherwise) ensure that in the performance of its duties under this Agreement, its employees, agents and representatives will comply with all applicable laws and regulations, provided that neither party shall be liable for any breach to the extent that such breach is directly caused or contributed to by any act or default of the other party or its employees, agents and representatives.

## **25 Entire agreement**

25.1 This Agreement contains the whole agreement between the parties relating to its subject matter and supersedes any prior agreements, representations or understandings between them unless expressly incorporated by reference in this Agreement. Each party acknowledges that it has not relied on, and shall have no remedy in respect of, any representation (whether innocent or negligent) made but not expressly embodied in this Agreement. Nothing in this clause limits or excludes any liability for fraud or fraudulent misrepresentation.

## **26 Notices**

26.1 Notices under this Agreement must be in writing and sent to the other party's Authorised Contact at the address specified in the relevant clause above (Authorised Contacts) (or such other applicable address for service as may be agreed between the parties from time to time in writing). Notices may be given, and will be deemed received if correctly addressed:

26.1.1 by first-class signed for post: two (2) Business Days after posting;

26.1.2 by tracked airmail: seven (7) Business Days after posting;

- 26.1.3 by hand: on delivery with a signed receipt;
- 26.1.4 by facsimile: on receipt of a successful transmission report from the correct number; and
- 26.1.5 by email: on receipt of a read return mail from the correct address within 24 hours from delivery if no notice of delivery failure is received.

## **27 Additional Terms**

### **28 General**

- 28.1 The parties are independent businesses and not partners, principal and agent, or employer and employee, or in any other relationship of trust to each other.
- 28.2 For the purposes of the Contracts (Rights of Third Parties) Act 1999, this Agreement is not intended to and does not give any person who is not a party to it any right to enforce any of its provisions. However, this does not affect any right or remedy of such a person that exists or is available apart from that Act.
- 28.3 No party may assign, subcontract or encumber any right or obligation under this Agreement, in whole or in part, without the other's prior written consent, except where the Agreement expressly provides for same.
- 28.4 No amendment or variation of this Agreement will be valid unless agreed in writing by an authorised signatory of each party.
- 28.5 If any clause in this Agreement (or part thereof) is or becomes illegal, invalid or unenforceable under applicable law, but would be legal, valid and enforceable if the clause or some part of it was deleted or modified (or the duration of the relevant clause reduced), the relevant clause (or part thereof) will apply with such deletion or modification as may be required to make it legal, valid and enforceable, and the parties will promptly and in good faith seek to negotiate a replacement provision consistent with the original intent of this Agreement as soon as possible.
- 28.6 Unless otherwise expressly agreed, no delay, act or omission by either party in exercising any right or remedy will be deemed a waiver of that, or any other, right or remedy.
- 28.7 All payments under this Agreement will be made without set-off or counterclaim, free and clear of and without deduction of any taxes, levies, duties, charges and withholdings of any kind now or in future imposed in any jurisdiction, except where otherwise provided for in this Agreement.

### **29 Governing law and jurisdiction**

This Agreement is governed by the law of Scotland. All disputes under this Agreement not otherwise resolved by the parties in accordance with the process set out in the Dispute Resolution clause shall be subject to the exclusive jurisdiction of the courts of Scotland.



**30 Consent to Registration by print**

The Parties consent to the registration of this Assignment for preservation and execution: IN WITNESS WHEREOF

They are executed by .....

At ..... on the ..... day of 20

In the presence of

..... witness

..... address

.....

## SCHEDULE 1

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### **1 Services**

Services means

Services description: Provision of fund raising platform

Service Hours: *09:00-17:00 Monday-Sunday*

Location [s]: United Kingdom

Duration: *commencement until expiry or termination of this Agreement*

The Services the Supplier will provide to the Service Recipient is a Fund Raising Platform per the Definitions in the Clause above and the Services include s accepting credit cards, debit cards and other payment methods on the Suppliers Site whether website or mobile site. The Payment Services include Gateway Services, Safepay Fraud protection, recurring billing, card less and other similar billing options all of which includes Customer Support.

## SCHEDULE 2

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The Fees, Charges, payments and expenses for the Services are as follows:

*[Insert applicable fee structure, eg:*

- 1 Services: as defined in the Agreement**
- 2 Fees, are as per current fees published on the suppliers website**
- 3 Expenses:**

Where there is insufficient funds to pay the Suppliers fees, VAT, costs and expenses or where the Supplier has put in place a reserve in terms of the Agreement, the Service Recipient shall reimburse Supplier for its reasonable costs and expenses incurred in connection with the provision of the Services as demanded in cleared funds paid direct to the Supplier's bank account within seven (7) days of receipt by the Service Recipient of a valid invoice.
- 4. Applicable transaction and chargeback fees.**

The Supplier will supply the Service Recipient with an invoice as narrated in the clauses and schedule above which invoice is payable within seven (7) days (or in the event the sums have not been deducted from the Service Recipient's account). Interest in the sum of 4.5% shall accrue on all overdue accounts.
- 5. Fee levels**

Fees can be revised by the Supplier at any time acting reasonably.

#### Software licence

Secureplay grants you a revocable, non-exclusive, non-transferable license to use secureplay 's apis and software applications (the "software"). This license grant includes all updates, upgrades, new versions and replacement software for your use in connection with the secureplay fund raising platform service(s). If you do not comply with the acceptable use policy or any other requirements provided by secureplay, then you will be liable for all resulting damages suffered by you, secureplay and third parties. Unless otherwise provided by applicable law, you agree not to alter, reproduce, adapt, distribute, display, publish, reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code that is derived from the software. Upon expiration or termination of this agreement, you will immediately cease all use of any software.

#### Trademark license

Secureplay grants you a revocable, non-exclusive, non-transferable license to use secureplay's trademarks used to identify the secureplay payment service (the "trademarks") solely in conjunction with the use of the secureplay payment service. Client agrees that it will not at any time during or after this agreement assert or claim any interest in or do anything that may adversely affect the validity of any trademark or any other trademark, trade name or product designation belonging to or licensed to secureplay (including, without limitation registering or attempting to register any trademark or any such other trademark, trade name or product designation). Upon expiration or termination of this agreement, you will immediately cease all display, advertising and use of all of the trademarks.

#### Intellectual property

Other than the express licenses granted by this agreement, secureplay grants no right or license by implication, estoppel or otherwise to the secureplay fund raising platform service(s) or any intellectual property rights of secureplay . Each party shall retain all ownership rights, title, and interest in and to its own products and service(s) (including in the case of secureplay , in the secureplay fund raising platform service(s) and all intellectual property rights therein, subject only to the rights and licenses specifically granted herein.