

THE PARTNER'S USE OF THE SERVICES AND/OR SOFTWARE SHALL BE SUBJECT AT ALL TIMES TO THESE CONDITIONS TOGETHER WITH THE ORDER FORM, ANY APPLICABLE ADDENDUM AND ANY OTHER TERMS AND CONDITIONS INCORPORATED BY REFERENCE.

THE PARTNER SHOULD READ THESE CONDITIONS CAREFULLY BEFORE SIGNING THE ORDER FORM. THE PARTNER SHOULD PAY PARTICULAR ATTENTION TO CONDITIONS 6, 7, 11, 12 AND 15. WHERE THERE IS A CONFLICT BETWEEN ANY TERMS OF THE ORDER FORM AND THE CONDITIONS, THE ORDER FORM SHALL TAKE PRECEDENCE (UNLESS THE CONTRARY INTENTION APPEARS OR STATED OTHERWISE).

1. INTERPRETATION

1.1 The following definitions and rules of interpretation (unless context requires otherwise) shall apply to these Conditions:

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

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

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

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

"Conditions" these terms and conditions.

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

"Personal Data" means any information that relates to an individual person and that, alone or in combination with other data, can be used to identify, contact, or precisely locate an individual person, or other information that constitutes "personal data" under applicable Data Protection Law. Terms such as **"data controller"**, **"data processor"**, and **"personal data breach"** shall have the meanings (or reasonable equivalents) ascribed to them in the applicable Data Protection Legislation.

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

"Go Live Date" the date that the Services and/or Access to the Software commences.

"GOLF Affiliate" as defined in Condition 17.

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

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

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

"GOLFNOW" means GolfNow, LLC, an Arizona Limited Liability Company, whose office is at 7580 Golf Channel Drive, Orlando FL 32819, United States.

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

"IPR" means intellectual property rights.

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

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

"Platform(s)" the website(s), apps, tools, or channels to which GOLFNOW operate that enables participating Partners to make their Golf Course(s)'s tee times available for reservation to Golfers on the

Platforms, and GOLFNOW advertises such tee times (and where applicable Trade Times) to Golfers.

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

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

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

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

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

1.3 Headings do not affect the interpretation of the Conditions.

2. CONTRACTING PARTIES AND APPLICABLE TERMS

2.1 The Partner is contracting with GOLFNOW and/or BRS GOLF (known hereafter as GOLF, unless the context requires otherwise) for the provision of Software and/or Services, as set out in an Order Form subject to these Conditions and/or any Addendum terms incorporated by reference. For example (including but not limited to):

- (a) GOLFNOW provides G1 Technology, PMP Services, Tee Time Distribution Services, GOLFNOW booking engines, website development & hosting and GNC Marketing Services; and
- (b) BRS GOLF provides the BRS core technology modules, on-site/off-site in person training, the BRS Memberships, Flex, members app, payment processing services and customer support services.

2.2 For the avoidance of doubt, when the Partner requests Software and/or Services and pays for such by way of Trade Times, the contracting party on record will be GOLFNOW.

ADDITIONAL TERMS

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

- (a) [BRS Terms of Use](#);
- (b) [Tee Time Distribution Terms](#);
- (c) [Payments Agreement](#);
- (d) [Data Processing Agreement](#).

ELIGIBILITY OF SOFTWARE & SERVICES

2.4 The Partner acknowledges, that some of the Software and Services provided are only available to the Partner in combination with other Software and/or Services or certain payment methods, for example the Partner may be required to sign-up for payment processing services and/or agree to a Trade Times deal in order

to obtain certain Software and/or Services (in particular premium offerings).

3. APPLICATION

- 3.1 The Acceptance of an Order Form by the Partner shall be deemed to be an offer, subject to these Conditions, to purchase the Services and/or access the Software from GOLF.
- 3.2 No Order Form shall be deemed to be accepted by GOLF until the earlier of:
 - (a) GOLF signing the Order Form and sending an electronic copy to the nominated email address of the Partner; or
 - (b) GOLF commencing or delivering any part of the Software or Services; or
 - (c) the start dates stated in an Order Form, it is only at this point that a legally binding agreement has been entered into (**Effective Date**).
- 3.3 The Services will commence and the access to the Software will commence as soon as possible after the Effective Date (**Go Live Date**). However, any date or time for delivery given by GOLF shall be an estimate only and, in any event, time is not of the essence.
- 3.4 Unless otherwise agreed, the Partner may only cancel the Partnership Agreement between the Effective Date and the Go Live Date, if GOLF agrees in writing and the Partner pays a reasonable cancellation charge. On or after the Go Live Date, the Partnership Agreement may only be terminated in accordance with Condition 8.
- 3.5 Unless otherwise agreed, no terms or conditions of the Partner shall form part of the Partnership Agreement and any attempt by the Partner to exclude, vary or limit any terms of the Partnership Agreement (including these Conditions) shall be void.
- 3.6 Website content, brochures, frequently asked questions documents, training materials, descriptive matter and any marketing or advertising material are produced for information purposes only. They shall not form part of the Partnership Agreement or have any contractual force.

4. SERVICES & HARDWARE

- 4.1 GOLF shall provide the Services (which may include supplying Hardware), for the Total Payment as set out in an Order Form or other agreed form, payable by the Partner in accordance with Condition 7.
- 4.2 GOLF shall use reasonable care and skill to perform the Services and shall use its commercially reasonable endeavours to complete its obligations under the Partnership Agreement, but time will not be of the essence in the performance of such obligations.
- 4.3 GOLF shall notify the Partner in advance of any Services updates and will provide appropriate training and/or materials to Partner concerning all updates.
- 4.4 Where GOLF provides any Hardware to the Partner, GOLF warrants that such Hardware will be:
 - (a) of satisfactory quality, fit for their specific purpose; and
 - (b) free from material defects in design, material and workmanship.
- 4.5 Subject to Conditions 4.6 and 4.7 inclusive, where the Hardware is faulty or the Partner has any issues, GOLF's sole liability to the Partner will be to repair or replace such Hardware.
- 4.6 Before any repair or replacement is made under Condition 4.5, the Partner shall:
 - (a) notify GOLF promptly after the Partner discovers the fault or issue; and
 - (b) give GOLF a reasonable opportunity, after receiving notice, to examine the relevant Hardware.
- 4.7 If the Partner fails to notify GOLF in accordance with Condition 4.6(a) or, following the inspection by GOLF under Condition 4.6(b), it is discovered that the fault or issue has arisen as a result of the Partner's negligence or failure to comply with the Partnership Agreement or failure to follow GOLF's oral or written instructions as to the storage, installation, use or maintenance of the Hardware, or the Partner makes further use (without permission of GOLF) of the Hardware after giving notice under

Condition 4.6(a) or the Partner has altered, modified, mishandled or attempted to repair the Hardware, then the Partner will be liable to pay for any repair or replacement of the Hardware.

- 4.8 Unless stated otherwise, the risk in any Hardware supplied shall pass upon delivery to the Partner's premises, and shall only cease when the Partnership Agreement is terminated and the Hardware has been returned to GOLF in accordance with Condition 8.3(d). Title to the Hardware, unless otherwise agreed, shall remain with GOLF at all times.

5. SOFTWARE

- 5.1 GOLF grants the Partner a limited, non-exclusive, non-transferable, revocable licence to utilise the Software detailed in the Order Form. Any licence to the Software shall remain effective until the Partnership Agreement is terminated (howsoever caused) in accordance with Condition 8.
- 5.2 GOLF warrants that it is the owner (except in relation to any third party or open source software, as set out in any applicable licence terms) of the Software or otherwise has the right to grant the Partner the licences granted for the purposes of delivering the Services and/or access to the Software.
- 5.3 The Partner may use the Software for the purpose of accessing the Services and as set out in these Conditions or any applicable Addendum terms and shall not sell, sublicense, lend, or otherwise transfer or provide access to the Software to any third party including any Third Party Administrator, without the express written consent of GOLF, and as set out in Condition 6.8 to 6.11 inclusive.
- 5.4 The Partner may not reverse engineer, decompile, disassemble, or customise the Software, including but not limited to, creating any software interface with the Software for the purpose of selling or marketing tee times through the internet or any internet site, without the express written consent of GOLF.
- 5.5 GOLF's prior written consent is required for the creation of an interface with the Software and this consent will be subject to execution of a separate agreement.

6. PARTNER'S OBLIGATIONS

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

that such equipment is in all respects suitable and adequate (including installing the latest version of operating systems) for the purpose of receiving the Services and/or Software. Where GOLF reasonably considers that the equipment is not suitable, then GOLF may terminate the Partnership Agreement and its sole liability to the Partner will be a full refund for any payments made for Services or Software that the Partner has not received.

SECURITY

- 6.5 The licences and access to the Services and Software under the Partnership Agreement is for the Partner's benefit only.
- 6.6 The Partner shall:
 - (a) ensure the number of persons using the Services and Software is limited to those who need access (**Users**), and shall keep a complete and accurate record of all the Partner's Users, and disclose such record to GOLF upon reasonable request;
 - (b) ensure its Users keep their account credentials up to date, keep passwords secure and maintain confidentiality of their account username and password at all times; and
 - (c) notify GOLF as soon as it becomes aware of any unauthorised use of the Software and Services by any person other than the Partner or its authorised Users.
- 6.7 Without prejudice to any of its rights or remedies, where the Partner fails to comply with Conditions 6.6 (a to c inclusive) or GOLF reasonably believes the Partner to be in breach of, or in potential breach of, any of Conditions 6.5 (a to c inclusive), GOLF may suspend or cease access to any or all Users, without any liability to the Partner.

THIRD PARTY ACCESS

- 6.8 Where the Partner requires any third party (including subcontractors, consultants or any other non-employed individual, volunteer or business) (**Third Party Administrator**) to access the licenced Software and/or Services provided by GOLF (including any reports, files or other data) under the Partnership Agreement, then the Partner should obtain the written permission from GOLF before providing such access to such Third Party Administrator.
- 6.9 Where applicable, there may be additional fees and the Partner may need to enter into a Third-Party Administrator Access Agreement, before GOLF can grant the Third Party Administrator with access.
- 6.10 Where a Third Party Administrator is granted access under this Condition 6, then the Partner remains responsible to ensure such Third Party Administrator is aware of and complies at all times with the Terms of Use, together with any other obligation as set out in the Third-Party Access Agreement.
- 6.11 Without prejudice to any other right or remedy, the Partner acknowledges that GOLF cannot be held liable or accountable for any acts or omissions of any Third Party Administrator (whether GOLF has granted permission or not under Condition 6.1), and as such the Partner indemnifies GOLF for any claims, losses or costs (including legal fees) and expenses incurred or awarded against GOLF arising out of or in connection with or resulting from the actions or omissions of the Third Party Administrator.

FEEDBACK

- 6.12 The Partner shall work collaboratively with GOLF and from time to time provide feedback to GOLF concerning the functionality and performance of the Software and/or Services, including, without limitation, identifying potential errors, ideas for improvements, modifications, bug fixes, or enhancements (**Feedback**).
- 6.13 Feedback and other information which is provided by the Partner (it's directors, employees, Golfers and any third-party acting on its behalf including Third-Party Administrators) to GOLF in connection with the Partnership Agreement may be used by GOLF to improve or enhance the Software and/or Services and, accordingly, the Partner grants GOLF an exclusive, perpetual, irrevocable, royalty-free, worldwide right and licence to use,

reproduce, disclose, sublicense, distribute, modify, and otherwise exploit such Feedback and information without restriction and for GOLF's own commercial gain.

7. PAYMENT AND PAYMENT TERMS

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

TRADE TIMES

- 7.2 Trade Times will be sold on the Platforms and are subject to the **Tee Time Distribution Terms**, which are hereby incorporated by reference.
- 7.3 Where applicable, it is agreed that the Trade Times constitute payment in full by the Partner to GOLF for the supply of the Software and/or Services. Therefore, GOLF will collect and keep the entire revenue sold (including booking fees) for Trade Times. This amount shall be inclusive of any applicable VAT, GST, sales, use or similar tax (**Taxes**).
- 7.4 Without prejudice to GOLFNOW's rights, where Trade Times are the agreed consideration for the Software and/or Services, each Party will work collaboratively in good faith to ensure that the Trade Times are posted at a time that works commercially for GOLFNOW in its discretion.

COMMISSION FEES

- 7.5 Where Commission Fees are applicable, the Commission Fee is calculated on the gross value of the tee time sold, excluding any booking fees (which are paid directly by the Golfer).
- 7.6 GOLFNOW will collect the gross revenue (i.e. before deduction of GOLFNOW's Commission Fee) on the Partner's behalf, which represents consideration for the Partner's supply to its Golfers. The Partner should therefore apply its own usual VAT treatment to this gross revenue and remittance from GOLFNOW.
- 7.7 Where applicable and unless otherwise agreed, GOLFNOW will remit any payments owed to the Partner on a monthly basis.
- 7.8 GOLFNOW will make any such payments to the bank account nominated by the Partner from time to time. The Partner is responsible for ensuring that they provide the correct bank details. Time for any payments due to the Partner are not of the essence.

CASH PAYMENTS

- 7.9 Any payments for Services and/or Software to be paid by the Partner in cash (**Cash Payments**), will be set out in the Order Form or an invoice from BRS GOLF and/or GOLFNOW (as applicable). Unless otherwise agreed, the Partner shall pay any invoice within thirty (30) days. Access to certain Software and/or Services may require advance payment from the Partner.
- 7.10 All invoices for Cash Payments, shall be exclusive of any applicable Taxes.

NON-PAYMENT

- 7.11 Without prejudice to any of its other remedies, if the Partner fails to:
 - (i) make the Trade Times available to GOLF (which includes when the Partner seeks to terminate the Partnership Agreement early);
 - (ii) pay the applicable Commission Fees; or
 - (iii) pay a Cash Payment invoice on time,

then, GOLF may do all or any of the following:

- (a) treat the Partnership Agreement as repudiated by the Partner;
- (b) without notice suspend or cancel the performance of the Services and/or access to the Software under the Partnership Agreement, until the Partner pays any amount owed plus a reasonable fee to reinstate any such access;
- (c) appropriate any payment made by the Partner under any other Agreement with GOLF to pay for any outstanding amounts as GOLF may, in its sole discretion, think fit;
- (d) charge interest at the annual rate of eight percent (8%) above the base rate of Barclays Bank Plc;
- (e) claim interest under Late Payment of Commercial Debts (Interest) Act 1998.

TRADE TIME NON-PAYMENT

- (f) In relation to Trade Times only, the Partner will pay to GOLF the greater of:
 - (i) three hundred pounds (£300) per month for each remaining month until the end of the current Term; or
 - (ii) the aggregate monthly value of Trade Times sold in the preceding twelve (12) months, for the remaining months of the Term.

7.12 On termination of the Partnership Agreement (howsoever caused), the rights of GOLF in this Condition 7 shall remain in effect.

PRICE INCREASES

7.13 All prices are contained in an Order Form or are as otherwise provided by GOLF from time-to-time and are subject to change at the discretion of GOLF. GOLF will notify the Partner of any such price change (increase or decrease) when sending an invoice.

SMS MESSAGES

7.14 SMS Text Messages are charged at approximately £0.03 or €0.03 per SMS Text Message sent (whether delivered to the intended recipient or not). Where the Partner accesses the SMS Message Tool and sends texts without an advance payment, then the Partner will be required to pay the balance of their account upon notice given by GOLF. Where the Partner fails to make any payment on demand, GOLF may suspend the Partner's access to the SMS Message Tool without any liability to the Partner. Conditions 7.11 apply to any non-payment under this Condition 7.14, in addition where GOLF has suspended access, GOLF may charge a reasonable fee to reinstate the Partner's access.

ADVERTISEMENTS AND MARKETING

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

8. TERM AND TERMINATION

- 8.1 Unless otherwise agreed and set out in an Order Form, the Partnership Agreement shall continue for one (1) year from Effective Date (**Initial Term**). Upon expiry of the Initial Term, the Partnership Agreement shall automatically renew for one (1) year term (**Renewal Term**) and again at the end of each Renewal Term, unless terminated pursuant to Conditions 8.2 to 8.3 inclusive, or by either Party giving at least thirty (30) days' notice to the other, prior to the end of the Initial Term or each subsequent Renewal Term.
- 8.2 Without affecting any other right or remedy available to it, either Party may terminate the Partnership Agreement immediately by giving notice to the other if the other Party:
 - (a) commits a material breach of any term of the Partnership Agreement which is irremediable or (if such breach is remediable) fails to remedy such breach within thirty (30) days' of receiving written notice of such breach;
 - (b) repeatedly breaches any of the terms of the Partnership Agreement;
 - (c) ceases, suspends, or threatens to cease or suspend, to carry on its business or payment of its debts; and/or
 - (d) is subject to a bankruptcy or winding up order or similar action.
- 8.3 Upon termination of the Partnership Agreement (howsoever caused), the Partner shall:
 - (a) delete and return all Software (including all copies), and sign a statement certifying same;
 - (b) have no further rights to use GOLF's trademarks or other IPR in any way whatsoever;
 - (c) not be entitled to a refund or compensation for any payments made before the moment of termination of the Partnership Agreement; and
 - (d) (if applicable) return to GOLF within fourteen (14) days upon termination, all Hardware in its possession. Where the Partner fails to do so, GOLF and/or their agents may, at the Partner's expense, enter the Partner's premises to recover the Hardware.

PARTNER DATA POST TERMINATION

- 8.4 Within six (6) months of termination of the Partnership Agreement (howsoever caused) the Partner may instruct GOLF to:
 - (a) provide a copy of; or
 - (b) require GOLF to promptly delete, the Partner Data.
- 8.5 If the Partner fails to inform GOLF as provided under Condition 8.4, then GOLF shall irrevocably delete the Partner's Data within six (6) months after the time limit stated in Condition 8.4.

TEE TIME DISTRIBUTION ONLY DEALS

- 8.6 Where the Partner only receives Tee Time Distribution Services, then the termination provisions of the Distribution Terms will apply and take precedence where there is a conflict with this Condition 8.

9. CUSTOMER SUPPORT SERVICES AND TRAINING

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

10. THIRD PARTY SERVICES

MEMBERSHIP FINANCE

- 10.1 The Membership Finance solution is provided by V12 Retail Finance Limited (**V12**). In order to avail of the Membership Finance solution the Partner must:
- (a) be approved by V12 (the Partner is required to disclose information including latest annual accounts, directors' personal details, golf club constitution and other details reasonable requested by V12);
 - (b) agree to and enter into a separate agreement with V12;
 - (c) be approved by the Financial Conduct Authority (**FCA**); and
 - (d) may also be required to agree to additional terms and conditions with V12, such as agreeing to a retention provision and/or be required to provide a guarantee (either a cross company and/or individual personal guarantees from directors).
- 10.2 Where the Partner fails to complete any of the matters set out in condition 10.1, to the reasonable satisfaction of V12, the Membership Finance solution may not be provided to the Partner.
- 10.3 Any dates for delivery or implementation are illustrative and subject to change at BRS Golf's or V12's discretion and may ultimately depend on the FCA.
- 10.4 GOLF is not responsible for the acts of omissions of V12 and any liability for losses of any kind are hereby excluded. The limited warranties set out in Condition 11 apply.

COMPETITION & HANDICAP SOFTWARE & SERVICES

- 10.5 Where you avail of the BRS Competition and Handicap Software and Services, these are powered by Golf Genius Software Inc (**Golf Genius**). In addition to the BRS Terms of Use, the Partner acknowledges that the Golf Genius Terms also apply in respect of the BRS Competition and Handicap Software and Services.
- 10.6 Unless otherwise stated, in addition to any fees payable for the BRS Competition and Handicap Software and Services, the Partner will also be required to pay for the annual World Handicap System (**WHS**) affiliation fees, which are set by the local national governing bodies of the Partner from time-to-time.
- 10.7 GOLF is not responsible for the acts of omissions of Golf Genius and any liability for losses are hereby excluded. The limited warranties set out in Condition 11 apply.

OTHER INTEGRATIONS & SERVICES

- 10.8 GOLF also integrates with other third parties and may do so in the future, who will supply software, services and/or hardware. In the absence of any additional terms and conditions presented to the Partner, any such third party software, services and/or hardware are subject to the limited warranties set out in Condition 11. The Partner is also referred to Condition 13.2 with respect to the sharing of Partner Data to and from any integrated third party.

11. LIMITED WARRANTIES AND REMEDIES

- 11.1 Both Parties represent and warrant that:
- (a) they have the authority to enter into this Agreement and that their signatories are duly authorised and empowered to sign this Agreement on their behalf; and
 - (b) they will comply with all applicable laws, ordinances, statutes, regulations and rules, and that they have the power to settle fully and completely all claims, causes of action, demands, charges and liabilities arising out of or relating to this Agreement.
- 11.2 Partner represents and warrants to GOLF that any IPR provided to GOLF by Partner (including without limitation, any photographs, drawings, or works of art, Trade Marks) do not violate the rights of any third party. Partner agrees to indemnify and keep GOLF indemnified for any alleged or actual breach of this warranty.
- 11.3 GOLF will provide the Services and the Software in a professional and workmanlike manner and free from any unreasonable defects, and GOLF will use commercially reasonable means to fix any defect in the Software and/or Services that may arise. Partner

and its authorised users shall use the Software and Services only in accordance with this Agreement. Aside from these warranties or as set out in these Conditions, to the extent permissible by law, the Software and Services are provided without warranty of any kind, either express or implied, including but not limited to any implied warranty of merchantability or fitness for a particular purpose or use.

- 11.4 With respect to malfunctioning Software, GOLF's entire liability and Partner's exclusive remedy shall be the repair or replacement of the Software.
- 11.5 Conditions 11.3 and 11.4 also apply with respect to any third party software and/or services that are provided as integrated solutions. GOLF cannot guarantee the continued availability of any such third party software and/or services and may cease providing them without liability to the Partner including any refund, credit, and/or other compensation.

12. LIMITATION OF LIABILITY

- 12.1 Nothing in the Partnership Agreement shall limit or exclude either Party's liability for:
- (a) death or personal injury caused by its negligence;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any other liability that cannot be excluded by applicable law.
- 12.2 Without prejudice to any indemnity given to the other under the Partnership Agreement, in no event shall either Party be liable for any special, incidental, indirect, consequential, exemplary or punitive damages (including, without limitation, any damages based on loss of profits, loss of use, business interruption or loss or corruption of data), even if such Party has been advised of the possibility of such damages. The foregoing limitations shall apply regardless of the cause or the form of action (whether breach of contract, breach of warranty, negligence, strict liability or otherwise).
- 12.3 GOLF's total liability to the Partner in respect of all other losses arising out of or in connection with the Partnership Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall be limited to the Total Payment paid by the Partner in the preceding twelve (12) months.

13. PERSONAL DATA

GOLF ACTING AS A SERVICE PROVIDER

- 13.1 Unless otherwise specified in an Order Form or in 13.2 and 13.3 below, the Parties acknowledge and agree that GOLF shall act as a processor for any Golfer personal data it receives from and/or accesses on Partners' systems (**Partner Data**) in order to deliver the Software and/or Services. Where this is the case, GOLF shall not copy, sell or reuse Partner Data save as expressly permitted in this Agreement and GOLF's [Data Processing Agreement](#), as updated and notified to Partner from time to time, shall be incorporated into the Partnership Agreement by reference.

THIRD-PARTY TECHNOLOGY INTEGRATIONS DATA SHARING

- 13.2 The Partner acknowledges that where the Partner agrees to the integration of a third-party with GOLF's systems, some existing or newly generated Partner Data may be shared with both GOLF and the relevant third-party provider in order to enable the proper functioning of the technology, software or services being provided and to improve the user experience. Where the Partner Data flows to GOLF, GOLF shall continue to act as a service provider / data processor as set out in Condition 13.1. Where Partner Data flows to the third-party provider (**'Provider'**), such sharing is subject to the Provider's policy; depending on the integration and the Partner's use of the Provider, such Provider may act as an independent business/controller or a service/provider processor. As between the Parties, the Partner, and not GOLF, will be deemed to have shared the data with the Provider.

GOLF'S DATA RIGHTS

- 13.3 For the avoidance of doubt, GOLF is the data controller of all personal data obtained directly and independently from Golfers who are visitors on the Platforms, and personal data processed by GOLF for the purpose of sending marketing to Golfers (**GOLF Data**). GOLF shall process GOLF Data in line with its privacy policy at <https://www.versantprivacy.com/privacy>.
- 13.4 Partner agrees that GOLF may process Partner Data to generate non-personal data by means of aggregation and/or anonymisation, and to use that data (along with any other similar data (e.g. an onymous survey results, general usage data or other information generated by GOLF under the Partnership Agreement) for its own commercial purposes.

14. PROPERTY

- 14.1 The following shall remain the sole and exclusive property of GOLF:
- (a) the GOLF Software and Services (including any of GOLF's enhancements or up grades thereto), and all other software and materials developed, conceived, originated, prepared, generated or furnished by GOLF under this Agreement; and
 - (b) all copyrights, trademarks, patents, trade secrets and any other IPR and proprietary rights in and to the foregoing.
- 14.2 Partner grants GOLF a licence to use its IPR, name, logo, Trade Marks or other mark for publicity and for the provision of delivering the Services and/or Software.

15. INDEMNITY

- 15.1 Partner shall be liable to pay GOLF (on written demand) and indemnify GOLF against, all reasonable costs, expenses and losses sustained or incurred by GOLF (including, but not limited to, any direct, indirect or consequential losses, loss of profit, loss of reputation, damage to property, loss of opportunity to deploy resources elsewhere, legal costs on an indemnity basis) arising directly or indirectly from the Partner's fraud, negligence or failure to comply, or unreasonable delay in complying, with any of terms of the Partnership Agreement.

16. FORCE MAJEURE

- 16.1 Neither Party will be liable to the other for any failure or delay or for the consequences of any failure or delay in performance of the Services or Software, if it is due to a force majeure event, which means any event beyond the reasonable control of a Party including without limitation, acts of God, war, industrial disputes, protests, fire, flood, storm, an act of terrorism, national emergencies, loss of infrastructure, telecoms and electricity supply. The Party to such event shall, as soon as practicable, give notice of the event to the other Party, such notice to include a reasonable forecast of the duration of the force majeure event. If such delay or failure continues for at least one hundred (100) days, either Party shall be entitled to terminate the Partnership Agreement on notice to the other.

17. ASSIGNMENT

NO ASSIGNMENT

- 17.1 The Partnership Agreement shall be binding up on GOLF and the Partner, and their respective successors and assigns; provided, however, that neither Party shall assign the Partnership Agreement or any of its rights or obligations hereunder, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed.

EXCEPTIONS

- 17.2 Notwithstanding Condition 17.1, without Partner's consent, GOLF may assign all or part of its rights under this Agreement to, any of its current or future:
- (a) divisions, affiliates or subsidiaries;
 - (b) parent company; or
 - (c) ultimate parent company's divisions, affiliates or subsidiaries, ("**GOLF Affiliates**")
- 17.3 GOLF has the right to subcontract any of its obligations to any GOLF Affiliate. The Partner acknowledges some of the Services and/or Software is owned by and supplied by GOLF Affiliates. Where such Services and/or Software are provided under this Agreement, GOLF acts as agent to the specific GOLF Affiliate providing such under licence.
- 17.4 A sale of substantially all of the stock or assets of a Party, or the reorganisation or merger of a Party, shall not constitute an assignment of the Partnership Agreement.
- 17.5 Any assignment or transfer in violation of this Condition 17 shall be void and of no force or effect.

CHANGE OF OWNERSHIP – PARTNER GOLF COURSE

- 17.6 Where the Partner Golf Course has a change of ownership, whereby the legal entity that owns the Golf Course and is known as the Partner under the Partnership Agreement is to change, then the Partnership Agreement will automatically terminate on the date of the completion of such transaction. Any outstanding payment will be made by the Partner in accordance with Condition 7 (including in particular Condition 7.11(f)). The new entity will be free to contract with GOLF in its own right, and may, subject to proof of an agreement with the Partner, continue to use the same systems GOLF has provided to the Partner previously and/or continue the obligations (including payment obligations under Condition 7).

18. CONFIDENTIALITY

- 18.1 This Agreement and its terms and conditions are confidential and shall not be disclosed by any Party, in particular to a third party, without the prior written consent of the other Party, except:
- (a) to a Party's Affiliates and its respective directors, employees, and legal advisors on a "need to know" basis only; or
 - (b) as required to do so by law or by any governmental or regulatory authority or a court of competent jurisdiction.
- 18.2 Each Party will cause its Affiliates and their respective directors, employees, and legal advisors to comply with the provisions of this Condition 18.

19. GENERAL

- 19.1 The Partnership Agreement shall constitute the entire understanding of the Parties and supersedes and extinguishes any and all prior understandings and agreements, whether written or oral, relating to its subject matter.
- 19.2 GOLF reserve the right to amend these Conditions at any time, to the extent permitted by applicable law. We may amend any terms of the Partnership Agreements from time to time in our sole discretion. Where GOLF makes material changes, it will provide the Partner with notice as it deems appropriate under the circumstances. The Partner's continued use and access to the Software and/or Services after the Conditions have been made will constitute the Partner's acceptance of the changes.
- 19.3 Failure or delay by GOLF to enforce, or partially enforce, any provision of the Partnership Agreement shall not be construed as a waiver of any of its rights under the Partnership Agreement. Any waiver by GOLF of any breach of, or any default under, any provision of the Partnership Agreement by the Partner shall be in writing and shall not be deemed to be a waiver of any subsequent breach or default and shall in no way affect the other provisions of the Partnership Agreement.

- 19.4 If any Condition is found by any court to be wholly or partly illegal, invalid, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, unenforceability or unreasonableness be deemed severable and the remaining Conditions, and the remainder of such Condition, shall continue in full force and effect. In the event that such court decides that such Condition is not severable, the parties agree to substitute such Condition with a legal, valid, enforceable and reasonable Condition, which achieves, to the greatest extent possible, the same commercial effect as the original Condition.
- 19.5 No provisions of the Partnership Agreement are enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to the Partnership Agreement.
- 19.6 The Parties hereby acknowledge and agree that GOLF is an independent contractor and not an employee, agent, joint venture or partner of Partner or any of its affiliates.
- 19.7 Without affecting the operation of Condition 3.2, the Partnership Agreement may be executed in one or more counterparts, with electronic exchange of signatures (e.g., pdf and DocuSign) being sufficient to bind the Parties.
- 19.8 All notices sent by the Partner to GOLF must be sent to GOLF at its registered address or email address as detailed in the Order Form). GOLF may send notices to the Partner at the email or address as detailed in the Order Form or as noted on the Partner's website and/or GOLF's internal systems.
- 19.9 The formation, construction, performance, validity and all aspects of the Partnership Agreement, including any dispute or claim arising out of or in connection with it or its subject matter (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law. The Parties agree that the courts of England & Wales shall have the non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Partnership Agreement or its subject matter.