

# Terms and Conditions

## Terms and Conditions Captive WiFi – Terms and Conditions

AGREEMENT –

Date of Issue– 12 February 2022

### 1. Definitions

1.1 Except to the extent expressly provided otherwise, in this Agreement:

“ Account ” means an account within the Captive WiFi platform, enabling a person to access and use the Hosted Services, including both administrator accounts and user accounts;

“ Agreement ” means this agreement including any Schedules, and any amendments to this Agreement from time to time;

“ Business Day ” means any weekday other than a bank or public holiday in England;

“ Business Hours ” means the hours of 09:00 to 18:30 GMT/BST on a Business Day;

“ Charges ” means the following amounts:

(a) the amounts specified in Part 2 of Schedule 1 (Hosted Services particulars); (b) such amounts as may be agreed in writing by the parties from time to time;

“ Data Protection Laws ” means all applicable laws relating to privacy and data protection including the General Data Protection Regulation (Regulation (EU) 2016/679), its implementing legislation, the UK Data Protection Act 2018 each as may be amended from time to time;

“ Documentation ” means the documentation for the Hosted Services produced by the Provider and delivered or made available by the Provider to the Captive WiFi Client;

“ Effective Date ” means the date of execution of this Agreement;

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

“ Captive WiFi Client ” means you, the client who is in agreement with these terms and conditions “ Confidential Information ” means:

(a) any information disclosed by, or on behalf of, one party to the other party during the Term (whether disclosed in writing, orally or otherwise) that at the time of disclosure:

(i) was marked, or described as “confidential”; or

(ii) should have been reasonably understood by the other party to be confidential;

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

“ Captive WiFi Client Personal Data ” means any Personal Data that is processed by the Provider on behalf of the Captive WiFi Client in relation to this Agreement, but excluding any Personal Data with respect to which the Provider is a controller (as such term is defined in Data Protection Laws);

“ Captive WiFi Sub-Account ” refers to an account set up by a Captive WiFi Client Account Manager for an individual establishment or location where the Hosted Services are made available to Captive WiFi End Users

“ Captive WiFi End User ” refers an individual patron of a Captive WiFi Client or a Captive WiFi Sub-Account who uses the Hosted Services

“ Captive WiFi Client Account Manager ” refers a Captive WiFi Client who is authorised by the Provider to set up multiple Captive WiFi Sub-Accounts

“ Hosted Services ” means Captive WiFi On Demand, as specified in the Hosted Services Specification, which will be made available by the Provider to the Captive WiFi Client as a service via the internet in accordance with this Agreement;

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

(a) any act or omission of the Captive WiFi Client or any person authorised by the Captive WiFi Client to use the Platform or Hosted Services;

(b) any use of the Platform or Hosted Services contrary to the Documentation, whether by the Captive WiFi Client or by any person authorised by the Captive WiFi Client;

(c) a failure of the Captive WiFi Client to perform or observe any of its obligations in this Agreement; and/or

(d) an incompatibility between the Platform or Hosted Services and any other system, network, application, program, hardware or software not specified as compatible in the Hosted Services Specification;

“ Hosted Services Specification ” means the specification for the Platform and Hosted Services set out in Part 1 of Schedule 1 (Hosted Services particulars) and in the Documentation;

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

“ Maintenance Services ” means the general maintenance of the Platform and Hosted Services, and the application of Updates and Upgrades;

“ Mobile App ” means any mobile application owned and operated by the Provider that is made available by the Provider through platforms such as, but not limited to, the Google Play Store and the Apple App Store ;

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

“ Platform ” means the platform managed by the Provider and used by the Provider to provide the Hosted Services, including the application and database software for the Hosted Services, the

system and server software used to provide the Hosted Services, and the computer hardware on which that application, database, system and server software is installed;

“Provider” means Sentinel Software Limited, a company incorporated in England and Wales (registration number 646 33 44) having its registered office at 19 New Road, Brighton, E.Sussex, BN11UF established under the laws of England and Wales

“ Schedule ” means any schedule attached to the main body of this Agreement;

“ Services ” means any services that the Provider provides to the Captive WiFi Client, or has an obligation to provide to the Captive WiFi Client, under this Agreement, including the Hosted Services, the Maintenance Services and the Support Services;

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

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

“ Term ” means the term of this Agreement, commencing in accordance with Clause 2.1 and ending in accordance with Clause 2.2;

“ Update ” means a hotfix, patch or minor version update to any Platform software; and “ Upgrade ” means a major version upgrade of any Platform software.

## 2. Term

2.1 This Agreement shall come into force upon the Effective Date.

2.2 This Agreement shall continue in force indefinitely, subject to termination in accordance with Clause 17 or any other provision of this Agreement.

## 3. Hosted Services

3.1 The Provider shall ensure that the Platform will, on the Effective Date, automatically generate an Account for the Captive WiFi Client and provide to the Captive WiFi Client login details for that Account via email.

3.2 The Provider hereby grants to the Captive WiFi Client a worldwide, non-exclusive licence to use the Hosted Services by means of a Supported Web Browser for the internal business purposes of the Captive WiFi Client in accordance with the Documentation during the Term.

3.3 The licence granted by the Provider to the Captive WiFi Client under Clause 3.2 is subject to the following limitations:

(a) The Hosted Services may only be used by:

the officers, employees, agents and subcontractors of the Captive WiFi Client

any Captive WiFi Sub-Accounts authorised by the Captive WiFi Client, in the event that the Provider has approved Captive WiFi Client to be a Captive WiFi Client Account Manager

the Captive WiFi End Users of Captive WiFi Client or of any Captive WiFi Sub-Account

provided always that the Captive WiFi Client shall remain fully liable for the acts and omissions of all such authorised users, including the Captive WiFi Sub-Accounts and all their activity on the Hosted Services and the Platform.

3.4 Except to the extent expressly permitted in this Agreement or required by law on a non-excludable basis, the licence granted by the Provider to the Captive WiFi Client under Clause 3.2 is subject to the following prohibitions:

(a) the Captive WiFi Client must not sub-license its right to access and use the Hosted Services;

(b) the Captive WiFi Client must not permit any unauthorised person to access or use the Hosted Services;

(c) the Captive WiFi Client must not use the Hosted Services to provide services to third parties, unless those third parties are Captive WiFi Sub-Accounts;

(d) the Captive WiFi Client must not republish or redistribute any content or material from the Hosted Services on platforms outside of the Hosted Services; and

(e) the Captive WiFi Client must not make any alteration to the Platform, except as permitted by the Documentation.

3.5 The Captive WiFi Client shall use reasonable endeavours, including reasonable security measures relating to Account access details, to ensure that no unauthorised person may gain access to the Hosted Services using an Account.

3.6 The Provider shall use all reasonable endeavours to maintain the availability of the Hosted Services to the Captive WiFi Client at the gateway between the public internet and the network of the hosting services provider for the Hosted Services, but does not guarantee 100% availability.

3.7 For the avoidance of doubt, downtime caused directly or indirectly by any of the following shall not be considered a breach of this Agreement:

(a) a Force Majeure Event;

(b) a fault or failure of the internet or any public telecommunications network;

(c) a fault or failure of the Captive WiFi Client's computer systems or networks;

(d) any breach by the Captive WiFi Client of this Agreement; or

(e) scheduled maintenance carried out in accordance with this Agreement or emergency maintenance.

3.8 The Captive WiFi Client must comply with Schedule 2 (Acceptable Use Policy), and must ensure that all persons using the Hosted Services with the authority of the Captive WiFi Client or by means of a Captive WiFi Sub-Account comply with Schedule 2 (Acceptable Use Policy).

3.9 The Captive WiFi Client must not use the Hosted Services in any way that causes, or may cause, damage to the Hosted Services or Platform or impairment of the availability or accessibility of the Hosted Services.

3.10 The Captive WiFi Client must not use the Hosted Services:

(a) in any way that is unlawful, illegal, fraudulent or harmful; or

(b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

3.11 For the avoidance of doubt, the Captive WiFi Client has no right to access the software code (including object code, intermediate code and source code) of the Platform, either during or after the Term.

3.12 The Provider may suspend the provision of the Hosted Services if: (i) the Captive WiFi Client or any Fidelia Client Sub-Account breaches any term of this Agreement; or (ii) any amount due to be paid by the Captive WiFi Client to the Provider under this Agreement is overdue, and the Provider has given to the Captive WiFi Client at least seven days' written notice, following the amount becoming overdue, of its intention to suspend the Hosted Services on this basis.

#### 4. Maintenance Services

4.1 The Provider shall where practicable give to the Captive WiFi Client at least 10 Business Days' prior written notice of scheduled Maintenance Services that are likely to affect the availability of the

Hosted Services or are likely to have a material negative impact upon the Hosted Services, without prejudice to the Provider's other notice obligations under this main body of this Agreement.

4.3 The Provider shall give to the Captive WiFi Client at least 10 Business Days' prior written notice of the application of an Upgrade to the Platform.

4.4 The Provider shall give to the Captive WiFi Client written notice of the application of any security Update to the Platform and at least 10 Business Days' prior written notice of the application of any non-security Update to the Platform.

4.5 The Provider shall provide the Maintenance Services with reasonable skill and care.

## 5. Support Services

5.1 The Provider shall make available to the Captive WiFi Client a helpdesk in accordance with the provisions of this main body of this Agreement.

5.2 The Provider shall provide the Support Services with reasonable skill and care.

5.3 The Captive WiFi Client may use the helpdesk for the purposes of requesting and, where applicable, receiving the Support Services; and the Captive WiFi Client must not use the helpdesk for any other purpose.

5.5 The Provider shall respond promptly to all requests for Support Services made by the Captive WiFi Client through the helpdesk.

5.6 The Provider may suspend the provision of the Support Services if any amount due to be paid by the Captive WiFi Client to the Provider under this Agreement is overdue, and the Provider has given to the Captive WiFi Client at least seven days' written notice, following the amount becoming overdue, of its intention to suspend the Support Services on this basis.

## 6. Captive WiFi Client Data

6.1 The Captive WiFi Client hereby grants to the Provider a non-exclusive licence to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Captive WiFi Client Data to the extent reasonably required for the performance of the Provider's obligations and the exercise of the Provider's rights under this Agreement. The Captive WiFi Client also grants to the Provider the right to sub-license these rights to its hosting, connectivity and telecommunications service providers to the extent reasonably required for the performance of the Provider's obligations and the exercise of the Provider's rights under this Agreement, subject always to any express restrictions elsewhere in this Agreement.

6.2 The Captive WiFi Client warrants to the Provider that the Captive WiFi Client Data when used by the Provider in accordance with this Agreement will not infringe the Intellectual Property Rights or other legal rights of any person, and will not breach the provisions of any law, statute or regulation, in any jurisdiction and under any applicable law.

6.3 The Provider shall create a back-up copy of the Captive WiFi Client Data at least daily, shall ensure that each such copy is sufficient to enable the Provider to restore the Hosted Services to the state they were in at the time the back-up was taken, and shall retain and securely store each such copy for a minimum period of 30 days.

6.4 The Provider shall have the right to collect analytics and transaction data relating to the usage of the Hosted Services and aggregate and de-identify such data, the Captive WiFi Client Data and with all data derived from such data and the Captive WiFi Client Data, for use by the Provider.

## 7. No assignment of Intellectual Property Rights

7.1 Nothing in this Agreement shall operate to assign or transfer any Intellectual Property Rights from the Provider to the Captive WiFi Client, or from the Captive WiFi Client to the Provider.

## 8. Not used.

## 9. Charges

9.1 The Captive WiFi Client shall pay the Charges to the Provider in accordance with this Agreement.

9.2 If the Charges are based in whole or part upon the time spent by the Provider performing the Services, the Provider must obtain the Captive WiFi Client's written consent before performing Services that result in any estimate of time-based Charges given to the Captive WiFi Client being exceeded or any budget for time-based Charges agreed by the parties being exceeded; and unless the Captive WiFi Client agrees otherwise in writing, the Captive WiFi Client shall not be liable to pay to the Provider any Charges in respect of Services performed in breach of this Clause 9.2.

9.3 All amounts stated in or in relation to this Agreement are, unless the context requires otherwise, stated exclusive of any applicable value added taxes, which will be added to those amounts and payable by the Captive WiFi Client to the Provider.

## 10. Not used.

## 11. Confidentiality obligations

11.1 Each party must:

(a) keep the other party's Confidential Information strictly confidential;



(b) use other party's Confidential information only for carrying out its obligations and exercising its rights under this Agreement;

(c) use the same degree of care to protect the confidentiality of the Confidential Information as it Provider uses to protect its own confidential information of a similar nature, being at least a reasonable degree of care;

(d) not use any of the Confidential Information for any other purpose.

11.2 Notwithstanding Clause 11.1, each party may disclose the other party's Confidential Information to its officers, employees, professional advisers, insurers, agents and subcontractors who have a need to access the Confidential Information for the performance of their work with respect to this Agreement and who are bound by a written agreement or professional obligation to protect the confidentiality of the Confidential Information.

11.3 This Clause 11 imposes no obligations upon a party with respect to the other party's Confidential Information that:

(a) is known to the other party before disclosure under this Agreement and is not subject to any other obligation of confidentiality;

(b) is or becomes publicly known through no act or default of the other party; or

(c) is obtained by the other party from a third party in circumstances where the other party has no reason to believe that there has been a breach of an obligation of confidentiality.

11.4 The restrictions in this Clause 11 do not apply to the extent that any Client Confidential Information is required to be disclosed by any law or regulation, by any judicial or governmental order or request, or pursuant to disclosure requirements relating to the listing of the stock of a party on any recognised stock exchange.

11.5 The provisions of this Clause 11 shall continue in force indefinitely following the termination of this Agreement following the termination of this Agreement.

## 12. Data protection

12.1 Each party shall comply with all Data Protection Laws applicable to it.

12.2 The Captive WiFi Client represents and warrants to the Provider that it has the legal right to disclose all Personal Data that it does in fact disclose to the Provider under or in connection with this Agreement and that the use of such Personal Data by the Provider in accordance with this Agreement shall not place the Provider in breach of any Data Protection Laws.

12.3 The Captive WiFi Client shall only supply to the Provider, and the Provider shall only process, in each case under or in relation to this Agreement, the Personal Data of data subjects falling within the categories specified in Part 1 of Schedule 3 (Data processing information) and of the types specified in Part 2 of Schedule 3 (Data processing information); and the Provider shall only process the Captive WiFi Client Personal Data for the purposes specified in Part 3 of Schedule 3 (Data processing information).

12.4 The Provider shall only process the Captive WiFi Client Personal Data during the Term and for not more than 30 days following the end of the Term, subject to the other provisions of this Clause 12.

12.5 The Provider shall only process the Captive WiFi Client Personal Data on the documented instructions of the Captive WiFi Client (including with regard to transfers of the Captive WiFi Client Personal Data to any place outside the European Economic Area), as set out in this Agreement or any other document agreed by the parties in writing and as may be instructed by the Provider through the functionality of the Services, except where the Provider is required to do so by applicable law and in such a case, the Provider shall inform the Captive WiFi Client of the legal requirement before processing, unless that law prohibits such information on important grounds of public interest.

12.6 The Provider shall ensure that persons authorised to process the Captive WiFi Client Personal Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

12.7 The Provider and the Captive WiFi Client shall each implement appropriate technical and organisational measures to ensure an appropriate level of security for the Captive WiFi Client Personal Data, including those measures specified in Part 4 of Schedule 3 (Data processing information).

12.8 The Provider must not engage any third party to process the Captive WiFi Client Personal Data without the prior specific or general written authorisation of the Captive WiFi Client. The Provider is hereby authorised by the Captive WiFi Client, as at the Effective Date, to engage those third parties identified in, or falling within the processor categories specified in, Part 5 of Schedule 3 (Data processing information) to process the Captive WiFi Client Personal Data. In the case of a general written authorisation, the Provider shall inform the Captive WiFi Client in advance of any intended changes concerning the addition or replacement of any third party processor, and if the Captive WiFi Client objects to any such changes before their implementation, then the Captive WiFi Client may terminate this Agreement, providing that such notice must be given within the period of 7 days

following the date that the Provider informed the Captive WiFi Client of the intended changes. The Provider shall ensure that each third party processor is subject to equivalent legal obligations as those imposed on the Provider by this Clause 12.

12.9 The Provider shall, insofar as possible and taking into account the nature of the processing, take appropriate technical and organisational measures to assist the Captive WiFi Client with the fulfilment of the Captive WiFi Client's obligation to respond to requests exercising a data subject's rights under the Data Protection Laws.

12.10 The Provider shall assist the Captive WiFi Client in ensuring compliance with its obligations under Data Protection Law relating to the security of processing of personal data, the notification of personal data breaches to the supervisory authority, the communication of personal data breaches to the data subject, data protection impact assessments and prior consultation in relation to high-risk processing under the Data Protection Laws.

12.11 The Provider shall make available to the Captive WiFi Client all information necessary to demonstrate the compliance of the Provider with its obligations under this Clause 12 and the Data Protection Laws.

12.12 The Provider shall, at the choice of the Captive WiFi Client, delete or return all of the Captive WiFi Client Personal Data to the Captive WiFi Client after the provision of services relating to the processing, and shall delete existing copies as soon as technically possible within the Provider's back-up cycle, save to the extent that applicable law requires storage of the relevant Personal Data.

12.13 The Provider shall allow for and contribute to audits, including inspections, conducted by the Captive WiFi Client or another auditor mandated by the Captive WiFi Client in respect of the compliance of the Provider's processing of Captive WiFi Client Personal Data with the Data Protection Laws and this Clause 12. The Provider may charge the Captive WiFi Client at its standard time-based charging rates for any work performed by the Provider at the request of the Captive WiFi Client pursuant to this Clause 12.14.

12.14 The Captive WiFi Client shall:

implement appropriate technical and organisational measures to protect the Captive WiFi Client Personal Data pursuant to the requirements under Data Protection Law;

be responsible, as a controller, for providing a privacy notice to the End Users in accordance with Data Protection Law; and

be responsible, as a controller, for responding to data subject access requests in accordance with Data Protection Law.

13. Warranties

13.1 Each party warrants to the other party that it has the legal right and authority to enter into this Agreement and to perform its obligations under this Agreement.

13.2 The Provider warrants to the Captive WiFi Client that:

(a) the Platform and Hosted Services will substantively conform in all material respects with the Hosted Services Specification;

(b) the Provider will use reasonable endeavours to ensure that the application of Updates and Upgrades to the Platform by the Provider will not introduce any Hosted Services Defects into the Hosted Services;

(c) the Provider will use reasonable endeavours to ensure that the Platform will be free from viruses, worms, Trojan horses, ransomware, spyware, adware and other malicious software programs; and

(d) the Provider will use reasonable endeavours to ensure that the Platform is designed to assist the Captive WiFi Client to implement security features in accordance with good industry practice.

13.3 The Provider warrants to the Captive WiFi Client that the Hosted Services, when used by the Captive WiFi Client in accordance with this Agreement, will not infringe the Intellectual Property Rights of any third party.

13.4 If the Provider reasonably determines, or any third party alleges, that the use of the Hosted Services by the Captive WiFi Client in accordance with this Agreement infringes any person's Intellectual Property Rights, the Provider may at its own cost and expense:

(a) modify the Hosted Services in such a way that they no longer infringe the relevant Intellectual Property Rights; or

(b) procure for the Captive WiFi Client the right to use the Hosted Services in accordance with this Agreement.

13.5 All of the parties' warranties and representations in respect of the subject matter of this Agreement are expressly set out in this Agreement. To the maximum extent permitted by applicable law, no other warranties or representations concerning the subject matter of this Agreement will be implied into this Agreement or any related contract.

14. Acknowledgements and warranty limitations

14.1 The Captive WiFi Client acknowledges that complex software is never wholly free from defects, errors and bugs; and subject to the other provisions of this Agreement, the Provider gives no

warranty or representation that the Hosted Services will be wholly free from defects, errors and bugs.

14.2 The Captive WiFi Client acknowledges that complex software is never entirely free from security vulnerabilities; and subject to the other provisions of this Agreement, the Provider gives no warranty or representation that the Hosted Services will be entirely secure.

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

14.4 The Captive WiFi Client acknowledges that the Provider will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the Hosted Services; and, except to the extent expressly provided otherwise in this Agreement, the Provider does not warrant or represent that the Hosted Services or the use of the Hosted Services by the Captive WiFi Client will not give rise to any legal liability on the part of the Captive WiFi Client or any other person.

## 15. Limitations and exclusions of liability

15.1 Nothing in this Agreement will:

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

(b) limit or exclude any liability for fraud or fraudulent misrepresentation;

(c) limit any liabilities in any way that is not permitted under applicable law; or

(d) exclude any liabilities that may not be excluded under applicable law.

15.2 The limitations and exclusions of liability set out in this Clause 15 and elsewhere in this Agreement:

(a) are subject to Clause 15.1; and

(b) govern all liabilities arising under this Agreement or relating to the subject matter of this Agreement, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty, except to the extent expressly provided otherwise in this Agreement.

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

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

15.5 Neither party shall be liable to the other party in respect of any loss of revenue or income. 15.6 Neither party shall be liable to the other party in respect of any loss of use or production.

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

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

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

15.10 The liability of each party to the other party under this Agreement in respect of any event or series of related events shall not exceed the equivalent of the fees paid by the Captive WiFi Client in the preceding 12 months.

## 16. Force Majeure Event

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

16.2 A party that becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in that party performing any obligation under this Agreement, must:

(a) promptly notify the other; and

(b) inform the other of the period for which it is estimated that such failure or delay will continue.

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

## 17. Termination

17.1 The Provider may terminate this Agreement by giving to the other party 30 days written notice of termination.

17.2 Either party may terminate this Agreement immediately by giving written notice of termination to the other party if the other party commits a material breach of this Agreement which is not capable of remedy or if capable of remedy, but which the other party fails to remedy within 30 days of receiving notice specifying the breach and requiring the breach to be remedied.

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

(a) the other party:

(i) is dissolved;

(ii) ceases to conduct all (or substantially all) of its business;

(iii) is or becomes unable to pay its debts as they fall due;

(iv) is or becomes insolvent or is declared insolvent; or

(v) convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;

(b) an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;

(c) an order is made for the winding up of the other party, or the other party passes a resolution for its winding up (other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under this Agreement); or

(d) if that other party is an individual: (i) that other party dies;

(ii) as a result of illness or incapacity, that other party becomes incapable of managing his or her own affairs; or

(iii) that other party is the subject of a bankruptcy petition or order.

## 18. Effects of termination

18.1 Upon the termination of this Agreement, all of the provisions of this Agreement shall cease to have effect, save that all provisions expressed to survive and the following provisions of this Agreement shall survive and continue to have effect (in accordance with their express terms or otherwise indefinitely): Clauses 1, 3.11, 7, 10.2, 10.4, 11, 12.1, 12.3, 12.4, 12.5, 12.6, 12.7, 12.8, 12.9, 12.10, 12.11, 12.12, 12.13, 12.14, 12.15, 15, 18, 21 and 22.

18.2 Except to the extent that this Agreement expressly provides otherwise, the termination of this Agreement shall not affect the accrued rights of either party.

## 19. Notices

19.1 Any notice from one party to the other party under this Agreement must be given by email using the relevant contact details set out in Clause 19.2 and Part 3 of Schedule 1 (Hosted Services particulars)

19.2 The Provider's contact details for notices under this Clause 19 are as entered in the Captive WiFi Client's profile as registered on the Hosted Service.

19.3 The addressee and contact details set out in Clause 19.2 and Part 3 of Schedule 1 (Hosted Services particulars) may be updated from time to time by a party without notice of the update to the other party in accordance with this Clause 19.

## 20. Subcontracting

20.1 Subject to any express restrictions elsewhere in this Agreement, the Provider may subcontract any of its obligations under this Agreement, provided that the Provider shall remain responsible to the Captive WiFi Client for the performance of any subcontracted obligations.

20.2 Notwithstanding the provisions of this Clause 20 but subject to any other provision of this Agreement, the Captive WiFi Client acknowledges and agrees that the Provider may subcontract to any reputable third party hosting business the hosting of the Platform and the provision of services in relation to the support and maintenance of elements of the Platform.



## 21. General

21.1 No breach of any provision of this Agreement shall be waived except with the express

written consent of the party not in breach.

21.2 If any provision of this Agreement is determined by any court or other competent authority to be unlawful and/or unenforceable, the other provisions of this Agreement will continue in effect. If any unlawful and/or unenforceable provision would be lawful or enforceable if part of it were deleted, that part will be deemed to be deleted, and the rest of the provision will continue in effect (unless that would contradict the clear intention of the parties, in which case the entirety of the relevant provision will be deemed to be deleted).

21.3 This Agreement may not be varied except by a written document signed by or on behalf of each of the parties.

21.4 Neither party may without the prior written consent of the other party assign, transfer, charge, license or otherwise deal in or dispose of any contractual rights or obligations under this Agreement.

21.5 This Agreement is made for the benefit of the parties, and is not intended to benefit any third party or be enforceable by any third party. The rights of the parties to terminate, rescind, or agree any amendment, waiver, variation or settlement under or relating to this Agreement are not subject to the consent of any third party.

21.6 This Agreement shall constitute the entire agreement between the parties in relation to the subject matter of this Agreement, and shall supersede all previous agreements, arrangements and understandings between the parties in respect of that subject matter.

21.7 This Agreement and any non-contractual obligations arising in connection with it are governed by and construed in accordance with English law. The English courts have exclusive jurisdiction to determine any dispute arising in connection with this Agreement, including disputes relating to any non-contractual obligations.

## 22. Interpretation

22.1 In this Agreement, a reference to a statute or statutory provision includes a reference to:

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

(b) any subordinate legislation made under that statute or statutory provision. 22.2 The Clause headings do not affect the interpretation of this Agreement.

22.3 References in this Agreement to “calendar months” are to the 12 named periods (January, February and so on) into which a year is divided.

22.4 In this Agreement, general words shall not be given a restrictive interpretation by reason of being preceded or followed by words indicating a particular class of acts, matters or things.

## EXECUTION

The parties have indicated their acceptance of this Agreement by way of acceptance by the earlier of clicking “I ACCEPT” and using the Hosted Services and the Platform.

## SCHEDULE 1 (HOSTED SERVICES PARTICULARS) 1. Specification of Hosted Services

The Hosted Service platform is available to the Captive WiFi Client in order to use features such as, but not limited to:

- Welcome “Splash” page creation and publication to the web
- View Captive WiFi End User customer marketing data
- Manage Vouchers
- Send captured Captive WiFi End User customer data automatically to platforms such as
  - MailChimp
  - MizMoz
  - TalkBox
- Integration with Oracle iCare loyalty platform

## 2. Contractual notices

All notices pertaining to this agreement should be sent via email to: [support@Captive WiFi.com](mailto:support@Captive WiFi.com)

## SCHEDULE 2 (ACCEPTABLE USE POLICY) 1. Introduction

1.1 This acceptable use policy (the “ Policy “) sets out the rules governing:

(a) the use of the domain Captive WiFi.com, any successor website, any subdomain within Captive WiFi.com and the services available on that website or any successor website (the “ Services “); and

(b) the transmission, storage and processing of content by you, or by any person on your behalf, using the Services (“ Content “).

1.2 References in this Policy to “you” are to any Captive WiFi Client for the Services and any individual user of the Services (and “your” should be construed accordingly); and references in this Policy to “us” are to The Provider (and “we” and “our” should be construed accordingly).

1.3 By using the Services, you agree to the rules set out in this Policy.

1.4 We will ask for your express agreement to the terms of this Policy before you upload or submit any Content or otherwise use the Services.

1.5 You must be at least 18 years of age to use the Services; and by using the Services, you warrant and represent to us that you are at least 18 years of age.

## 2. General usage rules

2.1 You must not use the Services in any way that causes, or may cause, damage to the Services or impairment of the availability or accessibility of the Services.

2.2 You must not use the Services:

(a) in any way that is unlawful, illegal, fraudulent or harmful; or

(b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity. 2.3 You must ensure that all Content complies with the provisions of this Policy.

## 3. Unlawful Content

3.1 Content must not be illegal or unlawful, must not infringe any person’s legal rights, and must not be capable of giving rise to legal action against any person (in each case in any jurisdiction and under any applicable law).

3.2 Content, and the use of Content published on to the Hosted Platform that is any manner licensed or otherwise authorised by you, must not:

(a) be libellous or maliciously false; (b) be obscene or indecent;

(c) infringe any copyright, moral right, database right, trade mark right, design right, right in passing off, or other intellectual property right;

(d) infringe any right of confidence, right of privacy or right under data protection legislation; (e) constitute negligent advice or contain any negligent statement;

(f) constitute an incitement to commit a crime, instructions for the commission of a crime or the promotion of criminal activity;

(g) be in contempt of any court, or in breach of any court order;

(h) constitute a breach of racial or religious hatred or discrimination legislation; (i) be blasphemous;

(j) constitute a breach of official secrets legislation; or

(k) constitute a breach of any contractual obligation owed to any person.

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

#### 4. Graphic material

4.1 Content must be appropriate for all persons who have access to or are likely to access the Content in question, and in particular for children over 12 years of age.

4.2 Content must not depict violence in an explicit, graphic or gratuitous manner.

4.3 Content must not be pornographic or sexually explicit.

#### 5. Factual accuracy

5.1 Content must not be untrue, false, inaccurate or misleading.

5.2 Statements of fact contained in Content and relating to persons (legal or natural) must be true[; and statements of opinion contained in Content and relating to persons (legal or natural) must be reasonable, be honestly held and indicate the basis of the opinion].

## 6. Negligent advice

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

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

## 7. Etiquette

7.1 Content must be appropriate, civil and tasteful, and accord with generally accepted standards of etiquette and behaviour on the internet.

7.2 Content must not be offensive, deceptive, threatening, abusive, harassing, menacing, hateful, discriminatory or inflammatory.

7.3 Content must not be liable to cause annoyance, inconvenience or needless anxiety.

7.4 You must not use the Services to send any hostile communication or any communication intended to insult, including such communications directed at a particular person or group of people.

7.5 You must not use the Services for the purpose of deliberately upsetting or offending others.

7.6 You must not unnecessarily flood the Services with material relating to a particular subject or subject area, whether alone or in conjunction with others.

7.7 You must ensure that Content does not duplicate other content available through the Services.

7.8 You must ensure that Content is appropriately categorised.

7.9 You should use appropriate and informative titles for all Content.

7.10 You must at all times be courteous and polite to other users of the Services.

## 8. Marketing and spam

8.1 You must not without our written permission use the Services for any purpose relating to the marketing, advertising, promotion, sale or supply of any product, service or commercial offering that could be deemed as unrelated to the legitimate interest of the Captive WiFi Client or the Captive WiFi Venu

8.2 Content must not constitute or contain spam, and you must not use the Services to store or transmit spam – which for these purposes shall include all unlawful marketing communications and unsolicited commercial communications.

8.3 You must not send any spam or other marketing communications to any person using any email address or other contact details made available through the Services or that you find using the Services.

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

## 9. Gambling

9.1 You must not use the Services for any purpose relating to gambling, gaming, betting, lotteries, sweepstakes, prize competitions or any gambling-related activity.

## 10. Monitoring

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

## 11. Data mining

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

## 12. Hyperlinks

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

## 13. Harmful software

13.1 The Content must not contain or consist of, and you must not promote or distribute by means of the Services, any viruses, worms, spyware, adware or other harmful or malicious software, programs, routines, applications or technologies.

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

## SCHEDULE 3 (DATA PROCESSING INFORMATION)

### 1. Categories of data subject

- Captive WiFi Clients
- Captive WiFi End Users
- Captive WiFi End Users

### 2. Types of Personal Data

#### 2.1 Captive WiFi Sub-Account Patron data (Captive WiFi End User)

The Hosted Service stores the Captive WiFi End User customer data that is captured

via the Captive WiFi Client's Splash pages

Any other type of registration or marketing form presented to a Captive WiFi End User

#### 2.2 Captive WiFi Clients

The Hosted Service stores contact and personal information for the registered users of the Captive WiFi System

### 3. Purposes of processing (Permitted Purpose)

#### 3.1 Captive WiFi Sub-Account Patron data

The Provider will store information, depending on the Captive WiFi End User's preferences, the following data:

- Name
- Email
- Date of Birth
- Mobile number
- Public Facebook profile information (if the customer wishes)
- Public Google profile information (if the customer wishes)
- Device information available from a WiFi Access Point, such as MAC Address

The Provider reserves the right to store strictly non-personal data for industry statistical reporting uses. However some personal information is required to be stored, for the legitimate interest that

the Provider has in performing its obligations, which are:

Captive WiFi needs to show personalised "Welcome back" messages

Captive WiFi needs to recognise a returning venue patron, by storing their MAC Address and email address

Captive WiFi needs to pass, where the Captive WiFi Client so desires, information to the Captive WiFi Client's marketing platforms

Mobile information is required by the Hosted Service for SMS login

Captive WiFi needs to allow Captive WiFi Clients, who do not have automated marketing platforms, the ability to download customer data in Excel

Sub-processors of Personal Data

#### 4.1 The Provider's sub-processors

There are no sub-processors of Personal Data under the responsibility of the Provider. 4.2 The Captive WiFi Client's sub-processors



The Captive WiFi Client acknowledges that any 3rd party such as, but not limited to Captive WiFi Sub-Accounts contracted by the Captive WiFi Client, granted permission to access/use Client Personal Data, within the bounds of this agreement is considered a sub-processor.

The Captive WiFi Client acknowledges that Personal Data that is handled by the Captive WiFi Client, or any such sub-processors directly under the responsibility of the Captive WiFi Client is, according to this agreement, to be handled with appropriate care as stated in sections 11 and 12 of the Terms and Conditions herein.

#### 5. Security measures for Personal Data

The Hosted Service by default only allows download of customer data where the customer has explicitly opted in

Captive WiFi only sends explicit opt-in customer data to the Captive WiFi Client's automated marketing platforms

All data transmission is carried out over SSL Secure Socket connections

The Hosted Service is hosted by an accredited, secure hosting facility in the UK