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Terms & Conditions for Publishers

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Terms and Conditions for Advertisers

These Terms and Conditions for Advertisers (**Terms**) are between Blucado UG (haftungsbeschränkt), registered in Germany under number 15967 in HR B Coesfeld, whose registered office is at Bonhofferring 12, 48734 Reken (**Blucado**) and the Client in possession of these Terms who has registered an Account on the Platform (**Advertiser**, and together with Blucado, the **Parties**). Blucado operates a digital marketing Platform called Sports Travel Affiliate (**Platform**) that allows Advertisers, who wish to advertise their goods or services online, to be connected to Publishers, who register with Blucado to offer their Digital Media as a setting for Advertising Materials. Blucado reserves the right to amend these Terms from time to time by notice to the Advertiser.

1. Definition of Terms

In these Terms, the following definitions apply:

Account: the account through which the Publisher accesses the Platform.

Action: A Call, Click, Lead, Sale, or View.

Advertising Materials: creative content including but not limited to Hyperlinks and banners promoting the Advertiser's services or products that is placed on the Publisher's Digital Media.

Affiliate Programme: the affiliate programme operated on behalf of the Advertiser through which the Advertising Materials are displayed on Publishers' Digital Media and through which Publishers are compensated either by Pay-per-Call, Pay-per-Click, Payper-Lead, Pay-per-Sale or Pay-per-View, or any combination of these.

Blucado Service Fee: the percentage or amount that has to be paid to Blucado for the Supply of Services on top of the Publisher Commission.

Business Day: a day other than a Saturday, Sunday or public holiday in Germany.

Code: computer programming language.

Commencement Date: has the meaning set out in clause 2.3.

Contract: the contract for the supply of Services to the Advertiser in accordance with these Terms.

Cookies: cookies placed on a User's device to track that User's Actions after visiting the Publisher's Digital Media.

Digital Media: media including, but not limited to websites, mobile sites, social media profiles and smartphone applications.

Hyperlink: a hyperlink to the Advertiser's Digital Media

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Pay-per-Click: compensation per unique click through from the Advertising Materials to the Advertiser's website (and **Click** shall be construed accordingly).

Pay-per-Lead: compensation for each time a unique User's details are captured via the Advertising Materials (and **Lead** shall be construed accordingly).

Pay-per-Sale: compensation for each time a sale is completed via the Advertising Materials (and **Sale** shall be construed accordingly).

Pay-per-View: compensation per unique view of the Advertising Materials (and **View** shall be construed accordingly).

Platform: Blucado's online platform, accessed via www.sportstravelaffiliate.com, which has been developed by Blucado to provide the Services and to view real-time statistics including sales, commissions due, transactions awaiting validation and clicks.

Pool: a network of Publishers who have been selected and approved by Blucado to take part in Performance Ads and Performance Links.

Programme Rules: rules for participation by Publishers in an Advertiser's Affiliate Programme.

Publisher: the owner or operator of Digital Media who is a member of Blucado's network of affiliates for the purposes of allowing Advertisers' material to be published on its Digital Media.

Publisher Commission: sums payable by Blucado to Publishers for valid Actions.

Services: the provision of Digital Media by the Publisher via the Platform to Advertisers.

Tracking Technology: a piece of software and/or a technical device used for tracking Calls, Clicks, Leads, Sales and Views (and **Tracking** shall be construed accordingly).

User: a user of the Publisher's Digital Media, the Advertising Materials and/or the Advertiser's Digital Media.

In these Terms, the following rules apply:

- (a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) A reference to a Party includes its personal representatives, successors or permitted assigns;
- (c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (e) Headings are for ease of reference only and shall not affect the interpretation or construction of the clause to which they refer; and
- (f) A reference to **writing** or **written** includes faxes and e-mails.

2. The Basis Of Contract

2.1 Once the Advertiser has:

- (a) registered its details on the Platform;
- (b) accepted and signed these Terms; and
- (c) once Blucado has activated the Publisher's Account,

the Advertiser shall be entitled, but not obliged, to accept Publishers in the Advertiser's Affiliate Programme.

2.2 The Contract between Blucado and the Advertiser shall be subject to these Terms and shall come into existence on the date authorised representatives of the Advertiser and Blucado duly sign these Terms (**Commencement Date**).

2.3 The Contract constitutes the entire agreement between the parties. The Advertiser acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Blucado which is not set out in the Contract.

2.4 These Terms apply to the Contract to the exclusion of any other terms that the Advertiser seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.5 Unless otherwise agreed, the Advertiser shall, for the Contract Term as set out in clause 7.1 below, work exclusively with Blucado and shall not engage or seek to engage the services of a competitor of Blucado.

2.6 If the Advertiser is an advertising agency, a media buyer or other intermediary acting on behalf of a client advertiser, then the Advertiser;

- (a) warrants that it's client is aware and has consented to the terms of the Contract;
- (b) enters into the Contract as principal and warrants that it shall comply with all the Advertiser's obligations under the Contract notwithstanding any default by its client advertiser; and
- (c) agrees that Blucado provides the Services for the benefit of the Advertiser only.

3. Supply of Services

3.1 No term of the Contract shall be construed so as to oblige Blucado to provide the Services. The Advertiser shall compensate Blucado only to the extent that Blucado provides the Services.

3.2 Blucado shall use all reasonable endeavours to allow the Advertiser access to the Platform and to supply the Services in accordance with these Terms.

3.3 Blucado reserves the right at its own discretion to upgrade, update, maintain and further develop the Platform without notice. The Publisher acknowledges and agrees that it may not be able to access the Platform in the event of any upgrade, update, maintenance or further development.

3.4 In respect of its Affiliate Programme, the Advertiser shall have the option to use any combination of the following:

- (a) select Publishers and Digital Media from within the Platform;
- (b) specify Publishers and Digital Media; and
- (c) allow Blucado to select Publishers and Digital Media on its behalf, by recruiting Publishers specifically for the Advertiser's Affiliate Programme;

and in the event that Blucado selects Publishers under the provisions of clause 3.4(c) it shall do so in good faith and use all reasonable endeavours to select the Publishers and Digital Media which it believes are best suited to achieving the Advertiser's goals.

3.5 Publishers shall have the right to refuse to take part in the Affiliate Programme.

3.6 If the Advertiser has reasonable grounds for suspecting that any Publisher has acted fraudulently, or otherwise in breach of its obligations as set out in clause 10.1 or any Programme Rules it shall immediately notify Blucado of such grounds, and:

- (a) Blucado may suspend the relevant Publisher pending an investigation;
- (b) the Parties shall cooperate with each other in any investigation; and
- (c) if the Parties agree that the Publisher acted fraudulently, or otherwise in breach of its obligations as set out in clause 10.1 or any Programme Rules then Blucado shall remove that Publisher from the Advertiser's Affiliate Programme;

but, in any other event, the Advertiser shall be able to rely on its rights under clause 3.7 below to remove a Publisher from its Affiliate Programme.

3.7 If the Advertiser, in its reasonable discretion, notifies Blucado of its decision to remove a Publisher or class of Publisher from its Affiliate Programme, Blucado shall remove that Publisher or class of Publisher from the Advertiser's Affiliate Programme within 5 Business Days after receipt of such notice provided that the Advertiser honours any Sales or other actions for the lifetime of any Cookies placed by the Publisher at any time before the expiration of the 5 Business Days.

3.8 The Advertiser may request that any Advertising Materials placed on a Publisher's Digital Media be moved or repositioned if the Advertiser feels that the position of Advertising Materials, as placed, compromises the reputation of the goods, services, brand, operations or goodwill of the Advertiser.

3.9 The Advertiser shall have the option to impose additional terms and conditions on the Publisher in relation to its Affiliate Programme (**Additional Terms**) provided that these do not conflict with these Terms or Blucado's Terms and Conditions for Publishers. The Advertiser agrees that these Terms and Blucado's Terms and Conditions for Publishers shall prevail in the event of a conflict with the Additional Terms.

3.10 Blucado may use the Advertiser's Advertising Materials, its name and trademarks marketed via the Platform as necessary in order to provide the Services and in the course of Blucado's own marketing activities provided that it does so in accordance with best industry practice.

4. Calculation of Charges

4.1 Unless stated otherwise, Blucado may charge the Advertiser an initial one-time set up. This set up fee will be payable on entry into the Contract and shall be subject

to the payment terms set out at clause 5.2 below. Blucado shall deliver the Services only once it has received full payment, if applicable, of the set up fee in cleared funds.

4.2 Unless stated otherwise, the total charges of 14% payable by the Advertiser for the Services shall be comprised of:

- (a) The Publisher Commission of 7%; and
- (b) the Blucado Service Fee of 7%.

4.3 The Advertiser can increase the Publisher Commission at any time. However the Publisher Commission cannot be reduced without the prior written approval of Blucado.

4.4 Unless agreed otherwise, Blucado's Tracking Technology, accessed via the Platform, shall be the system used to track Actions and calculate compensation.

4.5 Any Actions listed as pending on the Platform are subject to review and verification by the Advertiser.

4.6 Blucado reserves the right to verify any Actions according to the provisions of the Contract.

4.7 Unless agreed otherwise, the Advertiser shall have a validation period of 30 days starting from the date a Call, Lead or Sale is first logged on the Platform (**Validation Period**) within which to verify and validate (as appropriate) that pending Call, Lead or Sale.

4.8 Unless agreed otherwise, if the Advertiser does not raise any reasonable objections to a pending Lead or Sale within the Verification Period, that pending Call, Lead or Sale shall be deemed validated by the Advertiser.

4.9 The Advertiser has the right to prove that Leads or Sales logged on the Platform are not valid.

4.10 At Blucado's request, the Advertiser shall promptly provide information (including but not limited to business records, customer records and log files), as well as any objections it may have, on the Calls, Leads and Sales it has or has not validated in order to allow Blucado to review the completeness and accuracy of the Advertiser's verifications. Blucado reserves the right to have, at its own expense, the Advertiser's information audited during normal business hours.

4.11 Any Action shall be deemed invalid if:

- (a) it is not generated through the Advertising Materials;
- (b) it is generated automatically by a technical device or computer software (eg click generator);
- (c) it is generated by coercion or deception;

(d) the same User repeatedly Clicks and Views within a short period of time (including repeated Clicks on different Hyperlinks);
(e) except as agreed in the Programme Rules, the User receives remuneration from the Publisher or any third party for any Clicks and Views ; and/or

(f) the Click is associated with a required action, for example, sending a text message, participating in a gambling competition, or using the Click within a paid email system (except as agreed in the Insertion Order, Programme Rules or elsewhere in writing by the Advertiser within the framework of an Blucado Bonus Programme);

and Blucado shall have no right of remuneration for any Actions that are deemed to be invalid.

4.12 Unless agreed otherwise, any commission payable by the Advertiser under its Pay-per-Sale Programme shall be calculated according to the net sale value of the specified goods or services (excluding the cost of ancillary services and VAT).

4.13 The Advertiser warrants that the Publisher Commission for any valid Actions shall be no less favourable than the most favourable provisions the Advertiser has agreed to from time to time with any other digital marketing agency offering a service comparable to Blucado's Services. If, during the term of this Contract, the Advertiser enters into an agreement with another digital marketing agency containing more favourable provisions for that agency, the Advertiser agrees that these more favourable provisions shall immediately apply to this Contract.

4.14 Unless otherwise agreed by Blucado in writing, any compensation that Blucado requires the Advertiser to pay for breaching clause 6.1(g) shall be calculated as follows:

Average daily Clicks, Leads, Sales and/or Views during period starting 90 calendar days prior to date of Advertiser's breach multiplied by the number of days that the Advertiser was in breach. And any part days that the Advertiser was in breach shall be counted as one full day.

5. Invoicing

5.1 Blucado shall invoice the Advertiser individually for each User and reserves the right to submit invoices to the Advertiser electronically.

5.2 The Advertiser shall pay each invoice submitted by Blucado:

- (a) on the last day of the User's official arrival month unless agreed otherwise; and
- (b) in full and in cleared funds to a bank account nominated in writing by Blucado, and time for payment shall be of the essence of the Contract.

5.3 All Charges payable by the Advertiser under the Contract are exclusive of amounts in respect of value added tax chargeable for the time being (VAT). Where any taxable supply for VAT purposes is made under the Contract by Blucado to the Advertiser, the

Advertiser shall, on receipt of a valid VAT invoice from Blucado, pay to Blucado such additional amounts in respect of VAT as are chargeable on the supply of the Services at the same time as payment is due for the supply of the Services.

5.4 If the Advertiser fails to make any payment due to Blucado under the Contract by the due date for payment then Blucado claims the right to accrue interest on the overdue amount on a daily basis from the due date at the rate of 8% per annum above the base rate of Deutsche Bank AG from time to time. Such interest shall accrue until actual payment of the overdue amount, whether before or after judgment. The Advertiser shall pay the interest together with the overdue amount.

5.5 The Advertiser shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). Blucado may at any time, without limiting its other rights or remedies, set off any amount owing to it by the Advertiser against any amount payable by Blucado to the Advertiser.

6. Obligations and Warranties of the Advertiser

6.1 The Advertiser shall:

- (a) ensure that all information provided to Blucado at registration and requested by Blucado from the Advertiser thereafter is complete and accurate;
- (b) immediately update Blucado if any information provided under clause 6.1(a) changes;
- (c) provide Blucado with the Advertising Materials and URL of the Advertiser's website as necessary for participation in the Affiliate Programme;
- (d) obtain and maintain all necessary licences, permissions and consents which may be required for the design of its Digital Media and Advertising Materials before the date on which the Services are to start;
- (e) use all reasonable endeavours to ensure that the design of its Advertising Materials and its Digital Media allows Users at all times to generate valid Clicks, Leads, Sales and Views and that these can be tracked and logged in full;
- (f) ensure that its Digital Media and any Advertising Materials are suitable for use in the Affiliate Programme, do not compromise the reputation, brand, operations or goodwill of the Advertiser and do not contain:
 - (i) displays of violence;
 - (ii) sexually explicit or pornographic content; or
 - (iii) statements that are discriminatory with regards to race, religion, gender, nationality, disability, sexual orientation or age,

and the Advertiser agrees to cooperate fully with the authorities in the event that it is necessary to disclose any information to the authorities;

(g) ensure that Blucado's Tracking and logging capabilities within the Advertiser's Digital Media is kept fully maintained and functional at all times.

In the event that, in breach of this clause 6.1(g), the Advertiser causes a Tracking failure and no Clicks, Leads, Sales or Views can be logged on the Platform, Blucado may require the Advertiser to pay compensation in accordance with clause 4.14;

(h) disclose to Blucado, in writing, and no later than 5 Business Days prior to entry into the Contract, its own Tracking Technology, if any;

(i) ensure that any Tracking Technology it implements shall not interfere with Blucado's Tracking System;

(j) deal with Blucado and the Publishers

(k) notify Blucado, in writing, of any changes it makes to a current Affiliate Programme, operating plans and marketing and sales initiatives and the Advertiser agrees that Blucado may publish any changes on the Platform; and

(l) ensure that it complies with all applicable laws including but not limited to data protection and privacy laws. The Advertiser shall not use any personal or confidential information, including that information belonging to Users, Publishers or Blucado except as necessary to carry out its contractual obligations with these parties.

6.2 If the performance of Blucado of any of its obligations under the Contract is prevented or delayed by any act or omission by the Advertiser or failure by the Advertiser to perform any relevant obligation (**Advertiser Default**):

(a) Blucado shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Advertiser remedies the Advertiser Default, and to rely on the Advertiser Default to relieve it from the performance of any of its obligations to the extent the Advertiser Default prevents or delays the performance of Blucado of any of its obligations;

(b) Blucado shall not be liable for any costs or losses sustained or incurred by the

Advertiser arising directly or indirectly from the failure or delay of Blucado to perform any of its obligations as set out in this clause 6.2; and

(c) the Advertiser shall reimburse Blucado on written demand for any costs or losses

sustained or incurred by Blucado arising directly or indirectly from the Advertiser Default.

6.3 The Advertiser warrants to Blucado that:

(a) it has and will continue to have for the duration of the Contract full authority to

enter into and perform the Contract;

(b) it will comply with all applicable laws, including any applicable provisions for

consumer protection;

(c) no Advertising Materials shall infringe the Intellectual Property rights of third

parties, and nor will the Advertiser do anything that causes Blucado or Publishers

to infringe such rights;

(d) where the Advertiser's business is regulated, it shall have any necessary authorisation to advertise and promote such products or services that are also regulated; and

(e) it shall keep its Platform login details secure and shall immediately notify Blucado

if it believes there has been any unauthorised use of its login details.

7. Contract Term

The Contract Term shall be valid for 12 months unless otherwise suspended or closed. At the end of the Contract Term, the Contract shall automatically renew for a term of the same duration as the Contract Term (**Subsequent Contract Term**) unless terminated in accordance with clause 8.

8. Termination and Deactivation

8.1 If the Advertiser has not operated an Affiliate Programme for a period of three consecutive months, Blucado reserves the right, by giving written notice, to deactivate the Advertiser's account on the Platform.

8.2 Without limiting its other rights or remedies, either Party may terminate the Contract by giving the other Party not less than 90 calendar days' written notice prior to the end of the Contract Term. In respect of any Subsequent Contract Term, either party may terminate the Contract by giving the other Party not less than 90 calendar days' written notice.

8.3 If notice is given under clause 8.2 the Parties may enter into a contract review in good faith any amendments to the Contract (**Contract Review**). If no agreement can be reached then the Contract shall terminate at the end of that Contract Term.

8.4 Without limiting its other rights or remedies, either Party may terminate the Contract with immediate effect by giving written notice to the other Party if:

(a) the other Party commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing to do so;

(b) the other Party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts

(c) the other Party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

(d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other Party;

(e) a creditor or encumbrancer of the other Party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

(f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other Party;

(g) the holder of a qualifying floating charge over the assets of the other Party has become entitled to appoint or has appointed an administrative receiver;

(h) a person becomes entitled to appoint a receiver over the assets of the other Party or a receiver is appointed over the assets of the other Party;

(i) any event occurs, or proceeding is taken, with respect to the other Party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 8.4(b) to clause 8.4(h) (inclusive);

(j) the other Party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or

(k) the other Party's financial position deteriorates to such an extent that in the opinion of Blucado the capability of the Advertiser to adequately fulfil its obligations under the Contract has been placed in jeopardy.

8.5 Without limiting its other rights or remedies, Blucado may, in its sole discretion, suspend terminate the Contract with immediate effect by giving written notice to the Advertiser if:

(a) the Advertiser fails to pay any amount due under this Contract on the due date for payment and fails to pay all outstanding amounts within 14 days after being notified in writing to do so; or

(b) the Advertiser commits a material breach of the Contract which it has not remedied within 14 days after being notified in writing to do so.

9. Consequences of Termination

On termination of the Contract for any reason:

(a) the Advertiser shall immediately pay to Blucado all of the outstanding unpaid invoices and interest and, in respect of Services supplied but for which

no invoice has been submitted, Blucado shall submit an invoice, which shall be payable as set out at clause 5.2 above;

(b) Blucado shall immediately cease use of the Advertiser's Intellectual Property Rights and use its reasonable endeavours to ensure that any third

party to which it has sub-licensed such rights shall also immediately cease use of the Advertiser's Intellectual Property Rights;

(c) the Advertiser's account on the Platform shall be deactivated; and

(d) clauses 4, 5, 6, 9.1(a), 10, 11, 13 and 14 shall continue in full force and effect.

10. Publishers

10.1 Blucado warrants to the Advertiser that each Publisher allowed to participate in the Affiliate Programme has, or shall first have, entered into an agreement with Blucado to:

(a) comply with any Programme Rules;

(b) refrain from changing any Code or Advertising Materials provided by the Advertiser and only to use the Advertising Materials in the Digital Media of the Publisher;

(c) use the Advertising Materials only in connection with its participation in an Affiliate Programme and to refrain from passing any information or Advertising Materials to any third parties;

(d) use trademarks and logos of third parties, including the Advertiser, only if Blucado or the Publisher has obtained the consent of the rights holder for such use; (e) design and present its Digital Media, including all entries in search engines, directories or link lists of third parties, such that only valid Clicks, Leads, Sales and Views are generated;

(f) design its Digital Media such that Intellectual Property Rights of third parties are not violated and applicable laws, including any applicable provisions for consumer protection, are not breached;

(g) send emails containing advertising for Blucado or the Affiliate Programme only in accordance with applicable laws and Programme Rules;

(h) refrain from depicting displays of violence, sexually explicit or pornographic content or making discriminatory statements or representations with regard to race, gender, religion, nationality, disability, sexual orientation or age in its Digital Media and/or in connection with its participation in Affiliate Programmes; and

(i) not compromise the reputation of the goods, services, brand, operations or goodwill of Blucado or the Advertiser.

10.2 Blucado shall use all reasonable endeavours to ensure that Publishers comply with their obligations under Blucado's Terms and Conditions for Publishers, the obligations as set out in clause 10.1 and any Programme Rules. The Advertiser shall

have the right and is encouraged to assert all claims against a Publisher which result from that Publisher's breach of its obligations.

10.3 Publishers shall have sole responsibility for providing the Advertiser with help and support in relation to the Advertising Materials and/or Digital Media.

11. Limitation of Liability

11.1 Nothing in these Terms shall limit or exclude the liability of Blucado for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; or
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by The German Law of Contract.

11.2 Subject to clause 11.1:

- (a) Blucado shall under no circumstances whatever be liable to the Advertiser (or, if the Advertiser is an intermediary, its client advertiser), whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of data or the restoration of data, loss of reputation or goodwill, managers' or any third party providers time in monitoring Blucado's Services, or any indirect or consequential loss arising under or in connection with the Contract; and
- (b) the total liability of Blucado to the Advertiser in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 0€.

11.3 The terms implied by The German Law of Contract are, to the fullest extent permitted by law, excluded from the Contract.

11.4 Blucado gives no warranty, guarantee or representation in respect of

- (a) the number of valid transactions that will be generated by use of the Services;
- (b) the benefit to be derived from using the Services; or
- (c) the number of Publishers that may subscribe to and use the Platform.

11.5 If the Advertiser opts to allow Blucado to select Publishers on its behalf under the provisions of clause 3 Blucado shall not be liable for any loss or damage suffered by the Advertiser resulting from its selection of Publisher and/or Digital Media provided that it has acted in good faith.

11.6 The Advertiser acknowledges that Blucado's Charges have been calculated with reference to the limitations of liability as set out in this clause 11

12. Intellectual Property Rights

12.1 The Advertiser shall retain all Intellectual Property Rights in or arising out of its Advertising Materials and Digital Media.

12.2 The Advertiser grants to Blucado and the Publishers, for the purposes of providing the Services and the operation of the Affiliate Programme only, a limited, non-exclusive, royalty-free license to display and otherwise use the Advertiser's Intellectual Property.

12.3 Blucado shall retain all its Intellectual Property Rights in or arising out of provision of the Services.

12.4 Each Party agrees that it shall not acquire or claim any title to any of the other party's Intellectual Property Rights by virtue of the rights granted to it under the Contract or through its use of the other Party's Intellectual Property Rights.

13. Confidentiality

A party (**receiving party**) shall keep in strict confidence all technical or commercial knowhow, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents, subcontractors and clients who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents, subcontractors and clients comply with the obligations set out in this clause 13 as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

14. General

14.1 Assignment: Blucado may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent. The Advertiser shall not, without the

prior written consent of Blucado, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

14.2 Notices:

(a) Notices given to a Party under or in connection with the Contract shall be in writing, addressed to that Party at the address or email address as set out in the Insertion Order, and shall be delivered personally, sent by pre-paid first-class post or other next working day delivery service, commercial courier, fax or email.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.2(a); if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial

courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission provided that no notice of delivery failure has been received for that transmission in the meantime.

(c) The provisions of clauses 14.2(a) and 14.2(b) shall not apply to the service of any proceedings or other documents in any legal action.

14.3 Severance:

(a) If any term of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or partprovision shall be deemed deleted. Any modification to or deletion of a term under this clause 14.3 shall not affect the validity and enforceability of the rest of the Contract.

(b) In the event of the illegality, invalidity or unenforceability of any term of the Contract, for any reason, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

14.4 Force Majeure: Neither Party shall be liable for any delay in performing any of its obligation under this Contract if such delay is caused by an event beyond the reasonable control of that Party including but not limited to strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God,

war, riot, civil 14 commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

14.5 Waiver: A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a Party to exercise any right or remedy

provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

14.6 Non-partnership: Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between Blucado, the Publisher or the Advertiser, nor constitute either Party the agent of the other for any purpose. Neither Party shall have authority to act as agent for, or to bind, the other Party in any way. The Publisher agrees that any obligations of the Advertiser under the Affiliate Programme shall in no way be construed as obligations of Blucado.

14.7 Rights of third parties: No person who is not a party to the Contract shall have any rights to enforce its terms.

14.8 Variation: Except as set out in these Terms, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by Blucado.

14.9 Governing law and jurisdiction: The Contract, and any dispute or claim arising out of or in connection with it shall be governed by, and construed in accordance with the law of Germany. The courts of Germany shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

Terms and Conditions for Publishers

These Terms and Conditions for Publishers (**Terms**) are between Blucado UG (haftungsbeschränkt), registered in Germany under number 15967 in HR B Coesfeld, whose registered office is at Bonhofferring 12, 48734 Reken (**Blucado**) and the publisher in possession of these Terms who has registered an Account on the Platform (**Publisher**, and together with Blucado, the **Parties**). Blucado operates a digital marketing Platform called Sports Travel Affiliate (**Platform**) that allows Publishers, who register with Blucado to offer their Digital Media as a setting for Advertising Materials, to be connected to Advertisers, who wish to advertise their goods or services online (**Advertiser**). Blucado reserves the right to amend these Terms from time to time by notice to the Publisher.

1. Definition of Terms

In these Terms, the following definitions apply:

Account: the account through which the Publisher accesses the Platform.

Action: A Call, Click, Lead, Sale, or View.

Advertising Materials: creative content including but not limited to Hyperlinks and banners promoting the Advertiser's services or products that is placed on the Publisher's Digital Media.

Affiliate Programme: the affiliate programme operated on behalf of the Advertiser through which the Advertising Materials are displayed on Publishers' Digital Media and through which Publishers are compensated either by Pay-per-Call, Pay-per-Click, Payper-Lead, Pay-per-Sale or Pay-per-View, or any combination of these.

Business Day: a day other than a Saturday, Sunday or public holiday in Germany.

Code: computer programming language.

Commencement Date: has the meaning set out in clause 2.3.

Contract: the contract for the supply of Services to the Advertiser in accordance with these Terms.

Cookies: cookies placed on a User's device to track that User's Actions after visiting the Publisher's Digital Media.

Digital Media: media including, but not limited to websites, mobile sites, social media profiles and smartphone applications.

Hyperlink: a hyperlink to the Advertiser's Digital Media

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Pay-per-Click: compensation per unique click through from the Advertising Materials to the Advertiser's website (and **Click** shall be construed accordingly).

Pay-per-Lead: compensation for each time a unique User's details are captured via the Advertising Materials (and **Lead** shall be construed accordingly).

Pay-per-Sale: compensation for each time a sale is completed via the Advertising Materials (and **Sale** shall be construed accordingly).

Pay-per-View: compensation per unique view of the Advertising Materials (and **View** shall be construed accordingly).

Platform: Blucado's online platform, accessed via www.sportstravelaffiliate.com, which has been developed by Blucado to provide the Services and to view real-time statistics including sales, commissions due, transactions awaiting validation and clicks.

Pool: a network of Publishers who have been selected and approved by Blucado to take part in Performance Ads and Performance Links.

Programme Rules: rules for participation by Publishers in an Advertiser's Affiliate Programme.

Publisher: the owner or operator of Digital Media who is a member of Blucado's network of affiliates for the purposes of allowing Advertisers' material to be published on its Digital Media.

Publisher Commission: sums payable by Blucado to Publishers for valid Actions.

Services: the provision of Digital Media by the Publisher via the Platform to Advertisers.

User: a user of the Publisher's Digital Media, the Advertising Materials and/or the Advertiser's Digital Media.

In these Terms, the following rules apply:

- (a) A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) A reference to a Party includes its personal representatives, successors or permitted assigns;
- (c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- (d) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (e) Headings are for ease of reference only and shall not affect the interpretation or construction of the clause to which they refer; and
- (f) A reference to **writing** or **written** includes faxes and e-mails.

2. The Basis Of Contract

2.1 Once the Publisher has:

- (a) registered its details on the Platform;
- (b) accepted these Terms; and
- (c) once Blucado has activated the Publisher's Account,

the Publisher shall be entitled, but not obliged, to participate in Affiliate Programmes by any method set out in clause 2.2.

2.2 The Publisher may join an Affiliate Programme by any combination of the following:

- (a) applying to participate in specific Affiliate Programmes from within the Platform;
- (b) being invited to participate in specific Affiliate Programmes by an Advertiser or by Blucado.

2.3 Each Affiliate Programme in which the Publisher participates shall constitute a distinct Contract between Blucado and the Publisher. The Contract shall be subject to these Terms and shall come into existence on the date that the Publisher's application to participate in an Affiliate Programme is accepted (**Commencement Date**).

2.4 The Contract constitutes the entire agreement between the parties. The Publisher acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Blucado which is not set out in the Contract.

2.5 These Terms apply to the Contract to the exclusion of any other terms that the Publisher seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 The Publisher may be required by an Advertiser to accept and comply with additional Programme Rules in order to participate in a relevant Affiliate Programme.

2.7 The provisions of these Terms shall prevail in the event of a conflict with any provision of the Programme Rules.

2.8 If the Publisher operates a network of sub-publishers, then the Publisher warrants that each sub-publisher who participates in an Affiliate Programme:

- (a) is aware and has consented to the terms of the Contract as if it were a principal;
- (b) shall comply with all the Publisher's obligations under the Contract notwithstanding any default by the Publisher; and
- (c) shall comply with any applicable Programme Rules,

and the Publisher shall indemnify Blucado against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Blucado arising out of or in connection with any breach of this agreement by a sub-publisher.

3. Supply of Services

3.1 If the Publisher is accepted on to the Affiliate Programme it shall not be obliged to provide the Services. The Publisher shall be compensated only to the extent that it provides the Services.

3.2 Blucado shall use all reasonable endeavours to allow the Publisher access to the Platform.

3.3 Blucado reserves the right at its own discretion to upgrade, update, maintain and further develop the Platform without notice. The Publisher acknowledges and agrees

that it may not be able to access the Platform in the event of any upgrade, update, maintenance or further development.

3.4 The Advertiser shall have the right to refuse to use any particular Publisher.

4. Publisher Commission

4.1 Blucado shall allow the Publisher to apply to participate in any Pay-per-Click, Pay-per-Lead, Pay-per-Sale or Pay-per-View Affiliate Programmes or any combination of these.

4.2 The Publisher shall only be able to claim Publisher Commission in respect of Actions originating from Advertising Materials placed on its Digital Media, which have been confirmed as valid by the Advertiser or deemed valid by Blucado. Compliance by Publishers with these Terms and any Programme Rules shall be a pre-requisite to receiving Publisher Commission.

4.3 Any Actions listed as pending on the Platform are subject to review and verification by the Advertiser.

4.4 Blucado reserves the right to verify the validity of any Actions according to the provisions of the Contract.

4.5 Blucado reserves the right to deem any Action as invalid if it suspects that it was generated fraudulently or in any way improperly and, in particular, if:

- (a) it is not generated through the Advertising Materials;
- (b) it is generated automatically by a technical device or computer software (eg click generator);
- (c) it is generated by coercion or deception;
- (d) it is generated by the Publisher through Advertising Materials on the Publisher's Digital Media;
- (e) the same User repeatedly Clicks and Views within a short period of time (including repeated Clicks on different Hyperlinks);
- (f) except as agreed in the Programme Rules, the User receives remuneration from the Publisher or any third party for any Clicks, Views, and Sales ; and/or
- (g) the Click is associated with a required action, for example, sending a text message, participating in a gambling competition, or using the Click within a paid email system (except as agreed in the Programme Rules or elsewhere in writing by the Advertiser within the framework of an Blucado Bonus Programme).

4.6 Subject to the provisions of any applicable Programme Rules, any Publisher Commission payable under Pay-per-Sale Affiliate Programmes shall be calculated

according to the net sale value of the specified goods or services (excluding the cost of ancillary services and VAT).

4.7 Remuneration: The commission of the Publisher is 7% and shall be calculated according to the net sale value of the specified goods or services (excluding the cost of ancillary services and VAT).

5. Payment

5.1 30 days after the official departure day of a User, subject to prior approval by Blucado's network quality team, Blucado shall pay the Publisher the Publisher Commission earned through the respective Sale.

5.2 On the day payment is processed Blucado shall also send to the Publisher a report detailing the Publisher Commission earned through the respective Sale in respect of each Affiliate Programme that the Publisher has joined.

5.3 Publisher Commission shall be paid by Blucado in accordance with the terms of any applicable Programme Rules.

5.4 If, during the period ending 6 months after the Publisher Commission has been paid, it becomes known that any Action was generated:

- (a) invalidly pursuant to the provisions of clause 4.5 above;
- (b) otherwise in contravention of these Terms or any applicable Programme Rules; or
- (c) by manipulation or deceit,

or it is not possible to determine, after a review, that a valid Action was generated, then Blucado reserves the right to claim back that Publisher Commission paid in respect of that Action from the Publisher by way of a charge on the Publisher's Account.

6. Obligations and Warranties of the Publisher

6.1 The Publisher shall:

- (a) comply with any Programme Rules;
- (b) comply with all local laws including, but not limited to, the Bundesdatenschutzgesetz (BDSG) or equivalent data protection law, as amended from time to time.

(c) design and present its Digital Media, including all entries in search engines, directories or link lists of third parties, such that only valid Actions are generated;

(d) refrain from changing any Code or Advertising Materials provided by the Advertiser, except as provided for in the instructions available on the Platform;

(e) use the Advertising Materials only in the Publisher's Digital Media;

(f) use the Advertising Materials only in connection with its participation in an Affiliate Programme and to refrain from passing any information or Advertising Materials to any third parties;

(g) use trademarks and logos of third parties, including the Advertiser, only if Blucado or the Publisher has obtained the consent of the rights holder for such use;

(h) refrain from depicting displays of violence, sexually explicit or pornographic content or making discriminatory statements or representations with regard to race, gender, religion, nationality, disability, sexual orientation or age in its Digital Media and/or in connection with its participation in Affiliate Programmes;

(i) refrain from compromising the reputation of the goods, services, brand, operations or goodwill of Blucado or the Advertiser;

(j) design its Digital Media such that Intellectual Property Rights of third parties are not violated and applicable laws, including any applicable provisions for consumer protection, are not breached;

(k) refrain from generating any Clicks or Views through Advertising Materials on its own Digital Media;

(l) ensure that its contact details on the Platform are at all times complete and up to date;

(m) send emails containing advertising for Blucado or the Affiliate Programme only in accordance with applicable laws and Programme Rules; and

(n) comply with any request that any Advertising Materials placed on its Digital Media be moved or repositioned if the Advertiser feels that the position of the Advertising Materials, as placed, compromises the reputation of the goods, services, brand, operations or goodwill of the Advertiser,

and the Publisher shall ensure that provisions of clause 6.1(a) to clause 6.1(i) apply equally to any third party Digital Media to which the Publisher's Digital Media provides any links.

6.2 The Publisher's obligations as set out at clause 6.1 shall be deemed to create rights in favour of both Blucado and the relevant Advertiser.

6.3 Publishers shall have sole responsibility for providing the Advertiser with help and support in relation to the Advertising Materials and/or its Digital Media.

6.4 The Publisher warrants to Blucado that:

- (a) it has and will continue to have for the duration of the Contract full authority to enter into and perform the Contract;
- (b) it will comply with all applicable laws, including any applicable provisions for consumer protection; and
- (c) it shall keep its Platform login details secure and shall immediately notify Blucado if it believes there has been any unauthorised use of its login details.

6.5 If Blucado suspects that any Publisher has acted fraudulently, in breach of its obligations or warranties as set out in this clause 6 or in breach of any Programme Rules, then Blucado reserves the right without notice to:

- (a) suspend the Publisher's account;
- (b) remove the publisher from any Affiliate Programme in which it is participating;
- (c) withhold any pending Publisher Commission; and/or
- (d) terminate this agreement, and Blucado shall not be liable to honour any pending or future Actions for the lifetime of any Cookies placed by the Publisher.

7. Indemnity

7.1 The Publisher shall indemnify and hold harmless Blucado against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by Blucado arising out of or in connection with:

- (a) any breach of the obligations and warranties contained in clause 6;
- (b) the Publisher's breach or negligent performance or non-performance of this agreement;
- (c) the enforcement of this agreement;
- (d) any claim made against Blucado for actual or alleged infringement of an Advertiser's Intellectual Property Rights arising out of or in connection with the licensing of such Intellectual Property Rights to Blucado and the Publisher; and
- (e) any claim made against Blucado by an Advertiser arising out of or in connection with provision of Blucado's services to the Advertiser, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this agreement by the Publisher.

7.2 This indemnity shall not cover Blucado to the extent that a claim under it results from Blucado's negligence or wilful misconduct.

8. Contract Term

8. The Publisher's account shall be opened for an indefinite period of time unless otherwise suspended or closed in accordance with clause 9.

9. Termination and Deactivation

9.1 If the Publisher has not participated in an Affiliate Programme or generated any Actions for a period of 12 consecutive months, Blucado reserves the right to deactivate the Publisher's account on the Platform. Wherever practicable, Blucado shall provide notice of its intention to deactivate the Publisher's account under the provisions of this clause 9.1.

9.2 Either party can terminate the Contract, for any reason, by giving five Business Days' written notice.

9.3 Blucado reserves the right to terminate the Contract in accordance with the provisions of clause 6.5 above.

10. Consequences of Termination

On termination of the Contract for any reason:

- (a) the Publisher's Account and access to the Platform will be deactivated;
- (b) Blucado shall issue to the Publisher a statement of any credit on the Publisher's Account and pay any Publisher Commission due to the Publisher;
- (c) the Publisher shall refrain from re-registering for the Affiliate Programme in respect of which the Contract has been terminated. Any breach of this clause 10 (c) may result in the Publisher forfeiting receipt of any pending Publisher Commission.
- (d) the Publisher shall immediately remove the Advertising Materials from all its Digital Media and cease participation in the relevant Affiliate Programme. The Publisher acknowledges and accepts that no Publisher Commission shall be payable for any Actions generated after termination of the Contract; and
- (e) clauses 4.2, 4.5, 5.6, 6, 7, 9, 10, 11, 12, 13 and 14 shall continue in full force and effect.

11. Limitation of Liability

11.1 Nothing in these Terms shall limit or exclude the liability of Blucado for:

- (a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors; or
- (b) fraud or fraudulent misrepresentation; or
- (c) breach of the terms implied by The German Law of Contract.

11.2 Subject to clause 11.1, Blucado shall under no circumstances whatever be liable to the Publisher, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, loss of data or the restoration of data, loss of reputation or goodwill, managers' or any third party providers time in monitoring Blucado's Services, or any indirect or consequential loss arising under or in connection with the Contract.

11.3 The terms implied by The German Law of Contract are, to the fullest extent permitted by law, excluded from the Contract.

11.4 Blucado gives no warranty, guarantee or representation in respect of the amount of Publisher Commission that the Publisher will earn by participating in any Affiliate Programme.

12. Intellectual Property Rights

12.1 All Intellectual Property Rights in or arising out of its Advertising Materials and Digital Media shall remain the property of the Advertiser.

12.2 The Publisher shall be granted a limited, non-exclusive, royalty-free license to display and otherwise use the Advertiser's Intellectual Property for the purposes of providing the Services and the operation of the Affiliate Programme only.

12.3 Blucado shall retain all its Intellectual Property Rights in or arising out of provision of the Services.

12.4 The Publisher agrees that it shall not acquire or claim any title to any Intellectual Property Rights of Blucado or the Advertiser by virtue of the rights granted to it under the Contract or through its use of the Intellectual Property Rights of Blucado or the Advertiser.

13. Confidentiality

13. A party (**receiving party**) shall keep in strict confidence all technical or commercial knowhow, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents, subcontractors and clients who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents,

subcontractors and clients comply with the obligations set out in this clause 13 as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

14. General

14.1 Assignment: Blucado may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent. The Publisher shall not, without the prior written consent of Blucado, assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract.

14.2 Notices:

(a) Notices given to a Party under or in connection with the Contract shall be in writing, addressed to that Party at the address or email address as set out in the Publisher's Account, and shall be delivered personally, sent by pre-paid firstclass post or other next working day delivery service, commercial courier, fax or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.2(a); if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission provided that no notice of delivery failure has been received for that transmission in the meantime.

(c) The provisions of clauses 14.2(a) and 14.2(b) shall not apply to the service of any proceedings or other documents in any legal action.

14.3 Severance:

(a) If any term of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or partprovision shall be deemed deleted. Any modification to or deletion of a term under this clause 14.3 shall not affect the validity and enforceability of the rest of the Contract.

(b) In the event of the illegality, invalidity or unenforceability of any term of the Contract, for any reason, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

14.4 Force Majeure: Neither Party shall be liable for any delay in performing any of its obligation under this Contract if such delay is caused by an event beyond the reasonable control of that Party including but not limited to strikes, lock-outs or other industrial disputes, failure of a utility service or transport network, act of God, war, riot, civil 14 commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

14.5 Waiver: A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a Party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

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14.7 Rights of third parties: No person who is not a party to the Contract shall have any rights to enforce its terms.

14.8 Variation: Except as set out in these Terms, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by Blucado.

14.9 Governing law and jurisdiction: The Contract, and any dispute or claim arising out of or in connection with it shall be governed by, and construed in accordance with

the law of Germany. The courts of Germany shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).