

Provider Agreement

This Product Provider Agreement is entered into between Rainmaker Solutions Ltd of Oak House, Tanshire Park, Shackleford Road, Elstead, Surrey, GU8 6LB and the Person (Product Provider or You or Your or Yourself) whose details are set out in the Application that forms part of this Agreement.

1. Definitions

1.1 The following terms are defined for the purposes of this Agreement:

Additional Support means the additional support required by You which will be provided at the Rainmaker Solutions Ltd standard rates as detailed in Your Application.

Application refers to one or more application forms, authorities or agreements that You must execute to participate as a Product Provider in TXGB and the Booking and Payment Services that forms part of this Agreement.

Bank is a financial institution licensed to receive deposits, make loans and is regulated by the national government or central bank as applicable for each Country.

Book Now Button means a hyperlink button which is placed on your Business Website which enables consumers to make an Online Booking using My Booking Pages.

Booking and Payment Services means services that include a booking and electronic payment processing system to be made available on agreed terms to Participants in TXGB by Rainmaker Solutions Ltd or one or more third party suppliers, to be automatically calculated and processed in accordance with pre-set Data populated in TXGB by authorised Participants.

Booking Notification means the email sent to Customers from TXGB that displays the details of the Customer's Online Booking.

Booking Terms means the terms and conditions set by You upon which a Customer can make an Online booking.

Business Website refers to the primary consumer facing website for Your Business as detailed in Your Application Form.

Combined Booking Fee is a non-refundable Fee payable by You to Rainmaker Solutions Ltd for using TXGB and/or a Rainmaker Solutions Ltd Booking System to manage your business and to enable Online Bookings calculated at the rate(s) set out in Your Application (or subject to clause 6.2 as amended and notified to You) on the total value of each Online Booking at the date the Online Booking is made and payable in each month on the Monthly Payment Date.

Conditions of Use means the conditions set by You upon which a Customer can use Your Tourism Product.

Connected Booking System means a business management system which You use to manage Your business which has been connected to TXGB.

Connectivity Service means the service provided by Rainmaker Solutions Ltd to You allowing for the exchange of Data between Your Connected Booking System and Distributors via TXGB.

Consent means any freely given, specific, informed and unambiguous indication of a Data Subject's wishes by which he or she, by a statement or by clear affirmative action, signifies agreement to the processing of Personally Identifiable Information relating to him or her.

Controller, Data Subject, Processor and Sub Processor have the respective meanings attributed to the non-capitalized version of those terms by the EU GDPR.

Credit Card Processing Fees is a fee(s) for Gateway services payable by You to the Gateway at the rate described in Your Gateway Application as amended and notified to You by the Gateway.

Customer means a person who purchases Tourism Product.

Customer Data as defined in Clause 12.1.

Dashboard means a restricted access web site that makes various account creation, management and reporting functions of TXGB available that may be used strictly in accordance with this Agreement.

Data means accurate, up to date and complete information that complies with the requirements set out in this Agreement.

Direct Credit is a periodic credit to Your nominated Bank account from the Rainmaker Solutions Ltd Transaction Account of agreed amounts.

Direct Debit is a periodic debit from Your nominated Bank account to the Rainmaker Solutions Ltd Transaction Account of agreed amounts.

Distribution Fee is a non-refundable fee payable by You to Rainmaker Solutions Ltd for accessing distribution services through TXGB and is calculated at the respective Distributor Rates for each Distributor set out in the Distributor Terms and Conditions on the total value of each Online Booking made through a Distributor at the date the Online Booking is made.

Distributor means a Participant in TXGB who agrees on the Distributor Terms and Conditions to distribute Tourism Product.

Distributor Rate is the rate populated by Distributors in their Distributor Terms and Conditions (or subject to clause 6.3 as amended and notified to You) for distributing Product Description through their distribution services expressed as a percentage of the value of the Online Booking at the date the Online Booking is made.

Distributor Terms and Conditions are the terms set out in TXGB upon which a Distributor agrees to distribute Your Product Description.

End User Licence means one or more licences of the Licensed Software or any part which is entered into as part of this Agreement and is a prior condition to being granted access to TXGB and/or Rainmaker Solutions Ltd Booking System or any part of TXGB and/or Rainmaker Solutions Ltd Booking System and "**End User**" refers to a person who is granted an End User Licence.

EU GDPR means the General Data Protection Regulation (EU) 2016/679; as such law is in force, or updated or replaced, from time to time.

Fees mean fees and payments payable by You to Rainmaker Solutions Ltd for using TXGB and/or Rainmaker Solutions Ltd Booking Systems as outlined in the Application.

Financial Data means credit card details or banking details associated with a Customer.

Force Majeure Event means any event outside Rainmaker Solutions Ltd's reasonable control, and includes a failure or fluctuation in any electrical power supply, failure of air conditioning or humidity control, electromagnetic interference, cable cut, fire, storm, flood, earthquake, accident, war, act of terrorism, labour dispute (other than a dispute solely between Rainmaker Solutions Ltd and its own staff or staff under its control), materials or labour shortage, the change or introduction of any law or regulation or an act or omission, failure or delay of any third party or any failure of any equipment owned or operated by any third party.

Gateway means one or more third party suppliers nominated by Rainmaker Solutions Ltd during the Term to provide gateway services to TXGB to route credit, debit, and stored value card transactions from merchants' point-of-sale terminals or internet sites to Bank and customer back-end systems for processing.

Gateway Application is a form completed by You and submitted to the Gateway for approval to use the Gateway services.

UK Tax Law means the provisions of the Value Added Tax Act 1994 as amended by subsequent Finance Acts..

Intellectual Property Rights means patents, trademarks, copyrights, topography rights, rights to extract information from a database, design rights, trade secrets and rights of confidence, and all rights or forms of protection of a similar nature or having equivalent or similar effect to any of them which may subsist anywhere in the world, whether or not any of them are registered and including applications for registration of any of them.

Licensed Software means software developed, owned, or licensed by Rainmaker Solutions Ltd and delivered by Rainmaker Solutions Ltd under the terms of this Agreement.

Licensors means the company(s) which have licensed software to Rainmaker Solutions Ltd.

Monthly Accounting Date means a fixed day in each month (which until otherwise notified by Rainmaker Solutions Ltd shall be the 1st day of each month) on which TXGB automatically generates reports and commences a new monthly accounting period for the purpose of the monthly issuing of Tax Invoices.

Monthly Fee is the monthly payment (if any) payable by You to Rainmaker Solutions Ltd for using TXGB and/or Rainmaker Solutions Ltd Connected Booking Systems as outlined in the Application (or subject to clause 6.2 as amended and notified to You).

Monthly Payment Date means one or more days in each month determined by Rainmaker Solutions Ltd (which may vary according to Participants or Online Booking type) on which Direct Debits and Direct Credits occur which until otherwise determined by Rainmaker Solutions Ltd shall be the 16th day of each month for the Direct Debit from Participants of Fees owing to Rainmaker Solutions Ltd and the 25th day of each month for the Direct Credit of payments owing by Rainmaker Solutions Ltd to Participants.

My Booking Pages means the functionality provided by TXGB to activate your own Business Website or other Distributors websites with a Book Now Button to enable Customers to make Online Bookings of your Tourism Product using the Booking and Payment Services.

On Account Bookings are a form of Online Booking in which payment or part payment by the Customer is made direct to the Distributor, the Distributor is responsible for issuing a Tax Invoice to the Customer, and the Product Provider is responsible for issuing a Tax Invoice to the Distributor (if applicable).

Online Bookings means electronic bookings of Tourism Product made by using the Booking and Payment Services.

Open Booking Exchange (OBX) means a software platform suitable for Tourism Products comprising an open booking exchange marketplace offering web services that enable Product Providers to make available Tourism Product to Customers through multiple Distributors. OBX is branded **TXGB** in the UK.

Participant means an individual participant who uses TXGB in a defined manner as agreed with Rainmaker Solutions Ltd.

Person includes a corporation, partnership or other trading entity and the singular includes the plural and vice versa.

Personally Identifiable Information (PII) means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular Customer or household.

Product Description means Data that describes a Tourism Product that includes the minimum requirements to enable Online Bookings of that Tourism Product to be made there and then including but not limited to product name, provider name, Booking Terms, Conditions of Use, and a price for the requested time.

Product Provider means a supplier of Tourism Product who populates Product Description on TXGB.

Tax Invoice is defined in UK Tax Law.

Term commences on the date of Application and continues to the period stated in Your Application or until terminated in accordance with clause 15.

Tourism Product means accommodation, attractions, transport, tours, goods, epicurean and other tourism and leisure based services and facilities in or relating to a Product Provider.

Rainmaker Solutions Ltd Booking System means a business management system which is a product of Rainmaker Solutions Ltd (or its licensors) distributed by Rainmaker Solutions Ltd.

Rainmaker Solutions Ltd Transaction Account means a Bank account established and maintained by Rainmaker Solutions Ltd during the Term.

2. Appointment as a Product Provider

2.1 Subject to You complying with all of the terms and conditions of this Agreement Rainmaker Solutions Ltd agrees to provide You access to connect to TXGB to act as a Participant in the role of Product Provider.

2.2 As a Product Provider You may:

- (a) connect on a live basis Your Product Description to TXGB;
- (b) select or opt into one or more Distributors to distribute Your Product Description and reset or opt out of your selections at any time;
- (c) set and reset Data in TXGB setting out the Booking Terms and Conditions of Use upon which You will supply Tourism Product to Customers, and
- (d) use the reporting and management functionalities inbuilt in Your Rainmaker Solutions Ltd Booking System or as supplied in Your Dashboard.
- (e) Use the My Booking Pages functionality as supplied in Your Dashboard.

2.3 You must not represent or hold Yourself out as an agent of Rainmaker Solutions Ltd or Licensee for any purpose or make any warranty or representation on their behalf at any time.

2.4 You must not without Rainmaker Solutions Ltd's prior written consent (which must be separately obtained on each occasion that consent is intended to be acted upon) make any promises or guarantees with reference to

the functionality of Rainmaker Solutions Ltd Booking Systems or TXGB beyond those contained in the user guides and training material supplied by Rainmaker Solutions Ltd and You must not incur any liability on behalf of Rainmaker Solutions Ltd at any time.

3. Data and Product Description

3.1 To ensure the orderly conduct and operation of TXGB all Data must:

- (a) only be populated and updated either via Your Booking System or by entry in Your Dashboard by Participants authorised to do so,
- (b) comply (in form and content) with the terms and conditions that apply to particular Participants including in the case of Product Providers the terms of this Agreement, and
- (c) be up to date, accurate and complete in all respects.

3.2 In populating Data You must ensure that You comply with and where You offer to sell, supply or distribute Tourism Product through TXGB that such offer complies with:

- (a) all relevant laws, regulations and legally required standards, including but not limited to the UK fair trading laws, and
- (b) all regulatory guidelines and industry codes of conduct in relation to the promotion and sale of Tourism Products.

3.3 You must appoint during the Term one or more persons authorised by You to populate Data which will be password protected. You are solely responsible for safe keeping of Your passwords and for the activities of Your appointees and for all use by Your appointees of TXGB. You must ensure that Your appointees have been provided with, and read and understood this Agreement before using TXGB.

3.4 When You populate Product Description as Data on TXGB You must complete the following fields:

- (a) Description of Tourism Product
- (b) Availability
- (c) Price
- (d) Seasonal adjustments
- (e) Booking Terms, including cancellation policy
- (f) Conditions of Use.

3.5 Data including but not limited to Product Description populated by You is Your sole responsibility and Rainmaker Solutions Ltd accepts no responsibility for and is not liable for the content of Data populated by You or any other person in TXGB nor for any errors or omissions in that Data nor for any reliance by any person on that Data. Any Data populated by Rainmaker Solutions Ltd at Your request or the request of any other Participant remains Your responsibility or the responsibility of the requesting Participant. Nothing in this Agreement is to be read or construed as making Rainmaker Solutions Ltd responsible for the contents of or accuracy or completeness of Data populated by or on behalf of You or any other Participant.

3.6 All Data populated and re-populated by You will be set and reset in TXGB by Rainmaker Solutions Ltd but You are responsible for checking the accuracy and completeness of that Data and for immediately informing Rainmaker Solutions Ltd of any errors. Nothing in this Agreement is to be read or construed as making Rainmaker Solutions

Ltd responsible for the contents of or accuracy or completeness of Data set or reset by Rainmaker Solutions Ltd on behalf of You or any other Participant.

4. Accessing e-commerce on TXGB

- 4.1 Access to the Booking and Payment Services by You is subject to and conditional upon compliance with this Agreement.
- 4.2 You must provide to Rainmaker Solutions Ltd and maintain during the Term all necessary authorities to enable Direct Debit and Direct Credit electronic processing of payments generated by Online Bookings together with all necessary accounts, instructions and authorities with Your Bank and Gateway to participate in the processing of Online Bookings using the Booking and Payment Services. All payments generated by Online Bookings to be made by You to Rainmaker Solutions Ltd or to You by Rainmaker Solutions Ltd must be made in full by electronic funds transfer by Direct Debit and Direct Credit.
- 4.3 When Online Bookings are made the Booking and Payment Services may create and deliver electronically Your Booking Notification to Your Customer using Your Product Description in TXGB. A Tax Invoice will be created and issued to You for that Online Booking in accordance with clause 5, seven days before the Monthly Payment Date for the Fees You have agreed to pay for that Online Booking set out in Your Application. All Fees must be paid to the Rainmaker Solutions Ltd Transaction Account on the Monthly Payment Date in accordance with Tax Invoices issued under clause 5. You must maintain sufficient cleared funds in Your nominated Bank account to ensure that the Direct Debits referred to in clause 4.4 can occur in each month on the Monthly Payment Date. All payments of Fees are non refundable (except only to the extent provided in clause 5.7 even where the Online Booking is subsequently cancelled or any payment by the Customer is refunded in whole or part).
- 4.4 You agree and authorise:
- (a) payment to Rainmaker Solutions Ltd on the Monthly Payment Date by Direct Debit of all Fees (if any) payable by You as set out in Your Application;
 - (b) payment by Rainmaker Solutions Ltd by Direct Credit to You on the Monthly Payment Date of amounts owing to You as adjustments to correct errors payable to You as described in clause 5;
 - (c) Rainmaker Solutions Ltd to periodically Direct Debit You where an overpayment to You has occurred as described in clause 5.7;
 - (d) Rainmaker Solutions Ltd to periodically resubmit a Direct Debit request (and invoice You for any additional fees charges or expenses incurred by Rainmaker Solutions Ltd) 24 hours from the rejection of any Direct Debit request for payment by You made in accordance with this clause and where the Direct Debit request is rejected for a second time (or 3 times in any 6 month period) You agree that Rainmaker Solutions Ltd may immediately terminate Your use of TXGB without prejudice to any other remedies available to Rainmaker Solutions Ltd;
 - (e) if required Rainmaker Solutions Ltd to generate a Recipient Created Tax Invoice in compliance with UK Tax Law;
 - (f) where Rainmaker Solutions Ltd becomes liable for any penalties or interest as a result of the late payment of tax due to your failure to comply with the terms of this Agreement or your obligations under any applicable law, then You agree to pay Rainmaker Solutions Ltd an additional amount equal to those penalties and interest, and
 - (g) subject to clause 4.8 where and when appropriate Booking Notifications to be electronically generated using Your Product Description and sent to Customers on Your behalf when an Online Booking is made. In the case of On Account Bookings You acknowledge that the Distributor is responsible for supplying a booking confirmation and/or Tax Invoice to the Customer and You

must settle all payments/commissions directly with the Distributor as per the Distributor Terms and Conditions.

- 4.5 You must make each payment described in clause 4.4 even if:
- (a) You cannot access one or more Distributors;
 - (b) TXGB is unavailable or has limited availability for a period of time as a result of a network or system outage; or
 - (a) You are unable to use Your Rainmaker Solutions Ltd Booking System, TXGB or any part including Dashboard for any reason in circumstances where TXGB is available for use.
 - (b) You cannot load one or more Product Descriptions.
- 4.6 Rainmaker Solutions Ltd is not responsible for the administration of any third party approval or contractual requirements that are included in the Booking and Payment Services, Gateway or Bank accounts You may have.
- 4.7 Inclusion in the Booking and Payment Services of any third party material is not an endorsement by Rainmaker Solutions Ltd of the services offered by any third party and does not constitute an offer by Rainmaker Solutions Ltd to provide or promote those services to You. It is Your responsibility to evaluate the accuracy and usefulness of any third party information including the reliability and fitness for purpose of any underlying goods or services offered and to seek independent information and advice before acting in reliance on that information.
- 4.8 You alone are responsible for complying with the requirements imposed on suppliers of a taxable supply by UK Tax Law. Without limiting the generality of that obligation You are responsible for ensuring that a valid Tax Invoice has been issued in respect of every supply and that the record keeping and retention requirements of UK Tax Law applicable to it are complied with.
- 4.9 Online Bookings of Your Product Description using Booking and Payment Services are subject to the Booking Terms and Conditions of Use included by You in the Product Description. You alone are responsible for ensuring that Your Booking Terms and Conditions of Use are appropriate for Your business requirements and comply with the Data requirements set out in clause 3.
- 4.10 Online Bookings of Your Product Description using Booking and Payment Services may also be subject to terms and conditions imposed by other Participants including the Distributor Terms and Conditions. It is Your responsibility to assess such terms and conditions, to seek independent information and advice before acting in reliance on those terms and conditions and to inform Your Customers of all terms and conditions that apply to a supply of goods or services by You.
- 4.11 Subject to You on each occasion first fully complying with Your payment obligations set out in clause 4.4 Rainmaker Solutions Ltd agrees during the Term and in accordance with commercially reasonable business practices, to be responsible for paying to the Distributor or otherwise discharging the fees at the Distributor Rate that You agree to pay when You accept the Distributor Terms and Conditions for each Online Booking (excluding On Account Bookings) using a Distributor,
- 4.12 You must make payment of all amounts described in this Agreement due and owing by You in full without any set-off, counter-claim or deduction of any kind. Rainmaker Solutions Ltd may deduct amounts due and owing by You before making any payment to You.
- 5. Tax Invoices**
- 5.1 TXGB includes functionality to process and calculate Tax Invoices monthly by reference to the Monthly Accounting Date so that (subject to clause 4.8) Tax Invoices under clause 5.2 are electronically sent to Participants seven days before the Monthly Payment Date for Fees owing during the period commencing on the

last Monthly Accounting Date and ending at midnight before the Monthly Accounting Date. You are responsible for checking the receipt of all Tax Invoices and You must promptly check the accuracy of all Tax Invoices and advise Rainmaker Solutions Ltd immediately of any errors or omissions.

- 5.2 Tax Invoices will be generated by reference to the Data pre-set for each Online Booking on the date when an Online Booking is made (including number of Online Bookings, Product Description, Online Booking value and Fees) and the commercial terms described in clause 6.
- 5.3 Rainmaker Solutions Ltd will promptly investigate any alleged errors or omissions in the Tax Invoices notified by a Participant and advise the Participant in writing within 10 working days of either:
- (a) the outcome of Rainmaker Solutions Ltd's investigation, detailing the reasons for Rainmaker Solutions Ltd's decision; or
 - (b) the need for more time to complete Rainmaker Solutions Ltd's investigation.
- 5.4 Rainmaker Solutions Ltd will promptly correct any manifest errors or omissions caused by:
- (a) an incorrect or incomplete mathematical computation; or
 - (b) the calculation of payments other than in accordance with the relevant Product Description, Fees and Online Booking value pre-set in TXGB on the date when an Online Booking is made.
- 5.5 Rainmaker Solutions Ltd will not be obliged to correct any alleged errors or omissions in the Tax Invoice:
- (a) to the extent that they are caused or contributed to by a Participant,
 - (b) that are reported to Rainmaker Solutions Ltd more than 5 working days from the date of the Tax Invoice,
 - (c) where the Tax Invoice is consistent with the Product Description, Fees and Online Booking value pre-set in TXGB on the date when an Online Booking is made which shall be final and conclusive.
- 5.6 Rainmaker Solutions Ltd may independently review the accuracy of Tax Invoices at any time and correct any manifest errors or omissions.
- 5.7 Where Rainmaker Solutions Ltd corrects an error in a Tax Invoice (under clauses 5.4 or 5.6) it may in its sole discretion either immediately cancel the relevant Tax Invoice and issue a replacement Tax Invoice or make any adjustments required in a succeeding Tax Invoice provided that where it has not already done so it must advise the relevant Participants in writing of the reasons for Rainmaker Solutions Ltd's decision. Where Tax Invoices are cancelled or adjusted in the circumstances described in this clause then the payment processing described in clause 4.4 will be activated to correct overpayments or underpayments.
- 5.8 Rainmaker Solutions Ltd may change the date upon which Tax Invoices are electronically sent to You at any time but must give You 30 days notice of any proposed change

6. Commercial Terms

- 6.1 You acknowledge that the following Fees (as set out in Your Application) are payable in using TXGB:
- (a) Distribution Fee payable by You to Rainmaker Solutions Ltd on each Online Booking (excluding On Account Bookings) using a Distributor payable in each month on the Monthly Payment Date for all Distribution Fees accrued up to the preceding Monthly Accounting Date;



- (b) Combined Booking Fees payable by You to Rainmaker Solutions Ltd in each month on the Monthly Payment Date for all Combined Booking Fees accrued up to the preceding Monthly Accounting Date;
 - (c) Monthly Fees (if any) payable by You to Rainmaker Solutions Ltd in each month on the Monthly Payment Date if You were registered as a Participant on the preceding Monthly Accounting Date, and
 - (d) all other additional fees and charges (if any) payable by You to Rainmaker Solutions Ltd for use of additional products or services of TXGB at the rate set and listed in Your Application or in any further Applications made by You from time to time.
- 6.2 The rates in clauses 6.1(b) and 6.1(c) may be amended by Rainmaker Solutions Ltd in accordance with Your Application.
- 6.3 The Distributor may reset the Distributor Rate at any time (which will increase the Distribution Fee payable by You) provided at least 30 days' notice of the proposed rate change is given. The rates in clause 6.1 may be amended at any time by Rainmaker Solutions Ltd provided at least 30 days' notice of the proposed rate change is given.
- 6.4 To activate your Business Website with My Booking Pages, You approve Rainmaker Solutions Ltd to access your FTP details in order to add a Book Now Button to your website. You agree that Rainmaker Solutions Ltd is not liable for any loss or damage caused by any changes made to your website by Rainmaker Solutions Ltd and that Rainmaker Solutions Ltd is not responsible for the accuracy or completeness of the content or online booking functionality of your website.
- 6.5 You agree that nothing in this Agreement makes Rainmaker Solutions Ltd responsible for or appoints Rainmaker Solutions Ltd as your agent in Your name or on Your behalf to:
 - (a) collect, request or demand payment of Your debts from any third party including but not limited to Customers or Distributors;
 - (b) process requests from Customers including but not limited to requests for refunds for Online Bookings (in whole or part);
 - (c) check the accuracy or completeness of Your Data including but not limited to Your Product Descriptions, Booking Terms or Tax Invoices sent to Customers;
 - (d) except only as specifically provided for in this Agreement refund any payment made by You or any third party in connection with Online Bookings whether or not You or any third party are required to refund any amount to a third party including but not limited to Customers.

7. TXGB – Operating Environment

- 7.1 TXGB and Rainmaker Solutions Ltd Booking Systems are only operable in accordance with the requirements set out in the user documentation issued. Rainmaker Solutions Ltd cannot guarantee that Your use of TXGB and/or a Rainmaker Solutions Ltd Booking System will be uninterrupted or free from error.
- 7.2 Rainmaker Solutions Ltd is not responsible for any delays or errors in the execution of any transaction or instruction because of any breakdown or interruption in TXGB and/or Rainmaker Solutions Ltd Booking System due to circumstances beyond its control. It is Your responsibility to use other means of effecting transactions, giving instructions and obtaining information if for any reason TXGB and/or Rainmaker Solutions Ltd Booking System is unavailable for use or malfunctioning.
- 7.3 Rainmaker Solutions Ltd may during the Term change one or more of the requirements referred to in clause 7.1 provided that any changes do not unreasonably interfere with Your operations as a Participant. All changes that affect You will be emailed to You.
- 7.4 Except to the extent expressly provided for in this Agreement You are solely responsible at Your cost and expense for the control of the operations of any and all hardware and software.
- 1.2 If You report an error or fault in TXGB and/or a Rainmaker Solutions Ltd Booking System and ask Rainmaker Solutions Ltd to repair it and, Rainmaker Solutions Ltd determines that TXGB and/or the Rainmaker Solutions Ltd Booking System is not faulty or the fault is associated with Your equipment, telecommunications or network connections rather than TXGB and/or the Rainmaker Solutions Ltd Booking System, Rainmaker Solutions Ltd may charge You its applicable support and maintenance fee and, any reasonable fee to undertake repairs.
- 7.5 Rainmaker Solutions Ltd may charge You for repairing a fault if it is caused by something You or Your agents, servants or sub contractors do (or do not do) intentionally, recklessly, negligently or outside manufacturers specifications.

8. Ownership of Intellectual Property Rights and Upgrades

- 8.1 You agree that Rainmaker Solutions Ltd or its Licensors own all Intellectual Property Rights capable of being owned or held in TXGB and the Rainmaker Solutions Ltd Booking Systems or any part including but not limited to all documentation, training manuals and user guides in any medium supplied in connection with TXGB and or the Rainmaker Solutions Ltd Booking Systems and that any update, modification, improvement, new release, new version or enhancement to TXGB and/or the Rainmaker Solutions Ltd Booking Systems ('**Upgrade**') made by any person is equally owned by Rainmaker Solutions Ltd or Rainmaker Solutions Ltd's Licensors. The terms of this Agreement apply to each Upgrade from first release.
- 8.2 You agree that trademarks whether registered or unregistered and logos forming part of TXGB and/or the Rainmaker Solutions Ltd Booking Systems must not be used or modified in any way without the prior written consent of Rainmaker Solutions Ltd and Your use of TXGB or Rainmaker Solutions Ltd Booking Systems must not in any way infringe the Intellectual Property Rights of any person.
- 8.3 Each party agrees and undertakes that during the Term of this Agreement and thereafter it will keep confidential and will not use for its own purposes nor without the prior written consent of the other party, disclose to any third party any information of a confidential nature (including trade secrets and information of commercial value) which may become known to that party from the other party ('**Confidential Information**') unless the information is public knowledge or already known to that party at the time of disclosure or subsequently becomes public knowledge other than by breach of this Agreement or subsequently comes lawfully into the possession of that party from a third party.
- 8.4 To the extent necessary to implement the provisions of this Agreement each party may disclose the confidential information to those of its employees as may be reasonably necessary or desirable provided that before any such disclosure each party must make those employees aware of its obligations of confidentiality under this Agreement and must at all times procure compliance by those employees with them.

8.5 The provisions of this clause 8 are intended to survive termination of this Agreement for any reason.

9. Warranties and Indemnities

9.1 Except as otherwise expressly provided the use of TXGB and/or Rainmaker Solutions Ltd Booking System is a grant to use software “as is” and without Warranty or representation of any kind, except as may be mandated by law. Rainmaker Solutions Ltd to the fullest extent permitted by law specifically disclaims any and all warranties, representations or conditions, express, implied, statutory or otherwise including without limitation, any implied warranty or condition of merchantability, non-infringement, or fitness for particular purpose or that use of TXGB and/or Rainmaker Solutions Ltd Booking System including any manner specifically required under this Agreement shall comply with the applicable laws and relevant regulatory requirements in any place of use.

9.2 Rainmaker Solutions Ltd does not warrant that the use of TXGB and/or Rainmaker Solutions Ltd Booking Systems shall be free from unauthorised access or modification, uninterrupted, or error-free or that any defect shall be correctable. This disclaimer constitutes an essential part of this Agreement and no use of TXGB and/or Rainmaker Solutions Ltd Booking Systems is authorised except under this disclaimer.

9.3 You understand that You use TXGB and/or Rainmaker Solutions Ltd Booking Systems entirely at Your own discretion and risk and without limiting the generality of that statement that through the use of TXGB and/or Rainmaker Solutions Ltd Booking Systems You populate Product Description, Tourism Product, and other data and that You access data populated by Participants including but not limited to Distributors (together “Material”) entirely at Your own discretion and risk and that You download, access, rely upon, disseminate or provide links to that Material entirely at Your own discretion and risk. In the event that You provide links to the Material to any third party You must ensure that such third party is aware of the limitations of liability and exclusion of warranties set out in this Agreement including but not limited to the requirement that any use of TXGB and/or Rainmaker Solutions Ltd Booking Systems or the Material is undertaken entirely at the risk of the party accessing or using it.

9.4 Rainmaker Solutions Ltd and its Licensors will not be liable to You or any third party for any use by You or any third party of TXGB and/or Rainmaker Solutions Ltd Booking Systems, any transaction entered into by You or a third party using TXGB and/or Rainmaker Solutions Ltd Booking Systems which is disputed, declared void or voidable, avoided or defaulted by any person or any breach of an agreement between You or any third party and any person arising from the use of TXGB and/or Rainmaker Solutions Ltd Booking Systems.

9.5 Rainmaker Solutions Ltd and Licensors and their respective officers, employees, agents or contractors will not be liable for any damages including but not limited to indirect, consequential or incidental loss, damage or injury, including but not limited to damages for loss of business profits, savings, revenue, use, business interruption, loss of business information, data, goodwill or other pecuniary loss under any cause of action or theory of liability arising out of the use, inability to use, or defect in TXGB and/or Rainmaker Solutions Ltd Booking Systems or arising from or in connection with this Agreement or any act or omission of Rainmaker Solutions Ltd or Licensors or their respective officers, employees, agents or contractors, even if Rainmaker Solutions Ltd and Licensors have been advised of the possibility of such damages. This limitation of liability will apply whether the damages arise from use, misuse or reliance on TXGB and/or Rainmaker Solutions Ltd Booking Systems including but not limited to the Data, from any inability to use TXGB and/or Rainmaker Solutions Ltd Booking Systems, from the interruption, suspension, or termination of TXGB and/or Rainmaker Solutions Ltd Booking Systems (and extends to any damages incurred by third parties). This limitation of liability also applies to damages incurred by reason of other services or goods received through or advertised on TXGB and/or Rainmaker Solutions Ltd Booking Systems (including but not limited to Tourism Product) or received through or advertised on any links provided on TXGB and/or Rainmaker Solutions Ltd Booking Systems as well as by reason of any information or advice received through or advertised on TXGB and/or Rainmaker Solutions Ltd Booking Systems or received through or advertised on any links provided on TXGB and/or Rainmaker Solutions Ltd Booking Systems.

9.6 Rainmaker Solutions Ltd's and Licensor's maximum liability in respect of any damages, costs, expenses or other claims arising out of or in connection with this Agreement whether in contract, tort or otherwise shall except in the case of death or personal injury resulting from Rainmaker Solutions Ltd's or Owner's negligence (for which

no limitation will apply) be limited at Rainmaker Solutions Ltd's election in the case of services to the resupply of or the payment of the cost of resupply of the services and in the case of goods to any one or more of the following:

- (a) the replacement of the goods or the supply;
- (b) the repair of the goods;

or in any case to the payment to You of an amount not exceeding the Monthly Fees paid by You during the immediately preceding 12 months.

9.7 You must indemnify and hold harmless Rainmaker Solutions Ltd and Licensors against any loss, damage, liability,, expense cost or charge (including court costs and reasonable legal fees) arising from or incurred in connection with Your use of TXGB and/or Rainmaker Solutions Ltd Booking Systems in any manner that breaches or is in contravention of this Agreement or any relevant law, regulation, or requirement of any relevant regulatory authority in the Territory, and against the claims of Customers, Distributors or other third parties arising from or connected with Your use of TXGB and/or Rainmaker Solutions Ltd Booking Systems or your supply or failure to supply any goods or services except in each case to the extent such claims are attributable to the negligence or knowing or wilful misconduct of Rainmaker Solutions Ltd and in that case provided that You must not settle any claim without Rainmaker Solutions Ltd's prior written approval which will not be unreasonably withheld, delayed or conditioned.

9.8 You also agree to indemnify and hold harmless Rainmaker Solutions Ltd and Licensors and their respective past, present and future officers, directors, employees or agents and the owners of third party software included in TXGB and/or Rainmaker Solutions Ltd Booking Systems from and against any and all claims, suits or actions asserted against any or all of them to the extent that it is caused or contributed to by any negligent or wilful act or omission of You or Your present or future employees, officers, directors, members or agents

10. Changes, Conflicts and Continuation of this Agreement

10.1 The terms and conditions of this Agreement may be amended by Rainmaker Solutions Ltd from time to time. You will be notified of any amendments which may have an adverse effect on You. If You do not agree with an amendment at any time then You may terminate this Agreement by sending an appropriately worded message to Rainmaker Solutions Ltd at hello@txgb.co.uk and on receipt of Your message this Agreement will automatically terminate and You will have no further right to access or use TXGB and/or Rainmaker Solutions Ltd Booking Systems and You will have no claim against any person including but not limited to Rainmaker Solutions Ltd and its directors, officers and representatives arising from the termination of this Agreement. Notwithstanding termination You must continue to pay all Fees that accrue up to the next Monthly Accounting Date after the termination date and You will be entitled to receive all payments due and owing to You that accrue up to the termination date in each case subject to the terms and conditions of this Agreement.

10.2 If any part of this Agreement is illegal, void or unenforceable then it will be excluded so that the remaining provisions of this Agreement will continue in full force and effect. Any part of this Agreement that should by sense and context continue after termination will survive termination for any reason.

11. Use of and changes to TXGB and Rainmaker Solutions Ltd Booking Systems

11.1 Subject to You complying with all of the terms and conditions of this Agreement Rainmaker Solutions Ltd agrees:

- (a) to grant You a revocable non-exclusive non-transferable End User Licence to access load install execute or display the software (TXGB and Rainmaker Solutions Ltd Booking Systems) delivered or made available to You in object code only (together with the associated media, printed materials, and electronic documentation (Documentation)), add-on components, or internet based services components, delivered or made available in conjunction with the software on a

personal computer or similar device only in respect of Tourism Products on the terms and conditions set out in this Agreement;

- (b) to provide You access to certain functionality of the Licensed Software subject to You observing the terms and conditions relating to that functionality as separately notified to You.

11.2 You must not at any time:

- (a) Sell, licence, sub-licence, assign, rent or transfer the Licensed Software, or any part or Your right to Use the Software, or any part to a third party;
- (b) claim ownership of or assert any right contrary to the interests of Rainmaker Solutions Ltd or any Licensor of the Licensed Software, or any part who has granted any licence or similar right of use or exploitation to Rainmaker Solutions Ltd (Licensors);
- (c) copy, translate, adapt, modify, alter, decompile, disassemble or otherwise reverse engineer or create any derivative work of the Software or change any Licensed Software in whole or in part or allow any other person to do so except only to the extent (if any) allowed under the Copyright, Designs and Patents Act 1988 and in that case provided that You first make a request to Rainmaker Solutions Ltd and comply with Rainmaker Solutions Ltd's reasonable requirements to ensure that Rainmaker Solutions Ltd and Licensors' proprietary rights in the Licensed Software are protected;
- (d) misuse the Licensed Software in any manner including by giving an unauthorised person Your password details, deliberately or unintentionally disrupting TXGB and/or Rainmaker Solutions Ltd Booking Systems, deliberately or unintentionally initiating or distributing a virus, engaging in spamming or similar activities, using the Licensed Software in an excessive or unusual way or to menace or harass others, entering inappropriate data including embedding HTML or code which affects other users' websites, systems or general operations, distributing offensive language and offensive pictures or graphics, conducting denial of service attacks on other users or networks, or unlawfully obtaining access to other networks;
- (e) use the Licensed Software in any manner that breaches or is in contravention of any relevant law, regulation, or requirement of any relevant regulatory authority in the Territory; and
- (f) access, integrate, connect to or use the Software in any manner that does not comply with the provisions of this Agreement.

11.3 You may make and use an unlimited number of copies of the Documentation provided that such copies are used only for personal purposes and are not republished or distributed (in any medium) beyond your premises.

11.4 Upon request You must provide Rainmaker Solutions Ltd with:

- (a) all assistance and information required to enable Rainmaker Solutions Ltd to determine whether You are in compliance with this Agreement, and
- (b) access to all relevant data generated by Your use of the Licensed Software for Rainmaker Solutions Ltd's use solely in system tuning and similar technical or network purposes related to TXGB and/or Rainmaker Solutions Ltd Booking Systems and for no other purpose.

11.5 Where Rainmaker Solutions Ltd terminates or suspends use of TXGB and/or Rainmaker Solutions Ltd Booking Systems then You must immediately cease using the Licensed Software and at Rainmaker Solutions Ltd's request do everything required to permanently delete the Licensed Software from any equipment on which it is loaded or stored.

- 11.6 TXGB and/or Rainmaker Solutions Ltd Booking Systems may be upgraded by Rainmaker Solutions Ltd at any time without reference to the You ("**Upgrades**").
- 11.7 Rainmaker Solutions Ltd intends to continually develop TXGB and/or Rainmaker Solutions Ltd Booking Systems and to issue and release Upgrades. If the Upgrade issued includes amended terms that are commercially disadvantageous to You then notice of the amended terms will be provided to You by Rainmaker Solutions Ltd at the time of delivery of the Upgrades.
- 11.8 You may decline to utilise an Upgrade, but if so will not be entitled to install and operate the Upgrade and in that case acknowledge that Rainmaker Solutions Ltd will not continue to support the previous version of software and therefore You must cease all use of TXGB and/or Rainmaker Solutions Ltd Booking Systems within 90 days from the date of delivery of the Upgrade.
- 12. Customer and Product Provider Data Processing**
- 12.1 You acknowledge that TXGB and/or Rainmaker Solutions Ltd Booking Systems includes a central data collection and storage system that will collect and store upon generation all information relating to Bookings including but not limited to the use of Rainmaker Solutions Ltd and Licensors' approved Google Analytics (or similar service), made by Customers with You, (but excluding all Banking or credit card details of any person) ("**Customer Data**").
- 12.2 You acknowledge in respect to Bookings made via the My Booking Pages that You act as a **Data Controller** and wish to subcontract processing of Customer Data, including Personally Identifiable Information to Rainmaker Solutions Ltd (**Data Processor**) in accordance with the terms of this Agreement.
- 12.3 You authorise the appointment of Rainmaker Solutions Ltd to provide the Connectivity Services and act as a Data Processor on behalf of You and acknowledge in respect to Bookings made via Distributors that You act as a Data Controller and wish to subcontract processing of Customer Data, including Personally Identifiable Information to Rainmaker Solutions Ltd (Data Processor) in accordance with the terms of this Agreement.
- 12.4 You authorise Rainmaker Solutions Ltd to appoint any person to process Customer Data on behalf of Rainmaker Solutions Ltd in connection with this Agreement (**Sub-Processor**).
- 12.5 You authorise Rainmaker Solutions Ltd to transfer Customer Data to Participants subject to Customers providing Consent as part of the booking process. Should Customers not provide Consent then You authorise Rainmaker Solutions Ltd to transfer anonymised Customer Data to Participants.
- 12.6 You authorise Data Processor to transfer Customer Data and Product Provider Data to countries outside the EU and/or the European Economic Area (EEA). If Personally Identifiable Information, processed under this Agreement is transferred from a country within the European Economic Area to a country outside the European Economic Area, the Parties shall ensure that the Personally Identifiable Information is adequately protected.
- 12.7 Should You use Your Google Analytics or other similar tracking codes on My Booking Pages You warrant that You will at all times comply with Your obligations under Your agreement with Google or similar companies and indemnify Rainmaker Solutions Ltd and its Licensors against any loss or damage suffered by Rainmaker Solutions Ltd and its Licensors arising as a result of a breach of Your obligations arising under that agreement or any associated legislation.
- 12.8 You agree to grant joint ownership of Customer Data and Your Data to Rainmaker Solutions Ltd together with its nominees and may be jointly accessed and exploited by You and Rainmaker Solutions Ltd (either alone or with its nominees).
- 12.9 Customer Data and Your Data may only be accessed and used by You and Rainmaker Solutions Ltd (either alone or with its nominees) in accordance with the Data Protection Act 2018.

12.10 You must at all times comply with Your own obligations arising under the Data Protection Act 2018. in relation to the collection, use, disclosure, storage or handling of Personally Identifiable Information in Your use of TXGB and indemnify Rainmaker Solutions Ltd against any loss or damage suffered by Rainmaker Solutions Ltd arising as a result of a breach of Your obligations arising under that Act or any similar legislation.

12.11 All Personally Identifiable Information supplied or otherwise acquired by Rainmaker Solutions Ltd about You will be dealt with in accordance with Rainmaker Solutions Ltd's Privacy Policy which is available at www.txgb.co.uk/privacy-policy.

13. Communications

13.1 Other than as outlined in this Agreement, any public announcement or public statement made by the parties, other than those required by law, concerning this Agreement or the matters referred to in this Agreement shall be first approved in writing by both parties.

13.2 You agree that Rainmaker Solutions Ltd may use the Your name and logo in promotional material relating to TXGB and current and potential Participants in TXGB provided Rainmaker Solutions Ltd complies with the branding guidelines provided by You from time to time.

13.3 Rainmaker Solutions Ltd Agrees that You can use the name and logo of TXGB in promotional material, provided You comply with the guidelines provided by Rainmaker Solutions Ltd from time to time which will include:

- (a) under no circumstances will the terms or the logo of TXGB or Rainmaker Solutions Ltd be used in reference to any fees charged by You.
- (b) you will not ascribe, communicate or position any fees or charges as caused by or attributable to the connection to TXGB or Rainmaker Solutions Ltd.
- (c) at all times you will refer to TXGB and Rainmaker Solutions Ltd In a positive manner.

14. UK TAX LAW

14.1 In this Agreement the expressions "consideration", "tax", "VAT", "supply", "tax invoice", "recipient", "Recipient Created Tax Invoice" and "taxable supply" have the meanings given to those expressions in UK Tax Law.

14.2 Unless otherwise expressly stated, all amounts or considerations payable are exclusive of VAT or any other taxes.

14.3 The recipient of a supply is entitled to a valid tax invoice in respect of the supply at or about the time of the supply.

14.4 Where Rainmaker Solutions Ltd issues a Recipient Created Tax Invoice the Provider must not issue a tax invoice for the TXGB Supply.

14.5 The Provider must be registered for VAT prior to making a supply and must immediately notify Rainmaker Solutions Ltd if it ceases to be registered.

14.6 Rainmaker Solutions Ltd must be registered for VAT at all times when it administers TXGB and/or Rainmaker Solutions Ltd Booking Systems and must notify each Participant if it ceases to be registered.

15. Suspension and Termination

15.1 Rainmaker Solutions Ltd may without liability immediately suspend the operation of TXGB and/or Rainmaker Solutions Ltd Booking Systems for an indefinite period or restrict Your access to TXGB and/or Rainmaker Solutions Ltd Booking Systems by notice to You where:

- (a) an essential supplier of services terminates its agreement with Rainmaker Solutions Ltd or ceases to supply services to Rainmaker Solutions Ltd;
- (b) there is an emergency, or Rainmaker Solutions Ltd reasonably believes a threat or risk exists to the security of TXGB or the integrity of the platform or the network or a supplier's network;
- (c) a Force Majeure Event occurs;
- (d) Rainmaker Solutions Ltd is required by law or in order to comply with an order, direction or request of any relevant regulatory authority;
- (e) Rainmaker Solutions Ltd reasonably suspects fraud or other illegal conduct by You or any other person in connection with TXGB and/or Rainmaker Solutions Ltd Booking Systems;
- (f) doing so is necessary to maintain, repair or restore any part of TXGB and/or Rainmaker Solutions Ltd Booking Systems or any telecommunication or network service used to supply services to TXGB or for other operational reasons, or
- (g) while investigating any breach on Your part of this Agreement.

15.2 Either Party may terminate this Agreement immediately by notice to the other:

- (a) if a Party has breached this Agreement and in the other Party's reasonable opinion that breach is not capable of remedy;
- (b) if a Party has breached this Agreement and where the breach is capable of remedy the Party has failed after notification to remedy the breach within 14 days of receiving email notice from the Party of that breach;
- (c) if a provisional liquidator, liquidator, receiver or receiver and manager or any other administrator of a Party's business or assets is appointed or if a Party enters into any composition or arrangement with their creditors; or
- (d) if a Party is a natural person in the event of Your death.

15.3 Where this Agreement is terminated You remain liable for payment of all Fees calculated to the next Monthly Accounting Date after the termination date.

15.4 Rainmaker Solutions Ltd may without liability terminate this Agreement by giving 90 days' notice and at the end of that notice period this Agreement will automatically terminate and You will have no further right to access or use TXGB and/or Rainmaker Solutions Ltd Booking Systems and You will have no claim against any person including but not limited to Rainmaker Solutions Ltd and its respective directors, officers and representatives arising from the termination of this Agreement.

16. Assignment and Sub-contracting

1.3 You can assign or transfer legal responsibility for this Agreement if you obtain Rainmaker Solutions Ltd's prior written consent provided such assignee has the technical financial and managerial resources to discharge Your obligations hereunder and also enters into a Deed on terms and conditions acceptable to Rainmaker Solutions Ltd (acting reasonably) agreeing to be bound by and assuming each and every one of Your obligations hereunder.

16.1 To the extent they are assignable; Rainmaker Solutions Ltd may at any time assign:

- (a) its rights under this Agreement to any person;



- (b) its obligations under this Agreement to the surviving entity of any merger or where Rainmaker Solutions Ltd sells its entire business and assets provided that in those circumstances the assignee undertakes to perform those obligations in which case Rainmaker Solutions Ltd will be released from any further performance with effect from the date of assignment.

16.2 Rainmaker Solutions Ltd may perform any of its obligations under this Agreement by arranging for them to be performed by another person or organisation.

17. Applicable Law

This Agreement is governed by and is to be construed according to the laws applicable in the UK. The provisions of this Agreement may not satisfy the laws of any other country.

18. Notices

18.1 Any notice, claim or demand in connection with this Agreement (each “**Notice**”) shall be sufficiently given to the recipient at its address, and in the case of Rainmaker Solutions Ltd as stated at the beginning of this Agreement.