

## TruBe Service Provider Agreement

These terms and conditions are the terms on which the Service Provider (as defined below) makes the Services available for booking on the App and TruBe provides its services to the Service Provider in promoting the Services to Users and processing payments on the Service Provider's behalf.

### 1. TERMS USED IN THIS AGREEMENT

1.1. Capitalised terms used in this Agreement shall have the following meanings:

**"Agreement"** means these terms and conditions, as may be amended from time to time in accordance with Clause 16, together with the Terms of Use and any Service Conditions;

**"App"** means the TruBe mobile application;

**"Applicable Laws"** means all applicable laws, legislation (including the Data Protection Legislation), European regulations, statutes, statutory instruments, regulations, edicts, bye-laws and directions and guidance from government or governmental agencies which have the force of law, together with all applicable professional rules and codes of conduct, whether local, national, international or otherwise existing from time to time;

**"Appointment Time"** means the specific date and time for which a User has made or could make a Booking (as the context may dictate);

**"Booking"** means a booking made by a User using the App for a Service including Direct Bookings;

**"Cancellation Fee"** has the meaning given to it in the Terms of Use;

**"Data Protection Legislation"** means and all data protection legislation in place and applicable to this Agreement from time to time including the European General Data Protection Regulation;

**"Direct Booking"** means the Booking addressed by the User to a specific trainer that is highlighted in the App by a red circle around the profile picture of the User that made the Direct Booking, all terms and conditions of Bookings shall apply to Direct Bookings and the defined term Booking includes the Direct Booking;

**"Effective Date"** means the date that the parties accept this Agreement, being: (i) if the Service Provider accepts this Agreement via the App, on the date of such acceptance; or (ii) if the parties sign a paper copy of this Agreement, the date on which the last signature is provided by either party;

**"Equipment"** means the TruBe branded rucksack and its contents (which may include TruBe branded clothing, accessories and/or fitness equipment);

**"Insolvency Event"** means the occurrence of any of the following events or circumstances in relation to the relevant entity: (i) being deemed unable to pay its debts as defined in section 123 of the Insolvency Act 1986 without any requirement to prove any matter stated in that section to a court, or where the party is an individual, that individual is deemed unable to pay his or her debts or as having no reasonable prospect of so doing; (ii) proposing a voluntary arrangement; (iii) steps being taken for a receiver, administrator or manager to be appointed over the whole or a material part of its business or assets; (iv) an order being made, a resolution passed or other steps being taken for its winding up (except for the purposes of a bona fide solvent reorganisation), bankruptcy or dissolution; (v) otherwise proposing or entering into any composition or arrangement with its creditors or any class of them; or (vi) ceasing to carry on business or claiming the benefit of any statutory moratorium; (vii) where the party is an

individual and such individual is the subject of a bankruptcy petition or order; or (viii) if anything analogous to any of the foregoing occurs in any jurisdiction;

**“Service Condition”** has the meaning given to it in Clause 7.3;

**“Service Fee”** means the price payable by Users for each Booking, as indicated on the App at the time you make a Booking;

**“Service Provider”** means the individual or company who provides the Services, as identified either: (i) as part of the registration process for the App, if this Agreement is accepted via the App; or (ii) in Clause 17, if a paper copy of this Agreement is signed by the parties;

**“Service Provider Content”** has the meaning given to it in Clause 3.1;

**“Services”** means the fitness services that the Service Provider provides;

**“Social Media Content”** has the meaning given to it in Clause 3.4;

**“Term”** has the meaning given to it in Clause 14.1;

**“Terms of Use”** means the terms and conditions applicable to the use of the App and Website (and which includes the TruBe Privacy and Cookies Policy), as displayed on the App and Website;

**“Top Trainers”** means trainers that are promoted by TruBe and awarded with the Top Trainer badge;

**“TruBe”** means Iwoo Limited, a company registered in England and Wales under registration number 09042155 with its registered office address at 5 Elstree Gate, Elstree Way, Borehamwood, Hertfordshire, WD6 1JD and trading as TruBe;

**“TruBe Fee”** means the fee (up to 30% of the Service Fee) collected from the Service Provider for using the TruBe Service;

**“TruBe Service”** means all or any of the TruBe services provided to the Service Provider including the promotion of the Services on the App, the functionality which allows Users to book Services using the App, and payment to the Service Provider in respect of the Service Fees;

**“User”** means a customer of TruBe’s and a user of the App;

**“User Complaint”** means a complaint, dispute or other issue reported by a User in relation to a Booking, the Service Provider and/or the Services;

**“User Details”** means information provided through the App to the Service Provider in

relation to a Booking, including the User’s name, gender, age range, mobile telephone number and photograph, the location where the Booking will take place, any information

which is included in the User’s profile on the App, and the User’s average score and performance history if previous Bookings have been made by that User;

**“User Feedback”** has the meaning given to it in Clause 6.6;

**“VAT”** means Value Added Tax;

**“Website”** means the TruBe website at <https://trubeapp.com>; and

**“Working Day”** means a day which is not a Saturday, Sunday or a Bank Holiday in the UK.

2. In this agreement, unless the context requires otherwise:
  1. any reference to a statute, statutory provision, subordinate legislation, code or guideline (“legislation”) is a reference to such legislation as amended and in force from time to time and to any legislation which re-enacts or consolidates (with or without modification) any such legislation;
  2. 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.

## **2. USE OF THE APP, WEBSITE AND TRUBE SERVICE**

- 2.1. The Service Provider shall register for an account on the App, and comply with the Terms of Use when using the App and Website and receiving the TruBe Service.
- 2.2. In the event of any conflict between this Agreement and the Terms of Use, this Agreement shall take priority.

## **3. SERVICE PROVIDER CONTENT AND SOCIAL MEDIA CONTENT**

- 3.1. As part of registration on the App, the Service Provider shall provide information and content relating to the Service Provider and the Services as requested by the App (which together with any other information provided to the App or TruBe by the Service Provider, and updates to any information provided by the Service Provider, is referred to as “**Service Provider Content**”). Such Service Provider Content must include the following information before the Services are made available to book by Users and at all times thereafter during the Term:
  - 3.1.1. the Service Provider’s identity, gender, legal status, email address, and telephone number;
  - 3.1.2. the Service Provider’s geographic address where the Service Provider is established, and if different, geographic address where a User or TruBe can address complaints;
  - 3.1.3. the geographic locations (such as post codes) where the Service Provider is willing to provide the Services;
  - 3.1.4. the type(s) of Services that the Service Provider is willing to offer to Users;
  - 3.1.5. the Service Provider’s registered VAT number;
  - 3.1.6. the Service Provider’s experience and (if relevant) qualifications;
  - 3.1.7. where the Service Provider (or any individuals working for the Service Provider) is a member of a regulated profession or any professional association, details of the professional body or similar institution with which (s)he is registered, the Service Provider’s professional title and the country where that title was awarded;
  - 3.1.8. a high quality photograph of the Service Provider in such format, nature and resolution as may be specified by TruBe from time to time; and
  - 3.1.9. any other information that the Service Provider is obliged to provide under Applicable Laws, including details of any required licences and qualifications that the Service Provider holds.

- 3.2. The Service Provider grants TruBe a non-exclusive, royalty-free, worldwide licence to reproduce, use, display, distribute, communicate to the public, modify and/or create derivative works based upon the Service Provider Content during the Term for the purpose of (a) promoting the Services and/or the Service Provider, and/or (b) promoting the App, Website and the TruBe Service. After the Term, the Service Provider agrees that this licence shall continue for the purposes of TruBe's internal business requirements and promoting the App, Website and the TruBe Service.
- 3.3. The Service Provider shall update the Service Provider Content as and when required by using the **"Edit My Profile"** functionality within the App to ensure that the Service Provider Content is accurate and up to date at all times.
- 3.4. The Service Provider may also choose to link his or her Twitter account(s) with the App so that the Service Provider's Tweets appear as part of the Service Provider's profile on the App ("**Social Media Content**"). The Service Provider shall ensure that the Social Media Content contains content which is appropriate and relevant to the Services and the Service Provider in his or her professional capacity.
- 3.5. TruBe reserves the right to:
- 3.5.1. review the Service Provider Content and/or Social Media Content (including any edits or updates to such content) before it is available for viewing by Users;
  - 3.5.2. prevent some or all of the Service Provider Content and/or Social Media Content from being displayed on the App;
  - 3.5.3. remove and/or modify Service Provider Content; and/or
  - 3.5.4. remove Social Media Content,
- at any time and for any reason.

#### **4. BACKGROUND CHECKS**

- 4.1. TruBe reserves the right to carry out background checks in respect of the Service Provider and/or any individuals engaged by the Service Provider to provide the Services.
- 4.2. The Service Provider:
- 4.2.1. consents to such checks being carried out (and shall procure that any individuals engaged by it have also consented to such checks) by or on behalf of TruBe; and
  - 4.2.2. shall (and shall procure that any individuals engaged by it shall) promptly provide all information and co-operation which is required by or on behalf of TruBe in connection with such background checks.

#### **5. PROMOTION OF THE SERVICES BY TRUBE**

- 5.1. After:
- 5.1.1. the Service Provider has provided the Service Provider Content as required by Clause 3.1;
  - 5.1.2. any background checks carried out by TruBe pursuant to Clause 4 have proved satisfactory to TruBe; and

5.1.3. the Service Provider has purchased the Equipment from TruBe,

TruBe may promote and offer the Services on the App. The Service Provider acknowledges and agrees that when a User requests Services, the App's algorithm will take into account various factors including which service providers are available and will allocate a service provider for the Booking accordingly.

- 5.2. TruBe provides no guarantee as to the availability or performance of the App or the number of Bookings which Users will make or to which the Service Provider will be allocated. TruBe also reserves the right to suspend or modify the App (including its algorithm for selecting service providers) in accordance with Clause 14.2.1 for any reason and at any time.
- 5.3. The Service Provider acknowledges and agrees that TruBe may promote and offer services and service providers of a similar or the same type as the Services and the Service Provider on the App at any time, including direct competitors of the Service Provider.
- 5.4. TruBe reserves the right to offer Users promotions and/or discounts on the App in relation to the Services. Additional or separate terms and conditions may be agreed between the parties in relation to such promotions and/or discounts if required.
- 5.5. The Service Provider acknowledges that the App, Website and TruBe Service have not been developed to meet the Service Provider's individual requirements and that TruBe is not obliged to consider or make any changes to the App, Website or TruBe Service which are suggested or requested by the Service Provider.

## **6. BOOKINGS, PERFORMANCE OF THE SERVICES AND EQUIPMENT**

- 6.1. Users may order the Services using the App by making a Booking.
- 6.2. The Service Provider shall indicate his or her availability to accept Bookings by using the "available" and "unavailable" functionality in the App, and ensure that the correct setting is used at all times.
- 6.3. The Service Provider will make his or herself available for at least two weeks in advance to maximise the opportunity for users to book them. TruBe reserves the right to make a service provider "inactive" if minimum availability is not met and subsequently effecting user service levels.
- 6.4. If the Service Provider has indicated, in accordance with Clause 6.2, that the Service Provider is available to accept Bookings, TruBe shall notify the Service Provider via the App of each Booking which TruBe considers appropriate to allocate to the Service Provider, and give the Service Provider a short window of time (as specified in such notification) in which to accept or decline the Booking. If the Service Provider does not accept or decline the Booking within the specified time, TruBe may offer the Booking to a different service provider.
  - 6.4.1. If a Direct Booking was made, it will be so notified to Service Provider to whom the Direct Booking was made by highlighting the User that made the Direct Booking with a red circle around the profile picture of that User. The Service Provider will be given a short window of time (as specified in such notification) in which to accept the Direct Booking if the Service Provider meets all the criteria of the Direct Booking or decline it. The Service Provider may propose an alternative time of the Direct Booking to the User, in which case the Direct Booking will be deemed accepted upon User's confirmation of the time proposed by Service Provider.
- 6.5. In respect of each Booking which is accepted by the Service Provider in accordance with Clauses 6.3 or 6.3.1:

- 6.5.1. the App shall make available to the Service Provider the Appointment Time, the Booking location, details of the Service to be provided, and the User Details;

- 6.5.2. the Service Provider shall provide and is solely responsible for the provision of (and expressly agrees that TruBe is not responsible for the provision of) the relevant Services at the relevant Appointment Time and Booking location, including the performance and quality of the Services (including any equipment or advice provided by the Service Provider during a Booking), obtaining any licences, consents, qualifications and insurances that the Service Provider is required to have under Applicable Laws or is stated on the App as having, and complying with Applicable Laws all in connection with the Services; and
  - 6.5.3.** the Service Provider agrees that each Booking is an agreement between the User and the Service Provider. TruBe is not a party to such agreement.
- 6.6. The Service Provider expressly agrees that it shall not:
  - 6.6.1. promote the Services or services similar to the Services for booking by any User other than through the App; or
  - 6.6.2. encourage any User to engage the Service Provider or receive the Services or services similar to the Services other than by making a Booking using the App.
- 6.7. The Service Provider shall provide feedback and an overall score in relation to the User's condition, strength, endurance and fitness during a Booking within a reasonable time and in any case within two (2) days of completion of the relevant Booking ("**User Feedback**").
- 6.8. The Service Provider shall:
  - 6.8.1. keep each item of the Equipment in a clean and working condition and shall use or wear it (as appropriate) during each Booking;
  - 6.8.2. in the event that any item of Equipment is broken or lost, promptly contact TruBe for a replacement item (at the Service Provider's cost, unless the item broke due to it being defective when provided by TruBe);
  - 6.8.3. not wear any clothing or accessory or use any equipment which includes branding from another gym or personal training organisation (such as The Gym Group or Pure Gym, but excluding any fitness brand which primarily manufactures clothing, accessories and/or equipment such as Nike or Adidas) during any Booking; and
  - 6.8.4. provide all equipment which is required by the Service Provider and/or User during each Booking, and be responsible for ensuring that such equipment is in a clean and working condition and appropriate for the use being made of it.

## **7. SERVICE PROVIDER REQUIREMENTS AND SERVICE CONDITIONS**

- 7.1. The Service Provider shall ensure that it (and/or, where applicable, the relevant individuals engaged by it to provide the Services) has and maintains throughout the Term, at its own cost:
  - 7.1.1. all licences, consents and qualifications which are required by Applicable Laws in order to provide the Services, including (if applicable) a London Royal Parks Fitness Training Licence;
  - 7.1.2. all qualifications which the Service Provider holds itself out as having (whether expressly or by implication) to TruBe and/or the Users; and

- 7.1.3. such insurance policies as are appropriate and adequate having regard to its obligations and liabilities under this Agreement, including, to the extent applicable, employer's liability insurance, public liability insurance and professional indemnity insurance.
- 7.2. If requested by TruBe, the Service Provider shall provide:
  - 7.2.1. copies of all certificates and/or documents which evidence the Service Provider's insurance policies, qualifications and compliance with the terms of this Agreement; and
  - 7.2.2. any other information which is reasonably requested by TruBe in relation to the Services, the Service Provider and/or any Booking,  
within five (5) Working Days of TruBe's request.
- 7.3. Before or following the Service Provider's registration on the App, TruBe may require the Service Provider to comply with additional specified conditions (each a **"Service Condition"**). For example, TruBe may require the Service Provider to hold or obtain specific insurances, licence or qualifications. The Service Provider shall not use the App unless it is compliant with all Service Conditions.
- 8. PAYMENTS, CANCELLATIONS AND REFUNDS**
- 8.1. Subject to Clause 8.3, TruBe shall collect the Service Fee or Cancellation Fee from the User in respect of each Booking in accordance with the Terms and Conditions of Use and Booking.
- 8.2. TruBe shall retain the TruBe Fee plus VAT on the TruBe Fee in respect of each Booking. However, TruBe may choose to waive its fee for promotions or other activities.
- 8.3. The Service Provider agrees that the Terms of Use entitle Users to cancel a Booking in certain circumstances:
  - 8.3.1. without being charged the Service Fee, in which case no payment shall be made to the Service Provider in respect of that Booking; or
  - 8.3.2. on payment of the Cancellation Fee instead of the Service Fee.
- 8.4. The Service Provider shall promptly notify TruBe if any User fails to attend a Booking at the Appointment Time.
- 8.5. Except where Clause 8.7 or 8.8 applies, TruBe shall pay the Service Provider for:
  - 8.5.1. the Service Fees or Cancellation Fees which have been collected by TruBe; minus
  - 8.5.2. the TruBe Fees in respect of such amounts;
  - 8.5.3. any amounts that TruBe is entitled to deduct in accordance with Clause 8.7; minus
  - 8.5.4. any amounts refunded to Users by TruBe in accordance with Clause 9.2, (**"Service Provider Amount"**).
- 8.6. Once a week, TruBe shall pay the Service Provider Amount to the Service Provider in respect of all Service Fees and Cancellation Fees collected by TruBe in the previous two (2) week period.
- 8.7. TruBe follows set criteria to promote someone to Top Trainer. Top Trainers are consistently rated five (5) stars by Users, need to show high-level of activity in terms of number of proposals, have reached certain numbers of confirmed bookings, show good quality for TruBe and fast



response time to booking requests. They will be awarded with the Top Trainer badge and within [twenty four (24)] hours since the promotion are able to apply a surcharge to bookings by communicating the amount of surcharge to TruBe by email to [trube@trube.com]. TruBe will perform best endeavours to reasonably promptly apply the surcharge to the Top Trainer profile in the App. Surcharge will not be amended after it has been communicated to TruBe. TruBe shall deduct twenty percent (20%) processing fee from the surcharges.

- 8.8. If the Service Provider fails to attend a Booking and/or provide the Services at the relevant Appointment Time and/or location, TruBe shall not be required to pay any amounts to the Service Provider in respect of that Booking, and if such amounts have already been paid to the Service Provider, may deduct such amounts from any payments owing to the Service Provider.
- 8.9. TruBe reserves the right to terminate a User's use of the App and close that User's account where that User is in breach of the Terms of Use. If so, TruBe shall cancel any future Booking(s) made by that User on the Service Provider's behalf and shall not be obliged to account to the Service Provider for any amounts in respect of such Booking(s). If the User attends the Booking despite such cancellation, then if the Service Provider chooses to provide services to that User the Service Provider shall be responsible for requesting payment from the User instead of TruBe.
- 8.10. If TruBe fails to pay by the due date any amount payable by it under this Agreement, the Service Provider shall be entitled but not obliged to charge TruBe interest on the overdue amount, from the due date up to the date of actual payment, at the rate of one per cent (1%) per year above the base rate for the time being of Barclays Bank plc.
- 8.11. The Service Provider shall be responsible for all fees, costs and expenses incurred by the Service Provider in providing the Services, in connection with the Service Provider's receipt of any payments from TruBe and for the Service Provider's use of the App and Website. The Service Provider shall not seek to pass on such fees, costs or expenses to TruBe or any User.
- 8.12. If the Service Provider becomes aware of any circumstance which makes cancellation of a Booking unavoidable, the Service Provider shall cancel the Booking using the App immediately, but needs to inform TruBe to complete the cancellation.
- 8.13. Where the Service Provider cancels a Booking:
  - 8.13.1. more than 24 hours before the start time of the confirmed session, the App will automatically give the Service Provider a "3" star rating in respect of the Booking;
  - 8.13.2. more than 12 hours before the start time of the confirmed session, the App will automatically give the Service Provider a "2" star rating in respect of the Booking;
  - 8.13.3. within 12 hours before the start time of the confirmed session, the App will automatically give the Service Provider a "1" star rating in respect of the Booking.

## **9. COMPLAINTS AND REFUNDS**

- 9.1. The Service Provider agrees that TruBe may resolve User Complaints on the Service Provider's behalf. The Service Provider shall co-operate with TruBe in a timely and professional manner and provide all assistance and information requested by TruBe in relation to User Complaints.
- 9.2. TruBe reserves the right not to charge a User for the Service Fee, or refund the whole or any part of the Service Fee already paid by the User if TruBe believes, acting reasonably, that a User Complaint is valid (including, for example, where a User Complaint indicates that the

Service Provider is in breach of this Agreement). If the Service Fee which has been refunded to the User has already been paid to the Service Provider, then:

- 9.2.1. TruBe may set-off the amount refunded to the User in accordance with Clause 8.5; or
- 9.2.2. if no further payments are due to the Service Provider in accordance with Clause 8.6, TruBe may invoice the Service Provider for the amount refunded to the User. The Service Provider shall pay any such invoice within fourteen (14) days of receipt.

## **10. RATINGS, REVIEWS, USER CONTENT AND FEEDBACK**

- 10.1. The Service Provider acknowledges and agrees that:
  - 10.1.1. Users who have made a Booking may provide ratings and comments in relation to the Services and/or the Service Provider;
  - 10.1.2. the Service Provider's average rating, calculated using User ratings and any automatic ratings which occur pursuant to Clause 8.13, may be published on the App and may affect the frequency with which the Service Provider chosen by a User;
  - 10.1.3. Users may also contact TruBe directly to submit feedback (including User Complaints) in relation to a Booking, the Services and/or the Service Provider.

## **11. TAXATION**

- 11.1. The Service Provider is responsible for accounting for output VAT in connection with the Services, the consideration for which for VAT purposes is the Service Fee or Cancellation Fee (as applicable) in respect of each Booking, such amount being exclusive of any VAT chargeable on that supply.
- 11.2. Save in respect of the VAT payable on the TruBe Fee, the parties agree and acknowledge that the collection and payment of VAT to HM Revenue and Customs ("**HMRC**") (and any fine, penalty, surcharge or interest charged thereon) in connection with the Services shall be the responsibility of the Service Provider as opposed to TruBe.
- 11.3. If UK VAT law or practice changes such that TruBe becomes liable to make payment to HMRC for VAT (other than on the TruBe Fee) the Service Provider agrees that TruBe may unilaterally vary the financial provisions of this Agreement to produce the result which would have been achieved for TruBe had that change not occurred.
- 11.4. The Service Provider indemnifies TruBe in full and on demand, and holds TruBe harmless, in respect of all claims, losses, liabilities, costs and expenses (including legal fees) suffered or incurred by TruBe as a result of any failure by the Service Provider to account for VAT and/or otherwise comply with the provisions of this Clause 11.

## **12. WARRANTIES**

- 12.1. The Service Provider warrants and undertakes that at all times during the Term:
  - 12.1.1. it has the authority to enter into this Agreement and to perform its obligations hereunder;
  - 12.1.2. this Agreement does not and shall not conflict with any of the Service Provider's obligations to any third party;

- 12.1.3. all information and details provided by the Service Provider to TruBe, including the Service Provider Content, are and will remain true, accurate and up to date in all respects and at all times;
- 12.1.4. the Services shall be provided in a professional and courteous manner, in accordance with good industry practice and with reasonable care and skill;
- 12.1.5. it shall comply with the Service Conditions;
- 12.1.6. it shall comply with all Applicable Laws when performing the Services and providing the Service Provider Content and Social Media Content;
- 12.1.7. it is entitled, under all Applicable Laws to offer the Services and provide the Service Provider Content and Social Media Content;
- 12.1.8. it has all necessary qualifications, licences, insurances and consents which are required under Applicable Laws in order to provide the Services, Service Provider Content and Social Media Content;
- 12.1.9. the Service Provider Content and Social Media Content does not, and will not, infringe the rights (including but not limited to the intellectual property rights) of any person and the inclusion of any Service Provider Content or Social Media Content on the App or Website will not expose TruBe to any liability;
- 12.1.10. no part of the Service Provider Content, Social Media Content, or of any communications between the Service Provider and any User, is or shall be defamatory, inaccurate, misleading, false, obscene, harassing, threatening, abusive, libellous or otherwise unlawful;
- 12.1.11. the Service Provider shall not register or advertise (whether directly or indirectly) the Services or services which are similar to the Services on any online service, website or app which offers the same or similar functionality as the App or Website;
- 12.1.12. the Service Provider, and not TruBe, shall be solely responsible for the payment of any taxes (excluding only the VAT which is included in the TruBe Fee) arising in connection with the supply of Services pursuant to this Agreement; and
- 12.1.13. the Service Provider, and not any owner, manager, provider of the premises where the Services are performed or TruBe, shall be solely responsible before any person for any damages arising solely or in connection with the premises, conditions of premises and use of premises where the Services are performed.

### **13. INDEMNITY AND LIMITATION OF LIABILITY**

- 13.1. The Service Provider shall indemnify TruBe in full and on demand against, and hold TruBe harmless from, any and all claims, penalties, interest, losses, liabilities, costs, expenses (including legal fees) and damages arising out of, or in connection with:
  - 13.1.1. the Service Provider Content and/or Social Media Content, including any failure by the Service Provider to provide or keep up to date the Service Provider Content;
  - 13.1.2. any User or third party claim which is made against TruBe and which relates to the Service Provider and/or the Services;
  - 13.1.3. the collection or payment of VAT (other than in respect of the TruBe Fee);
  - 13.1.4. any claim made against TruBe by any person employed or engaged by the Service Provider or arising out of or in connection with the employment or engagement, or the

- termination thereof, of such person either during or on termination of this Agreement; or
- 13.1.5. any claim made against any owner, manager, provider of the premises where the Services are performed or TruBe arising out of or in connection with the premises, its conditions or use of premises where the Services are performed.
- 13.2. Notwithstanding any other provision of this Agreement, neither party's liability under or in connection with this Agreement shall be excluded or limited in the case of death or personal injury caused by that party's negligence, for fraud or fraudulent misrepresentation or for any other liability that cannot be excluded or limited by law.
- 13.3. Subject to Clauses 13.2 and 13.4, TruBe's aggregate liability to the Service Provider for all losses suffered or incurred by the Service Provider under or in connection with this Agreement (whether in contract, tort, breach of statutory duty or otherwise (including in each case negligence)) shall be limited to the greater of £500 and the total TruBe Fees retained by TruBe under this Agreement.
- 13.4. TruBe shall not be liable to the Service Provider (in contract, tort (including negligence) or for breach of statutory duty or in any other way) for or in connection with:
- 13.4.1. any loss arising from or in connection with loss of revenues, profits, contracts or business or failure to realise anticipated savings;
- 13.4.2. any loss of goodwill or reputation;
- 13.4.3. any special, indirect or consequential losses; or
- 13.4.4. any failure to meet any of TruBe's obligations under this Agreement where such failure is due to anything which is beyond TruBe's control (including fire, storm, flood, riot, civil disturbance, war, nuclear accident, terrorist activity, Acts of God, and failures of third parties or third party systems).

#### **14. TERM, SUSPENSION AND TERMINATION**

- 14.1. This Agreement shall start on the Effective Date and shall continue unless terminated in accordance with this Agreement (the "**Term**").
- 14.2. TruBe reserves the right to:
- 14.2.1. withdraw or temporarily suspend operation of the App and/or Website (in whole or in part) or modify any part of it (including the content and materials on the App and the TruBe Service), for any reason. The Service Provider agrees that TruBe shall incur no liability to the Service Provider in respect of any such withdrawal, suspension or modification;
- 14.2.2. remove the Service Provider, any or all of the Services, Service Provider Content and/or Social Media Content from the App and/or Website temporarily or permanently at its sole discretion;
- 14.2.3. terminate this Agreement at its sole discretion, with immediate effect and without penalty by giving written notice to Service Provider at any time.
- 14.3. The following are some reasons why TruBe may remove the Service Provider, the Services, Service Provider Content and/or Social Media Content from the App and/or Website or terminate this Agreement:
- 14.3.1. the Service Provider does not make him or herself sufficiently available for Bookings;

- 14.3.2. the Service Provider no longer holds all licences, consents or insurances required by Applicable Laws or which are reasonably requested by TruBe in order to provide the Services (regardless of whether or not such licences or insurances were required or requested as of the Effective Date);
- 14.3.3. the Service Provider fails to keep the Service Provider Content accurate and up to date;
- 14.3.4. the Service Provider fails to comply with the Service Conditions;
- 14.3.5. average User ratings for the Service Provider fall below two (2) stars and/or TruBe receives User Complaint(s) and/or negative reviews about the Service Provider;
- 14.3.6. the Service Provider acts in breach of Clause 6.5;
- 14.3.7. the Service Provider acts in breach of Clause 12.1.11 or
- 14.3.8. the Service Provider is subject to an Insolvency Event.
- 14.4. The Service Provider may terminate this Agreement by giving thirty (30) days' written notice to TruBe, such notice to expire any time on or after the first anniversary of the Effective Date.
- 14.5. Termination of this Agreement for any reason shall be without prejudice to the rights and remedies of the parties which may have accrued before the date of termination. In particular TruBe agrees to make any payments due to the Service Provider in respect of all Services provided prior to the effective date of termination.
- 14.6. On termination of this Agreement:
  - 14.6.1. the parties shall have no further obligations or rights under this Agreement except that Clauses 1, 3.2, 6.5, 7.2, 8, 9, 11, 13, 14, 15 and 16 together with any other Clauses, the survival or coming into force of which is necessary for the interpretation or enforcement of this Agreement or which are expressly or by implication intended to survive expiry or termination, shall continue to have effect; and
  - 14.6.2. the Service Provider shall stop using the Equipment.

## **15. DATA PROTECTION**

### **Data Processor**

- 15.1. The User Details and User Feedback constitute personal data under the Data Protection Legislation, in respect of which TruBe is the data controller and the Service Provider is the data processor. TruBe shall act in accordance with its obligations under the Data Protection Legislation in respect of any User Details and User Feedback.
- 15.2. The Service Provider agrees that, as a data processor in respect of the User Details and User Feedback it shall:
  - 15.2.1. process such personal data solely for the duration of this Agreement;
  - 15.2.2. only process the personal data in order to provide Users with the Service and to fulfil its obligations under this Agreement (the purpose and nature of the processing), and only in accordance with TruBe's written instructions, including as set out in this Agreement and specifically it shall not use the personal data for any other purpose or in any other way, including to contact any User after a Booking has completed;
  - 15.2.3. not disclose the personal data to any third party, or permit any third party to access such information, except where required to do so by Applicable Laws or a court of

competent jurisdiction or any governmental or regulatory authority or with the prior written consent of TruBe. Where the Service Provider does, with the consent of TruBe, disclose User Details or User Feedback to a third party, or permit a third party to access to such information, the Service Provider shall:

- (a) ensure that the third party is committed to a standard of data protection which is at least as high as the standard set by this agreement; and
  - (b) remain liable to TruBe for any breach of data protection obligations by the third party;
- 15.2.4. take appropriate technical and organisational measures taking into consideration the risk posed by unauthorised or unlawful processing of the personal data and in particular against any accidental or unlawful loss, destruction, alteration, or unauthorised disclosure of, or access to, the personal data, in accordance with all Applicable Laws, and so as to ensure that TruBe as data controller is in compliance with Applicable Laws;
- 15.2.5. not transfer the personal data outside the European Economic Area without TruBe's prior written consent;
- 15.2.6. if applicable, at all times ensure that personnel who have access to the personal data are under a statutory or contractual obligation to keep that information confidential and shall use its best endeavours to ensure their compliance with the obligations set out in this Clause 15;
- 15.2.7. promptly comply with any request from TruBe requiring the Service Provider to amend, transfer or delete the personal data unless retention is otherwise required by Applicable Laws;
- 15.2.8. provide to TruBe, without undue delay and at no charge, such assistance as TruBe may reasonably require in order for TruBe to deal with any request for subject access under Data Protection Legislation, and shall without undue delay notify TruBe of any request for subject access it receives;
- 15.2.9. assist TruBe in carrying out any data privacy impact assessment and/or prior consultation with a supervisory authority as may be required, in the opinion of TruBe, in respect of the personal data;
- 15.2.10. allow and contribute to audits, including inspections, requested by TruBe to demonstrate its compliance with Data Protection Legislation; and
- 15.2.11. make available to TruBe, on request, all information necessary to demonstrate its compliance with Data Protection Legislation.

#### **Data Controller**

- 15.3. The parties may each collect from Users and share with each other relevant information about the User's health and fitness which is reasonably necessary for the safe and/or lawful performance of the Services ("**Health Information**"). The parties shall each act as a data controller in respect of any such Health Information (not joint controllers) and each agree and confirm to the other that it shall be responsible for acting in accordance with its obligations under the Data Protection Legislation in respect of its own processing of any Health Information.

#### **General**

- 15.4. In the event of any actual or suspected incident which may involve unauthorised or unlawful access to or processing, loss or destruction of or damage to the User Details or User Feedback or Health Information, or disclosure of such personal data in breach of this Agreement or Data Protection Legislation (a “**Security Breach**”), the Service Provider shall:
- 15.4.1. notify TruBe in writing without undue delay, and in any case within forty eight (48) hours, of the Security Breach, providing such details of the circumstances as TruBe may reasonably require;
  - 15.4.2. keep TruBe regularly informed of any further developments or information available in connection with the Security Breach and at TruBe’s request undertake a full investigation and provide TruBe with a full written report on the Security Breach;
  - 15.4.3. consult with TruBe about steps required to mitigate the effects of the Security Breach (including, any notification to the Information Commissioner or any other relevant regulatory authority, and/or any announcement to affected individuals or the public, provided that Service Provider shall not make any such notification and/or announcement without TruBe’s prior written approval) and to prevent future breaches; and
  - 15.4.4. otherwise provide such information as TruBe may reasonably require in order to make any notification or announcement as referred to above.
- 15.5. The Service Provider shall not ask the User to provide any User personal information, other than the Health Information or to confirm the User Details.
- 15.6. The Service Provider shall promptly co-operate in relation to any data subject request that TruBe receives that relates to personal data of Users in the Service Providers possession or control.

## **16. GENERAL**

- 16.1. Headings in these terms are for convenience only and will have no legal meaning or effect.
- 16.2. This Agreement constitutes the entire agreement and understanding of the parties relating to the subject matter of this Agreement and supersedes any previous agreement or understanding between the parties in relation to such subject matter.
- 16.3. In no event will any delay, failure or omission (in whole or in part) in enforcing, exercising or pursuing any right, power, privilege, claim or remedy conferred by or arising under this Agreement or by law, be deemed to be or construed as a waiver of that or any other right, power, privilege, claim or remedy in respect of the circumstances in question, or operate so as to bar the enforcement of that, or any other right, power, privilege, claim or remedy, in any other instance at any time or times subsequently.
- 16.4. Each party undertakes that it will not at any time hereafter use, divulge or communicate to any person, except to its professional representatives or advisers or as may be required by law or any legal or regulatory authority, any confidential information concerning the business or affairs of the other party which may have come to its knowledge (including the terms of this Agreement) and each of the parties shall use its reasonable endeavours to prevent the publication or disclosure of any confidential information concerning such matters.

- 16.5. Nothing in this Agreement:
- 16.5.1. is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including but not limited to the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power); or
  - 16.5.2. shall render the Service Provider (or any individual working for the Service Provider) an employee, worker, agent or partner of TruBe or any User. The Service Provider shall not hold itself out as such and shall procure that individuals working for the Service Provider do not hold themselves out as such.
- 16.6. A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to rely upon or enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from under that Act.
- 16.7. If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this Agreement which shall remain in full force and effect.
- 16.8. TruBe reserves the right, at its discretion, to make changes to any part of the App, Website, TruBe Service or this Agreement for legal, regulatory or security reasons or due to a change in market conditions which affects this Agreement. In the event of a change needed to this Agreement for such reasons, TruBe shall provide the Service Provider with details of the new Agreement. The Service Provider agrees that the Service Provider shall be bound by the new Agreement.
- 16.9. Except as permitted by Clause 16.8, no purported alteration or variation of this Agreement shall be effective unless it is in writing, refers specifically to this Agreement and is signed or otherwise accepted (for example, through the App) by each of the parties to this Agreement.
- 16.10. This Agreement shall be governed by the laws of England and Wales and each party irrevocably submits to the exclusive jurisdiction of the courts of England over any claim, dispute or matter arising under or in connection with this Agreement or its enforceability or the legal relationships established by this Agreement (including non-contractual disputes or claims).



**17. SERVICE PROVIDER DETAILS<sup>1</sup>**

Name and (if applicable) company name: [ ] **[Note to service provider: please specify whether you are acting as an individual, partnership or company]**

Registration number (if applicable): [ ]

Registered office or home address: [ ]

Email address: [ ]

Telephone number: [ ]

The parties hereby agree to be bound by this Agreement:

**SIGNED** by [SERVICE PROVIDER )  
NAME] ) Signature.....  
)  
)  
) Print Name.....  
  
Date.....

**SIGNED** by a signatory, duly )  
authorised on behalf of [SERVICE ) Signature.....  
PROVIDER COMPANY NAME] )  
)  
) Print Name.....  
  
Date.....

**SIGNED** by a signatory, duly )  
authorised ) Signature.....  
  
on behalf of **IWOO LIMITED** )  
)  
) Print Name.....  
  
Date.....

<sup>1</sup> Delete from this section onwards (including the signature blocks) when getting acceptance to these terms using app. This section and the signature blocks is only required where you are obtaining agreement signature.

