

## **I. GolfNow Standard Terms and Conditions for Products and Services.**

These Standard Terms and Conditions (the “**Terms**”) and any applicable Additional Terms shall apply to Client’s business relationship with GolfNow, LLC (“**GolfNow**”) and any subsidiary or affiliate of GolfNow. For purposes of these Terms, any reference to Client shall mean the legal entity listed as “**Client**” on the relevant Order Form or other similar sales agreement, including applicable addenda (collectively as the “**Order Form**”) between GolfNow and Client. Certain GolfNow products or services may also be subject to additional terms and conditions specific to those products or services as set forth below (the “**Additional Terms**”), including the following:

- SmartPlay Merchant Terms and Conditions;
- Answers Reservation Center Terms & Conditions;
- Full Swing Terms and Conditions;
- Toptracer Terms and Conditions;
- ClubBuy Terms and Conditions; and
- GolfNow Payments Merchant Services Agreement for Sub-Merchants.

These Terms and the Additional Terms shall be subject to and incorporate the terms and conditions of the Order Form (collectively referred to as the “**Agreement**”). Any capitalized terms used but not otherwise defined in these Terms shall have the respective meanings ascribed to them in the applicable Order Form.

The Agreement shall constitute a legally binding agreement by and between Client and GolfNow, and Client accepts and agrees to the terms of the Agreement by (1) clicking a box indicating acceptance or (2) executing an Order Form or other agreement that references these Terms. GolfNow, in its sole discretion, may modify or update these Terms from time to time, effective upon posting an updated version of these Terms on the GolfNow website. Client is responsible for regularly reviewing the Terms for such updates, and continued use of the GolfNow products and services after any such updates or modifications shall constitute Client’s consent to such changes. Client’s access and use of the applicable GolfNow products and services shall at all times be governed by the then current Terms.

**1. Term and Termination.** The Initial Term of this Agreement, along with any applicable Renewal Term, shall be for the period of time as set forth on the attached Order Form (the “**Term**”), and shall be non-cancellable except as provided herein. Either Party may immediately terminate this Agreement in the event that the other Party materially breaches this Agreement and fails to cure such breach within thirty (30) days’ written notice of such breach. Furthermore, GolfNow reserves the right to immediately suspend Client’s and/or its Users’ access to the Services in the event that either Client or a User, as the case may be, is in breach of this Agreement or engaged in any unauthorized conduct (including any violation of the terms of this Agreement or any applicable law or third party right). Upon termination of this Agreement, Client shall delete and return all Software (including all copies), and sign a statement certifying same. Client agrees and acknowledges that GolfNow has no obligation to retain the Client Data and shall, unless legally prohibited, delete such Client Data in its systems or otherwise in its possession or under its control following termination of the Agreement.

**2. GolfNow Services.** GolfNow shall provide the Products and/or Services (including any Software) set forth in the applicable Order Form (the “**Services**”). When applicable, GolfNow shall provide access to Client’s tee times through any of its branded websites and mobile apps (including but not limited to GolfNow.com and TeeOff.com), partner or affiliated websites, or any other distribution channel (the “**GolfNow Distribution Channels**”). Unless agreed upon otherwise, GolfNow shall apply the latest version of the GolfNow Services to the marketing and administration of Client tee times. GolfNow shall notify Client in advance in writing of any updates to the GolfNow Services and will provide appropriate training and/or materials to Client concerning all updates relating to the GolfNow Services in use by Client. Client shall provide GolfNow with access to all of the internal and external systems (including third party systems licensed to Client) necessary for GolfNow to provide the Services. Client shall honor all tee times reserved through the GolfNow Distribution Channels and shall treat all golfers originating from GolfNow Distribution Channels with proper courtesy and respect. Client shall make every effort to maintain its tee time inventory in the most up-to-date manner possible, with proper communication to GolfNow regarding changes in availability, golf course conditions, etc. The Parties shall work cooperatively to minimize double-bookings, cancellations and the like.

**3. GolfNow Software.** To the extent that GolfNow provides Client with any software under this Agreement, GolfNow grants Client a limited, non-exclusive, non-transferable license to utilize the software as set forth on the included Order Form (the “**Software**”). Subsequent enhancements, updates, including code corrections and fixes which correct problems with the Software, including any online user instructions and help files (“**Documentation**”), made available by GolfNow to all subscribing customers for the same offering will be made available to Client at no additional charge. However, any new applications, application modules or enhancements that are not offered generally by GolfNow as part of the purchased Software require renegotiation of terms. GolfNow reserves the right to require mandatory upgrades of the Software as may be necessary, as well as to require Client to utilize alternative and upgraded versions of the Software from time to time (at no extra charge to Client unless Client has consented thereto). This Agreement will apply to any application updates, upgrades and new modules or offerings subsequently provided by GolfNow to Client as part of any purchased Services. GolfNow will provide access, user identification and passwords to a reasonable number of designated Client employees, representatives, consultants, contractors or agents who are authorized to use the Services on behalf of Client (each a “**User**”). Client understands and acknowledges that all third-party vendors must have a written agreement with GolfNow in order to create any interface with the Software. If Client provides its own hardware (including peripheral equipment) for use with the Software, such hardware must meet or exceed GolfNow’s current technical specifications for purposes of compatibility with the Software.

**4. GolfNow-Owned Hardware.** To the extent that GolfNow has provided Client with any hardware (the “**Hardware**”), all such Hardware shall remain the property of GolfNow and shall be returned by Client to GolfNow within fourteen (14) days upon the earlier of: (i) termination of this Agreement; or (ii) expiration of the Term. In the event GolfNow provides Client with an iPad, GolfNow agrees to cover up to five gigabytes (5GB) of data per month during the Term of this Agreement (“**Data Limit**”) for each iPad issued. Should Client exceed the Data Limit, Client shall be responsible for any additional charges incurred as a result. Client assumes all risk of loss or damage to any Hardware. From time-to-time, GolfNow may, in its sole discretion, replace any Hardware or replacement parts provided to Client, and Client will cooperate and allow the installation of replacement Hardware or parts upon notice from GolfNow.

**5. Support and Training.** GolfNow shall provide Client appropriate levels of training (including access to remote training and on-line resources). Additional in-person training may be provided for an additional fee. Telephone and email support shall be provided to Client during normal business hours through GolfNow’s published phone numbers and email addresses.

**6. Connectivity.** Except as otherwise stated herein, Client will be solely responsible for the procurement, payment, and maintenance of all telephone and internet connectively necessary to utilize the applicable Hardware or Services. Client agrees that such connectivity will meet or exceed bandwidth requirements as may be provided by GolfNow, and that GolfNow shall not be responsible for any disruptions in Client’s use of the Hardware or Services caused by Client’s connectivity.

**7. Hardware and Software Configuration and Security.** Client agrees that, should the configuration of the Hardware or Software be altered (either by Client’s personnel or, upon Client’s written request, by GolfNow personnel) to allow unrestricted internet browsing or additional functionality, or Client uses the Hardware or Software to visit web sites that are not pre-approved by GolfNow, Client agrees that: (i) it does so at its own risk; (ii) it will pay for, reimburse GolfNow for and be liable for any resulting tangible or intangible damages, losses or injuries; (iii) all uptime obligations and warranties associated with the Hardware and Software will be voided; and (vi) it will be liable for and indemnify, defend and hold GolfNow harmless from any loss or damage resulting from such alterations or internet use, including but not limited to, actual or alleged data security breaches or the introduction of malware and viruses. GolfNow will, if requested by Client, provide repair and technical support services concerning such issues at its then-standard consulting rates. Client also agrees to reimburse GolfNow for all reasonable costs and expenses associated with such repair and technical support. Client will be responsible for maintaining security on its network at all times. GolfNow assumes no responsibility for viruses, malware or other issues that arise due to activity on Client’s network, and accepts no liability for the consequences of said activity, regardless of the ownership of the hardware residing on the network.

**8. Fees and Pricing.** Client’s payment to GolfNow shall be the “**Total Payment**” amount set forth on the relevant Order Form. If Client agrees to charge a Transaction Fee for rounds booked on Client’s website through a GolfNow booking engine, Client’s share of the Transaction Fee, as set forth in the Order Form, shall be net GolfNow’s costs (approximately 5%). For the avoidance of doubt, the Transaction Fees referenced in the Order Form do not include any convenience fees charged by GolfNow through GolfNow’s Distribution Channels. If applicable, Client shall have the right to approve the price and amount of all non-Trade Time inventory offered through GolfNow’s Distribution Channels. GolfNow shall receive tee times and rates at least as favorable to GolfNow as the most favorable tee times and rates offered or provided by Client to any other third-party distribution service or any third party with substantially similar features, functionality, or capabilities as those provided by GolfNow.

Client acknowledges and agrees that Client’s payment to GolfNow, whether cash or provision of Trade Time(s), is a material element of this Agreement. Due to this material element, in the event that Client does not comply with the payment requirements hereunder or otherwise breaches the terms of this Agreement (each a “**Non-Compliance Event**”), Client shall be required to pay the following fees to GolfNow: (1) For Products/Services being paid for via Trade Time(s): Five Hundred Dollars (\$500) per Product and/or Service, per Golf Course, per month for each month after the first instance of any Non-Compliance Event through either: (i) the cure of the Non-Compliance Event; or (ii) the end of the current Term, whichever is shorter; and (2) For Products/Services being paid for in cash: Client will be invoiced for the cash price owed to GolfNow for those Products/Services for the remainder of the Term, with payment being due within thirty (30) days of Client’s receipt of such invoice. Additional fees relating to Non-Compliance Events may apply for certain Products and/or Services such as Toptracer Range and Full Swing, or as otherwise set forth in the Order Form. For the avoidance of doubt, nothing in this section shall limit any rights or remedies available to GolfNow relating to a Non-Compliance Event.

Cash Payment Terms: GolfNow will invoice Client for all Products/Services for which Cash is the applicable payment method as indicated on the Order Form, and such invoices shall be payable within thirty (30) days of Client’s receipt (unless agreed upon otherwise in writing). In the event Client fails to make timely payment on an outstanding invoice, GolfNow reserves the right to suspend support and/or deactivate Client’s Products/Services until such time Client has paid in full. Any invoice one hundred twenty (120) or more days past due shall be considered a Non-Compliance Event and material breach for which GolfNow may immediately terminate the Agreement and disconnect the Products/Services, and the fees set forth in Section 8 shall apply. All Cash Payment pricing for GolfNow’s Products/Services are subject to, once per calendar year of the Term upon sixty (60) days’ notice to Client, an annual increase of the greater of five percent (5%) or the increase in the Consumer Price Index for Urban Consumers, as issued by the Bureau of Labor Statistics, U.S. Department of Labor, over the prior twelve (12) month period (“**CPI**”), applied on a cumulative year-over-year basis starting from the Effective Date of the applicable Order Form, unless and to the extent such Order Form sets forth different terms for annual Cash Payment increases.

For Clients receiving G1: Client acknowledges and agrees that Client’s use of the G1 Operating System requires Client’s adoption of GolfNow’s Booking Engine 5.0 (or later) and that Client charge a Transaction Fee on all rounds booked through the GolfNow Booking Engine, which Client shall split with GolfNow according to the terms of the Order Form.

## 9. Trade Time Definitions.

(i) **Trade Time with Rolling Terms:** A single 'Trade Time' is defined as four (4) individual 9-hole or 18-hole rounds (as applicable) (with or without cart), with player rule one to four (1-4), made available for sale by GolfNow for its own benefit. Each Trade Time shall be made available for sale beginning on the first day of the month and will be made available on subsequent days throughout the month until a maximum of thirty-one (31) Trade Times (or 124 individual 9-hole or 18-hole trade rounds) have been sold each month. Any Trade Time that 'rolls' to a subsequent day may be posted at any time during that day's Bookable Window, regardless of the Trade Load Time. GolfNow shall have the ability to sell Trade Times at a price that is at the discretion of GolfNow (except where mutually agreed upon otherwise). Trade Times shall be available for purchase on Client's website and GolfNow's Distribution Channels.

(ii) **Trade Time with Non-Rolling Terms:** A single 'Trade Time' is defined as four (4) individual 9-hole or 18-hole rounds (as applicable) (with or without cart), with player rule one to four (1-4), made available for sale by GolfNow for its own benefit. GolfNow shall have the ability to sell Trade Times at a price that is at the discretion of GolfNow (except where mutually agreed upon). Trade Times shall be available for purchase on Client's website and GolfNow's Distribution Channels.

(iii) **Trade Time Posting.** The tee times of the individual 9-hole or 18-hole rounds (as applicable) provided as Trade Times shall be posted during the Bookable Window (defined below), or at the specified Trade Load Time(s) set forth in the Order Form. "**Bookable Window**" shall mean any time throughout the day unless a specified Bookable Window is defined otherwise in the Order Form. For the avoidance of doubt, if the Order Form includes specified Trade Load Time(s), but not a defined Bookable Window, the applicable Bookable Window shall be any time throughout the day. In addition to the above, GolfNow may also offer Trade Times for sale as "Pay Now & Save" tee times at any time throughout the Bookable Window. For the avoidance of doubt, once a Trade Time has been sold as a "Pay Now & Save," it will be removed from the applicable Trade Load Time or Bookable Window.

(iv) **Smart Trade (TeeOff.com only):** If noted on the Order Form, GolfNow may employ the "Smart Trade" system for selling Trade Times, whereby the tee time inventory shall include "auto-switching" the Trade Time inventory from floating time slots to a fixed time slot if the target window becomes more than 80% booked.

(v) **Availability.** In the event a Trade Time (full or partial), Trade Load Time, or Bookable Window becomes unavailable on a given day for any reason, including but not limited to weather, a scheduled outing/event, over-seeding, course maintenance, or the tee time was sold by Client outside of GolfNow's Distribution Channels, GolfNow may re-post the applicable Trade Times or individual tee times at any available time(s) during the Bookable Window on either the same day or earlier/subsequent date(s).

**10. Trade Over-Sell.** In the event that GolfNow inadvertently oversells trade rounds due to a technology or interface error, GolfNow shall block future trade rounds to make up for such oversell. If the oversold rounds are valued at more than One Thousand Dollars (\$1,000), GolfNow agrees to issue a refund check to Client. For the avoidance of doubt, if the oversold rounds are valued at less than One Thousand Dollars (\$1,000), GolfNow shall reimburse Client via future blocked trade rounds.

**11. Acceptable Use.** Client shall use the Services in accordance with the Documentation and this Agreement for purposes of operating its business and not for further resale or distribution. Client shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Services available to any third party (other than Users and Client End Users as expressly authorized by this Agreement); (ii) use the Services to collect, transmit or process (a) infringing, offensive, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or violates third party privacy rights; or (b) send, store, publish, post, upload or otherwise transmit any viruses, Trojan horses, worms, time bombs, corrupted files or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any systems, data, personal information or property of another; (iii) interfere with or disrupt the integrity or performance of the Services or any of GolfNow's and/or its licensors' proprietary technology, including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs, the Documentation, training materials, templates, and other tangible or intangible technical material or information and any components thereof, used by GolfNow or its third party licensors and providers to provide the Services (referred to herein as "**GolfNow Technology**"); or (iv) attempt to gain unauthorized access to the GolfNow Technology or Services; (v) use or knowingly permit the use of any security testing tools in order to probe, scan or attempt to penetrate or ascertain the security of the Services or the GolfNow Technology; (vi) access the Software or GolfNow Technology for the purpose of building a similar or competitive offering; (vii) copy, translate, create a derivative work of, reverse engineer, reverse assemble, disassemble, or decompile the Services or GolfNow Technology or any part thereof or otherwise attempt to discover any source code or modify the Services or GolfNow Technology. Client shall: (i) notify GolfNow customer support as promptly as practicable by email, fax or telephone of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to GolfNow as promptly as practicable and use reasonable efforts to stop immediately any copying or distribution of any Client proprietary information or Client Data that is known or suspected by Client or Users through the Services; and (iii) not impersonate another User or provide false identity information to gain access to or use the Services. Client is responsible for all its Users' compliance with this Agreement, for charges incurred by its Users under Client's account, and for using commercially reasonable efforts to ensure that its Users maintain the confidentiality of their passwords and user names. Certain editions of the Services offer integration capabilities via an application programming interface, or API. The number of API calls Client can make per account at no additional charge is limited (excluding calls resulting from use of GolfNow End User applications, golfnow.com, and GolfNow-certified applications) to an aggregate maximum of two hundred thousand (200,000) calls/day/account. Calls to the API that exceed the daily maximums in the preceding sentence may require payment of additional charges.

**12. End Users; Privacy Policies and Terms of Use.** End users of the Services shall be either: (1) GolfNow account holders who interact with Client via their GolfNow account ("**GolfNow Account User(s)**"; e.g. Golfer who uses their GolfNow account to reserve tee time through a GolfNow Booking Engine on Client's website); or (2) any other individual or company who interacts with the Services for purposes of conducting business with Client ("**Client End User(s)**") (collectively, "**End User(s)**"). Client acknowledges and agrees that Client shall be solely responsible

for establishing and enforcing the terms and conditions under which Client End Users interact with portions of the Services controlled by Client (e.g. Client's websites or point-of-sale systems). Client will at all times during the Term: (a) maintain a privacy policy and terms of use that are consistent with applicable laws and industry best practices (as determined by reference to the practices of other consumer-oriented websites and the promulgations of applicable industry standards bodies); (b) make such policy and terms of use easily accessible to Client End Users and otherwise in compliance with all applicable laws, including but not limited to the California Consumer Privacy Act ("**CCPA**"); and (c) comply with such policy and terms of use. No End User shall be deemed a third-party beneficiary of this Agreement. Client shall not make any warranties, representations or commitments to Client End Users which would: (i) imply an endorsement by GolfNow; (ii) purport to bind GolfNow to any legal obligations owed by Client to the Client End User; or (iii) entitle any End User to enforce the terms of this Agreement against GolfNow. Notwithstanding the foregoing, GolfNow shall be entitled to make its own privacy policy and terms of use available to GolfNow Account Users on the Services, and Client shall not take any actions that would diminish the accessibility of such policy or terms.

### 13. Ownership of Data.

#### (i) Definitions.

(a) "**Applicable Law**" means all applicable laws, rules, regulations, rulings, judgments, directives, or other requirements of any governmental authority in any country or jurisdiction, as may be amended or otherwise revised from time to time and all applicable, current industry self-regulatory principles, including but not limited to the CAN-SPAM, TCPA, and Privacy Laws.

(b) "**Personal Data**" means any information that relates to an individual and that, alone or in combination with other data, can be used to identify, contact, or precisely locate an individual, or other information that constitutes "personal data" or "personal information" under Privacy Laws.

(c) "**Privacy Laws**" means all Applicable Laws and third-party platforms restrictions relating to the Processing of Personal Data, privacy and security that may exist in any relevant jurisdiction, including but not limited to CCPA and GDPR.

(d) "**Process**", "**Processing**" and words of similar nature mean using, accessing, storing, securing, sharing, disclosing, altering, destroying and deleting Personal Data and other actions as set forth in the applicable Privacy Laws.

(ii) **Client Data.** As used herein, "**Client Data**" shall mean any data, information, or material provided or submitted to the Services by Client, Client End Users, or Client's customers, personnel, and business contacts, including any Personal Data thereof (e.g. name, address, phone number, email address, credit card information, purchases, or preferences) ("**Client Personal Data**"), in the course of Client's use of the Services. The Parties acknowledge and agree that GolfNow shall act as a service provider for any Client Personal Data processed by GolfNow through its provision of the Services. Where this is the case, GolfNow shall collect, retain, use, disclose, and otherwise process Client Personal Data (including personal information as defined under the applicable law) solely to fulfill its obligations to Client under this Agreement on Client's behalf, for Client's operational purposes, for GolfNow's own operational purposes, for other notified purposes, and for no other purposes. GolfNow shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Client Data where such deletion, correction, destruction, damage, loss or failure to store is initiated by or caused by Client or its Users, or Client End Users. Client agrees that GolfNow may process Client Personal Data to generate non-personally identifiable information by means of aggregation or de-identification, and to use and disclose that data, along with, on an aggregate basis and so long as no such use specifically identifies Client, any Client Data relating to Client's usage of the Services (e.g., general usage data; yield, utilization, rate, rounds, or pace; anonymous survey results) (collectively, "**Aggregated Data**"), for its own commercial purposes during or after the term of this Agreement. GolfNow shall not sell Client Personal Data or otherwise disclose Client Personal Data for a commercial purpose. Client retains ownership of Client Data, whether obtained prior to or during the Term of this Agreement. For the avoidance of doubt, Aggregated Data shall not be considered Client Data or Client Personal Data.

(ii) **GolfNow Account Data and Shared Data.** GolfNow shall own the rights to all Personal Data collected by GolfNow directly from GolfNow Account Users on GolfNow-operated sites and services or through the Services provided to Client, including, but not limited to, name, phone number, login credentials, tee times, requests for amenities such as food orders, information about other golfers, and other profile information (collectively, "**GolfNow Account Data**"). When applicable, GolfNow shall provide Client with the portions of GolfNow Account Data necessary to enable GolfNow Account Users to interact with Client through the Services and for Client to fulfill certain golfer transactions made through the Services (e.g., golfer name, phone number, and tee time for GolfNow.com bookings; golfer name and food order for SmartPlay order; and golfer contact information to set up a profile for future bookings through GolfNow Booking Engines). Except as otherwise provided in this Agreement, GolfNow and Client, with respect to the portion of the GolfNow Account Data that Client may receive from GolfNow, each Client and GolfNow will independently own such data (the "**Shared Data**"), provided, however, Client shall not "sell" Shared Data as "sell" is defined under applicable Privacy Laws, including but not limited to the CCPA. Client represents and warrants that Client will comply with all Applicable Law, including but not limited to CAN-SPAM, CIPA, TCPA, Telemarketing Sales Rule, CCPA, and/or any other similar Privacy Laws, with respect to (i) any and all Client Personal Data and Shared Data; and (ii) Client's use of Client Personal Data and Shared Data in conjunction with the Services, including but not limited to Client's distribution of marketing communications (via e-mail, text message, or otherwise) through the Services, whether by Client directly or by GolfNow on Client's behalf or at Client's direction. Client shall comply with its obligations as a "business" or "controller" under applicable law, including the CCPA for all Client Personal Data and Shared Data.

14. **Data Security.** Industry standards have been set by the Payment Card Industry Data Security Standards ("**PCI Standards**") for protection of customer information. GolfNow and Client both represent and warrant that they will comply with PCI Standards during the entire Term of this Agreement and thereafter with respect to customer Personal Data accumulated during the Term, and further agree to adhere to all other applicable standards, laws, rules, and regulations for protection of customer Personal Data to which they have access during the entire Term of this Agreement. GolfNow agrees that it will use systems, tools and security and take commercially reasonable steps to ensure Client Personal Data hosted by GolfNow is not accessed, redistributed, duplicated, or modified. GolfNow shall be free to provide certain required levels of access to contracted third party vendors that may need access to such data in order to provide the Services.

**15. Websites and Mobile Apps.** In the event that GolfNow provides Client with a custom Website or Mobile App (the “**Websites & Apps**”) as part of the Services, Client acknowledges and agrees that Client, and not GolfNow, shall be responsible for: (i) any and all content (i.e., images, video, text, etc.) and third-party links, including any social media accounts or activity (i.e. Facebook, Twitter, YouTube, etc.), uploaded and/or published to the Websites & Apps by Client directly or provided to GolfNow for upload and/or publishing on Client’s behalf; (ii) any and all additions, deletions, edits, or changes made to the Websites & Apps by Client directly or by GolfNow at Client’s direction; (iii) the accessibility to disabled persons of any and all content (i.e., images, video, text, etc.), third-party links, or third-party features, services, or functionality uploaded or published to, or included in, the Websites & Apps by Client directly or by GolfNow at Client’s direction; (iv) any and all representations made to End Users by Client through the Websites & Apps; (v) any and all communications between Client and End Users made or initiated through the Websites & Apps; (vi) any and all products/services of Client offered or advertised through the Websites & Apps; and (vii) any and all third-party software or services utilized by Client relating to the Websites & Apps not provided by GolfNow. Pursuant to Section 12 above, Client, and not GolfNow, shall be responsible for providing the privacy policy and terms of use for Client’s Website(s), which shall be separate and distinct from GolfNow’s privacy policy and terms of use applicable to the Mobile Apps and GolfNow Account Users. Client acknowledges and agrees that the Websites & Apps are part of the Services licensed to Client for the Term of the Agreement, and that upon termination of the Agreement, the Websites & Apps, and any other services relating to the Websites & Apps provided by GolfNow, including but not limited to domain name, hosting, and email, will be immediately taken down and/or turned off, along with Client’s access to the Websites & Apps and any related services. Unless agreed upon otherwise, all content created by GolfNow for the Websites & Apps shall remain the property of GolfNow and may not be used by Client following the termination of this Agreement. Client is solely responsible for creating copies or backups of all Client-owned content or data from the Websites & Apps prior to termination, and in no event shall GolfNow be responsible for the loss of any of Client’s data following the termination of this Agreement. For purposes of this Section, “Client” shall include any Users, employees, vendors, agents and other personnel of Client.

**16. Intellectual Property.**

(i) **Client Intellectual Property Rights.** Client hereby grants GolfNow during the Term a revocable, limited, non-exclusive, royalty-free, worldwide license to use certain materials provided by Client, including but not limited to golf course information, logos, branding, images, and video (the “**Client Materials**”), as may be necessary for GolfNow to: (i) provide the Services to Client; (ii) aggregate Client usage data as set forth above; and (iii) to promote Client and provide the marketing services contemplated herein. Client retains all right, title and interest, including all related intellectual property rights, in and to the Client Materials. Client represents and warrants that any Client Materials provided to GolfNow and/or, if applicable, uploaded to Client’s Websites & Apps during the Term will be fully cleared (e.g. for copyrights, rights of publicity, etc.) for commercial use in all mediums (including, without limitation, on the internet, in print, and via mobile distribution channels).

(ii) **GolfNow Intellectual Property Rights.** GolfNow and its licensors retain all right, title and interest, including all related intellectual property rights, in and to the GolfNow Services, Software, Technology, and Documentation. This Agreement is not a sale and does not convey to Client any rights of ownership in or related to the GolfNow Products, Services, Software, or Technology. Any GolfNow-related names, logos, and the product or service names associated with the Services are trademarks of GolfNow or its licensors or other affiliated third parties, and no right or license shall be deemed granted to use them to Client, any End User, or any other third party without the prior, express written consent of GolfNow. GolfNow shall be free to use or incorporate and permit its third party licensors to use or incorporate into the GolfNow Technology and/or Services any suggestions, enhancement requests, recommendations or other feedback provided by Client and End Users relating to the GolfNow Services, and all such recommendations shall be free from any confidentiality restrictions that might otherwise be imposed upon GolfNow hereunder, all of which once incorporated shall be the sole and exclusive property of GolfNow and its licensors.

**17. Confidentiality.**

(i) **Definition.** “Confidential Information” means all non-public information of a Party (“Disclosing Party”) disclosed to the other Party under this Agreement (“Receiving Party”), whether orally or in writing and whether or not designated as confidential at the time of disclosure, including without limitation the terms and conditions of this Agreement (including pricing and other terms), business information, specifications, research, software (in the case of GolfNow, including but not limited to, the GolfNow Technology, flow of screens, and Documentation), trade secrets, designs, drawings, flow charts, data, computer programs, marketing plans, budget figures, and other financial and business information of the Disclosing Party, and Client Data.

(ii) **Treatment of Confidential Information.** Except with the Disclosing Party’s permission, the Receiving Party shall not use any Confidential Information of the Disclosing Party for any purpose other the performance of the Receiving Party’s obligations under this Agreement, and shall not disclose the Confidential Information to any third party other than its contractors or authorized representatives who are subject to binding obligations of confidence substantially similar to those set forth in this Agreement and solely for the purposes of this Agreement.

(iii) **Permitted Disclosure.** The obligation of nondisclosure set forth herein shall not apply to any Confidential Information that: (a) is or becomes publicly available without a breach of any obligation owed to the Disclosing Party, including, by way of example but not limitation, the posting of Client materials or Client Data by Client, Users or End Users on any publicly-available portions of the Services; (b) is already known to the Receiving Party at the time of its disclosure by the Disclosing Party, without a breach of any obligation owed to the Disclosing Party; (c) following its disclosure to the Receiving Party, is received by the Receiving Party from a third party without breach of any obligation owed to the Disclosing Party; or (d) is independently developed by the Receiving Party without reference to or use of the Disclosing Party’s Confidential Information (except for patentable subject matter, which shall not be subject to this exception); or (e) the Receiving Party is required to disclose by any applicable law, by any rule or regulation of any court or government agency of competent jurisdiction, or pursuant to legal process; provided that the Receiving Party provides the Disclosing Party with prompt written notice of the requirement to disclose, reasonable assistance in the opposing or limiting of such disclosure and limits such disclosure to that strictly required by such court, government agency or legal process; (f) is a permitted aggregation of data.

(iv) **Injunctive Relief.** The Parties agree that any unauthorized disclosure of Confidential Information may cause immediate and irreparable injury to the Disclosing Party and that, in the event of such breach, the Disclosing Party will be entitled, in addition to any other available remedies, to immediate injunctive and other equitable relief, without bond and without the necessity of showing actual monetary

damages. Notwithstanding the foregoing, Client irrevocably waives any right to enjoin or restrain the operation of the GolfNow Software, Services, or Technology as a whole, or GolfNow's, its providers', or its customers' use of any content or other material used or displayed through the Services other than Client's Confidential Information.

**18. Limited Warranties and Remedies; Disclaimers.** Both Parties represent and warrant that: (a) they have the authority to enter into this Agreement and that their signatories are duly authorized and empowered to sign this Agreement on their behalf; and (b) they will comply with all applicable laws, ordinances, statutes, regulations and rules, and that they have the power to settle fully and completely all claims, causes of action, demands, charges and liabilities arising out of or relating to this Agreement. Client represents and warrants to GolfNow that any intellectual property provided to GolfNow by Client (including without limitation, any photographs, drawings, or works of art) do not violate the rights of any third party. GolfNow will provide the Services in a professional and workmanlike manner and free from any unreasonable defects, and GolfNow will use all reasonable means to fix any defect in the Services that may arise. GolfNow will provide Client with training on how to use the Services and provide support as needed by Client. Notwithstanding the foregoing, in the event that Client creates its own content and/or software, and/or utilizes third party software to deliver services to the Client's users, such content and software or services are not included within this Limited Warranty and GolfNow is not responsible for any damages or remedies of any kind in connection with Client's content and/or use of such software or services. GolfNow shall notify Client in advance of any updates to the Services and will provide appropriate training and/or materials to Client concerning all updates. Client and its authorized users shall use the Software and Services only in accordance with this Agreement. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER GOLFNOW NOR ITS PROVIDERS MAKE ANY REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE GOLFNOW SERVICES, SOFTWARE, OR TECHNOLOGY. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER GOLFNOW NOR ITS PROVIDERS REPRESENT OR WARRANT THAT (A) THE USE OF THE GOLFNOW SOFTWARE, SERVICES OR TECHNOLOGY WILL BE UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE GOLFNOW SOFTWARE, SERVICES, OR TECHNOLOGY WILL MEET CLIENT'S OR END USERS' REQUIREMENTS OR EXPECTATIONS, OR (C) THE GOLFNOW SOFTWARE, SERVICES, OR TECHNOLOGY THAT MAKE THE SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, SO LONG AS GOLFNOW HAS TAKEN REASONABLE STEPS TO SAFEGUARD AGAINST SUCH VIRUSES OR OTHER HARMFUL COMPONENTS. EXCEPT AS EXPRESSLY SET FORTH ABOVE, THE GOLFNOW SOFTWARE, SERVICES, AND TECHNOLOGY IS PROVIDED TO CLIENT STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND IMPLIED OR STATUTORY WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY GOLFNOW AND ITS PROVIDERS. With respect to malfunctioning Software, GOLFNOW'S entire liability and Client's exclusive remedy shall be the repair/replacement of the Software.

**19. Limitation of Liability.** EXCEPT FOR THIRD PARTY LIABILITIES AND EACH PARTY'S INDEMNIFICATION OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY DAMAGES BASED ON LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION OR LOSS OF DATA), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATIONS SHALL APPLY REGARDLESS OF THE CAUSE OR THE FORM OF ACTION (WHETHER BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE). IN NO EVENT SHALL GOLFNOW'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT PAID OR OWED BY CLIENT HEREUNDER (WHICHEVER IS GREATER) OR, WITH RESPECT TO ANY SINGLE INCIDENT, THE AMOUNT PAID BY CLIENT HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT. THE FOREGOING SHALL NOT LIMIT CLIENT'S PAYMENT OBLIGATIONS UNDER THE TOTAL PAYMENT SECTION OF THE ORDER FORM.

**20. Indemnification.**

(i) **By Client.** Client shall indemnify, defend, and hold harmless GolfNow, LLC and its parents, affiliates, officers, directors, employees, contractors, vendors, agents, and representatives, (collectively, the "**GolfNow Indemnified Parties**"), from any and all claims, demands, actions, suits, investigations, proceedings, damages, losses and liabilities, including reasonable attorney's fees and expenses (collectively, "**Losses**") as incurred, arising from or related to any third-party claim (a) that any materials provided to GolfNow by Client, or utilized by Client in its use of the GolfNow Services infringe, misappropriate, or otherwise violate or conflict with applicable law or any third-party's intellectual property rights or rights of privacy or publicity; or (b) to the extent arising from or relating to (i) the breach of Client's obligations, representations, or warranties under this Agreement, including any third-party claim alleging any act, omission, or fact that constitutes a breach; (ii) any death, personal injury, bodily injury to persons, or damage to property caused by Client or occurring at Client's Golf Course(s); (iii) any dispute between Client and a customer/golfer, including in connection with the customer/golfer's experience at Client's Golf Course(s), without regard for the basis of such claim; (iv) any negligence or willful misconduct of Client or Client's employees, vendors, agents or other personnel; and (v) the Client Data and/or Client's Websites & Apps (as defined in Section 15), to the extent such Losses are not a result of GolfNow's negligence.

(ii) **By GolfNow.** GolfNow agrees to defend, indemnify, and hold harmless Client, its parents, affiliates, officers, directors, partners, employees, contractors, vendors, guests, volunteers, agents, and representatives from and against all Losses arising out of or resulting from any act undertaken or committed by GolfNow, or any contractors hired or engaged by GolfNow, in connection with the performance of GolfNow's obligations under this Agreement. GolfNow also agrees to defend, indemnify, and hold harmless Client from any liability resulting from any claim, action or cause of action which may be asserted by third-parties arising out of the performance of the GolfNow's obligations pursuant to this Agreement, except those actions or liabilities which are due to the misconduct or negligence of Client.

**21. Insurance.** Client acknowledges and agrees that it will at all times during the Term and at its own expense, keep in full force and effect the following insurance coverages: (i) commercial general liability insurance for limits of not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and property damage, product liability, personal and advertising injury and completed operations liability; and (ii) worker's compensation insurance in compliance with applicable law; (iii) employers' liability insurance with a limit not less than One Million Dollars (\$1,000,000.00); and (iv) property insurance on an "all risk" basis with replacement cost coverage for property and equipment in care, custody, and control of the insured. GolfNow, LLC must be listed as an "additional insured" on the policies described above. Promptly after signing this

Agreement, Client will deliver to GolfNow certificates of insurance for the required coverage. All required insurance will be placed with carriers rated no lower than A-VII in the most current edition of AM Best's Property Casualty Key Rating Guide and will provide thirty (30) days' written notice of cancellation or non-renewal, which notice shall be provided in accordance with these Terms. The stipulated limits of coverage will not be construed as a limitation of any potential liability to GolfNow. Failure to request evidence of insurance is not a waiver of Client's obligation to obtain the required insurance.

**22. Dispute Resolution.** This Agreement shall be governed, interpreted and construed under the laws of the United States and the State of Florida without regard to any conflict of law principles. The Parties shall act in good faith and use commercially reasonable efforts to promptly resolve any claim, dispute, controversy or disagreement (each a "**Dispute**") between the Parties under or related to this Agreement. Any Dispute arising out of this Agreement which cannot be resolved by the Parties shall be governed exclusively by binding arbitration initiated and conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association, conducted in the Orlando, Florida, metropolitan area. The arbitrator shall have the power to award reasonable attorneys' fees and costs to the prevailing Party in any arbitration, and either Party shall have the right to take appropriate action to enforce any arbitration award in any court having jurisdiction over the applicable Party.

**23. Binding Nature; Assignment.** This Agreement shall be binding upon GolfNow and Client, and their respective successors and assigns; provided, however, that neither Party shall assign this Agreement or any of its rights or obligations hereunder, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, without Client's consent, GolfNow may assign all or part of its rights and obligations under this Agreement to: (i) any of its divisions, affiliates or subsidiaries; (ii) its parent company; or (iii) any of its parent company's divisions, affiliates, or subsidiaries. A sale of substantially all of the stock or assets of a Party, or the reorganization or merger of a Party, shall not constitute an assignment of this Agreement. Any assignment or transfer in violation of this Section shall be void and of no force or effect. Any subcontractors retained by GolfNow to perform certain obligations hereunder shall be bound by and their actions are governed by this Agreement as if GolfNow itself was performing such obligations.

**24. Export Control.** Client and GolfNow agree, in connection with Client's use of the Services, to comply with all applicable export and re-export laws and regulations. GolfNow makes no representation that the Software or Services is appropriate, will comply with applicable laws, or available for use in locations other than the United States of America.

**25. Taxes.** Client represents and warrants that it will be responsible for the payment of all taxes it may incur in connection with the performance of this Agreement or use of GolfNow Services. Client will indemnify, defend and hold GolfNow harmless from any liability incurred by GolfNow in connection with Client's failure to comply with this Taxes provision.

**(i) Sale of Tee Times or Other Items to End Users:** With regard to the sale by Client of tee times or other taxable items directly to an End User through or in connection with services provided by GolfNow under this contract, Client will, as required by applicable laws, collect and remit all applicable taxes relating to consideration paid by End Users directly to Client. GolfNow will collect and remit all applicable taxes relating to consideration paid directly to it by End Users.

**(ii) Barter for or Cash Purchase of GolfNow Services by Client:** The license by Client of some or all of GolfNow Services (including software) under this contract may be subject to sales or use tax in the state(s) in which Client operates. GolfNow recognizes that the value to Client of its Services, including software solutions provided under this contract, lies principally in the provision of access to and effective execution within the market created by GolfNow. Client and GolfNow agree that the consideration due from Client to GolfNow under this contract that is applicable to software equals the lesser of twenty percent (20%) of the total remuneration collected by GolfNow from End Users for Tee Times (or cash from Client) under the contract or \$2,500 ("The Allocation") calculated on a per account (not per course) basis. To the extent that the state(s) in which Client operates impose tax on the license of software provided through this contract, tax will be computed on The Allocation, and will be payable by Client to GolfNow for remittance to the appropriate tax authority.

**26. Survival.** Sections 1, 16-20, 22, 25 and 26 shall survive notwithstanding the expiration or termination of this Agreement.

**27. Miscellaneous.** This Agreement shall constitute the entire understanding of the Parties with respect to the subject matter hereof and supersedes any and all prior understandings and agreements, written or oral, relating thereto between Client and GolfNow. Additionally, this Agreement shall terminate and supersede any and all prior Order Form(s) entered into between Client and GolfNow regarding the Golf Course(s) and Products/Services listed herein. For the avoidance of doubt, this Agreement shall not terminate and/or supersede any non-Order Form agreements between Client and GolfNow or any prior Order Form(s) or other agreement(s) between Client and GolfNow relating to golf courses not listed in this Agreement. The Parties acknowledge and represent that they have carefully read and fully understand all of the terms and conditions set forth in this Agreement. The Parties further acknowledge and represent that they enter into this Agreement freely, knowingly and without coercion and based on their own judgment and investigation of this matter, and not in reliance upon any representations or promises made by any Party, its attorneys, or its agents. The Parties hereby acknowledge and agree that GolfNow is an independent contractor and not an employee, agent, joint venturer or partner of Client or any of its affiliates. Nothing in this Agreement shall be interpreted or construed as creating or establishing a joint venture, partnership, employment, or agency relationship among any of the Parties as a result of this Agreement. The headings in this Agreement are intended for convenience of reference and shall not affect its interpretation. None of the Parties shall have any power to obligate or right to bind any other Party. This Agreement may be executed in one or more counterparts, with electronic exchange of signatures (e.g., pdf and DocuSign) sufficient to bind the Parties. Notices of either Party as required herein shall be sent to the addresses provided in the attached Order Form.

## II. Additional Terms.

The following Additional Terms shall govern Client's purchase and use of the associated product and/or service and are expressly incorporated into the Agreement between GolfNow and Client when applicable. These Additional Terms will not change or replace the Standard Terms and Conditions or any other Terms of the Agreement unless expressly stated otherwise. Any capitalized terms not defined in these Additional Terms shall have the same meaning as set forth in the Agreement and in the event of an express conflict between these Additional Terms and the Agreement, the Additional Terms shall control.

### A. SmartPlay Merchant Terms and Conditions.

These SmartPlay Merchant Terms and Conditions ("**SmartPlay Terms**") shall govern GolfNow's provision of the SmartPlay Services (as defined below) to Merchant and are expressly incorporated into and made a part of the applicable Agreement between GolfNow and Merchant. For purposes of these SmartPlay Terms, "GolfNow" shall refer to GolfNow, LLC and "Merchant" shall mean the legal entity listed as "Client" on the applicable Order Form between GolfNow and Merchant.

#### 1. SmartPlay Technology.

If selected on the Order Form, GolfNow will enable GolfNow's proprietary SmartPlay technology services to facilitate the marketing, sale, and fulfillment of orders for food, beverages and other products ("**Items**") to Customers at Merchant's Golf Courses through the GolfNow mobile app and other GolfNow platforms at GolfNow's discretion (collectively, the "**GolfNow App**") (the "**SmartPlay Services**"). For the avoidance of doubt, "**Customers**" shall refer to end users of the GolfNow App utilizing the SmartPlay Services at Merchant's Golf Courses. Merchant acknowledges the SmartPlay Services at all times require Merchant's use of GolfNow's G1 and GolfNow Payments products/services, which are subject to additional terms and conditions under the Agreement. If at any point during the Term Merchant ceases its use of either G1 or GolfNow Payments, GolfNow may immediately suspend or terminate the SmartPlay Services.

#### 2. GolfNow Obligations.

**2.1 SmartPlay Services.** Subject to the Agreement and these SmartPlay Terms, GolfNow shall provide the SmartPlay Services to Merchant solely for use at the Golf Courses specified in the relevant Order Form. For the avoidance of doubt, as between Merchant and GolfNow, GolfNow will retain sole and absolute control over the SmartPlay Services (and all related elements of the user experience and user interface within the GolfNow App), including: (i) the personalization of the SmartPlay Services for Customers (as defined below); (ii) the prioritization and display of options available to Customers; (iii) the functionality available to Customers within the GolfNow App; (iv) any transaction fees charged to Customers on purchases made through the SmartPlay Services; and (v) adding, removing, or otherwise modifying any feature or functionality made available through the SmartPlay Services or GolfNow App.

**2.2 No Delivery Services.** For the avoidance of doubt, the SmartPlay Services do not include, and GolfNow will not perform or in any way provide for, the delivery of any Items. Merchant and Merchant's Golf Courses, pursuant to Section 4 below, will at all times be solely responsible for the delivery of Items purchased by Customers through the SmartPlay Services ("**Delivery Services**"), and GolfNow will not be liable or responsible for any Items or deliveries, or any errors or misrepresentations relating to any Items or deliveries.

#### 3. Merchant Obligations.

**3.1 Items for Purchase.** Merchant agrees to make Items available to Customers for purchase during its normal business hours. Merchant will prepare, handle, store, and deliver all Items in accordance with all applicable laws and regulations, including without limitation all laws, rules, and regulations (i) governing time or temperature controls required for food safety ("**Food Safety Standards**"); and (ii) relating to the sale and/or service of alcohol. Merchant will solely determine the quality, portion, size, ingredients, or other criteria applicable to any Items ("**Criteria**") and Merchant is solely responsible for ensuring all Items meet the applicable Criteria. For the avoidance of doubt, the selection of Items made available to Customers through the SmartPlay Services will be at Merchant's discretion; however, in the event Merchant fails to make any Items available, Merchant will be in breach of the Agreement and GolfNow may suspend the SmartPlay Services until such Items are posted for sale.

**3.2 Item Responsibility.** Merchant acknowledges and agrees that GolfNow will not take title to any Item at any time. Additionally, Merchant shall be responsible for any reimbursement costs related to Customer refunds relating to Items or any other issue within Merchant's control. For the avoidance of doubt, all items sold to Customers through the SmartPlay Services shall be sold under Merchant's retail and food delivery licenses, including but not limited to any alcohol-related licenses.

**3.3 Item Order Support.** Merchant is solely responsible for providing all Customer support for Merchant's Items sold through the SmartPlay Services, including support for delivery, and Merchant will provide GolfNow with a customer service phone number that GolfNow will display in the GolfNow App so that Customers may direct their support inquiries to Merchant. Merchant will at all times during the Term be solely responsible for resolving all complaints and issues raised relating to: (i) Items purchased through the SmartPlay Services; and (ii) Merchant's Delivery Services (as defined below), and will accept and respond to all customer service inquiries.

**3.4 Item Pricing; Taxes.** Merchant shall be solely responsible for setting the retail price for each Item to be offered for sale through the SmartPlay Services (the "**Retail Price**"). Merchant is the "retailer" or "seller" of all Items and is solely responsible for the collection and remittance of all applicable Sales Taxes and other fees. The term "**Sales Tax**" includes any sales, sellers use, transaction privilege, privilege, general excise, gross receipts, Item taxes and similar transaction taxes. Unless expressly indicated otherwise, the Retail Price of each Item shall exclude Sales Tax or any other fees. Merchant is solely responsible for determining all applicable Sales Tax and other fees, and identifying and informing GolfNow of the appropriate Sales Tax and other fee amount for GolfNow to charge Customers on Merchant's behalf for Items available through the SmartPlay Services and GolfNow App. To the extent that applicable Sales Tax and other fees are not determined by Merchant, Merchant

expressly authorizes GolfNow to make such determination on its behalf and Merchant hereby acknowledges and agrees that GolfNow will have no liability for the accuracy of any such determination. Merchant expressly authorizes GolfNow, at Merchant's direction, to collect such Sales Taxes and other fees on Merchant's behalf.

Additionally, Merchant agrees that unless mutually agreed upon otherwise, the Retail Prices for all Items offered for sale by Merchant through the SmartPlay Services shall not be higher than the prices that Merchant and/or Merchant's Golf Courses charge for similar Items outside of the SmartPlay Services, including at Merchant's pro shops, restaurants, bars, and/or beverage carts.

**3.5 Restrictions.** In connection with the access to and use of the SmartPlay Services, Merchant will not (and will not allow any third party to): (i) reverse engineer or attempt to discover any source code or underlying ideas or algorithms used to provide the SmartPlay Services; (ii) provide, lease, lend, disclose, or otherwise use or allow any third-parties to use the SmartPlay Services (except as otherwise authorized by GolfNow); or (iii) possess or use, or allow the transfer, transmission, export, or re-export of any software or portion thereof in violation of any export control laws or regulations administered by the U.S. Commerce Department, U.S. Treasury Department's Office of Foreign Assets Control, or any other government agency. Merchant will not (and will not allow any third party to) use the SmartPlay Services or any other transactional, operational, performance or other data or information that is related to the sale of Items to Customers through directly or indirectly compete with GolfNow or its affiliates. The following restricted Items may not be featured or sold via the SmartPlay Services: illegal items, fragile items, dangerous items (like weapons, explosives, flammables, etc.), stolen goods, Items containing endangered species or any items that Merchant does not have permission to send.

#### **4. Delivery.**

**4.1 Provision of Delivery Services.** As between GolfNow and Merchant, Merchant acknowledges and agrees that: (a) Merchant will be solely responsible for determining the most effective, efficient and safe manner to perform each instance of Delivery Services; and (b) except for the SmartPlay Services technology, Merchant will provide all necessary equipment, tools, and other materials, at Merchant's expense, necessary to perform any Delivery Services. In the event Merchant collects any personal data from Customers in connection with the Delivery Services, including but not limited to location, signature, photo, or ID (as defined below) information, Merchant agrees not to use or retain such personal data other than purposes of fulfilling the Delivery Services.

**4.2 Delivery Personnel.** Merchant will have the sole responsibility for any obligations or liabilities to Delivery Personnel (as defined below) that arise from or relate to Merchant's relationship with the Delivery Personnel. Merchant acknowledges and agrees that Merchant exercises sole control over any employees, agents, or contractors performing the Delivery Services on behalf of Merchant ("**Delivery Personnel**") and that Merchant will comply with: (i) all applicable laws (including tax, gratuity, social security, and employment laws) and regulations applicable to Merchant's relationship with the Delivery Personnel; and (ii) industry best practice with respect to working conditions and compensation for Delivery Personnel, including but not limited to the distribution of any gratuities. Merchant further acknowledges and agrees that Merchant will at all times during the Term be responsible and liable for the acts and omissions of its Delivery Personnel with respect to Customers, GolfNow, and third-parties.

**4.3 Relationship with Customers.** GolfNow and its affiliates shall not be responsible or liable for the actions or inactions of Customer(s) in relation to any of Merchant's activities, including the Delivery Services. Merchant acknowledges and agrees that: (i) Merchant will have the sole responsibility for any obligations or liabilities to Customers or other third-parties that arise from or relate to Merchant's provision of the Delivery Services.

**4.4 Delivery Area and Timing.** Unless agreed upon by the Parties otherwise, GolfNow shall determine the geographic area in which the Delivery Services will be available ("**Delivery Area**"), and GolfNow (or Merchant upon notice to GolfNow) may limit the Delivery Area with respect to adverse events such as inclement weather or poor driving conditions to ensure safe and reliable Delivery Services. Merchant acknowledges that GolfNow will use the Delivery Area to limit the Merchant's ability to sell Items only to potential Customer who request delivery within the Delivery Area through the SmartPlay Services. Merchant shall provide GolfNow with projected timelines for the preparation of Item orders so that GolfNow may determine and display estimated time for delivery that may be displayed to Customers within the GolfNow App.

**4.5 Transportation Method.** For purposes of these SmartPlay Terms, "Transportation Method" shall mean a mode of transportation used by Merchant and its Delivery Personnel for the purpose of providing the Delivery Services.

**4.5.1 Transportation Method Requirements.** Merchant acknowledges that any and all Transportation Method(s) will at all times be: (a) properly registered and licensed as required by law to operate as a delivery vehicle; (b) owned or leased by Merchant or otherwise in Merchant's lawful possession; (c) suitable for performing the Delivery Services; and (d) maintained in good operating condition, consistent with industry safety and maintenance standards for a Transportation Method of its kind and any additional standards or requirements required by applicable law, and in a clean and sanitary condition.

**4.5.2 Delivery Personnel Requirements.** Merchant acknowledges and agrees that at all Delivery Personnel will, at all times during the Term: (a) hold and maintain (a) a valid applicable license with the appropriate level of certification to operate the Transportation Method assigned to each Delivery Personnel; and (ii) all licenses, permits, approvals, and authority applicable to Merchant and/or its Delivery Personnel necessary to provide the Delivery Services to third parties; (b) provide the Delivery Services in a professional manner with due skill, care, and diligence; and (c) maintain high standards of professionalism, service, and courtesy.

Merchant acknowledges and agrees that GolfNow reserves the right, at any time in GolfNow's sole discretion, to restrict Merchant or Delivery Personnel from accessing or using the SmartPlay Services in event Merchant or such Delivery Personnel fail to meet any of the requirement within this Section.

## 5. Payment Terms.

**5.1 Payment to GolfNow.** Merchant's payment for the SmartPlay Services shall be the payment to GolfNow set forth in the attached Order Form.

**5.2 SmartPlay Transaction Fees.** GolfNow, in its sole discretion, may charge Customers a transaction fee on all Item purchases made through the SmartPlay Services ("**SmartPlay Transaction Fees**"). The SmartPlay Transaction Fees shall be paid directly to GolfNow by Customers at the time of purchase, and GolfNow shall retain one hundred percent (100%) of each SmartPlay Transaction Fee collected unless otherwise agreed upon by the Parties in the Agreement.

**5.3 Payment to Merchant; Payment Processing.** For each purchase of an Item or Items, the Customer(s) will be charged (i) the Retail Price of the Item(s) ("**Item Revenue**"); (ii) any applicable Sales Tax; and (iii) the Transaction Fee(s), if any. All Customer purchases of Items through the SmartPlay Services will be processed and reconciled pursuant to the Agreement and the "**GolfNow Merchant Services Agreement for Sub-Merchants**" entered into between Merchant and GolfNow regarding Merchant's use of the GolfNow Payments service, with Merchant receiving one hundred percent (100%) (net of processing fees of the Item Revenue and Sales Tax, and GolfNow receiving (100%) of the SmartPlay Transaction Fee(s), unless agreed upon otherwise.

## 6. Intellectual Property.

**6.1** GolfNow owns all right, title, and interest in and to the SmartPlay Services, GolfNow App, and any related content supplied by GolfNow. Additionally, GolfNow shall have sole editorial control over (i) the SmartPlay Services; and (ii) the presentation of any content provided by Merchant for display within the SmartPlay Services, including but not limited to menus, photographs, trademarks, and logos ("**Merchant Content**"). Merchant shall own all right, title, and interest in the Merchant Content, subject to the licenses granted herein.

**6.2** For the Term of the Agreement, Merchant hereby grants GolfNow a non-exclusive, perpetual, fully paid-up and royalty free license to use and display the Merchant Content in connection with Merchant's Items, Merchant's use of the SmartPlay Services, and any marketing or promotional activities relating thereto. GolfNow may remove any Merchant Content from the SmartPlay Services at any time in its sole discretion.

**6.3** Without limiting anything in the Agreement, Merchant represents and warrants that the no Merchant Content will infringe, misappropriate, or otherwise violate any third-party's intellectual property or other proprietary rights. To the extent the Merchant Content contains any third-party materials, Merchant is solely responsible for, and will secure any and all rights, licenses, consents, and/or permissions necessary to, GolfNow's use of such Merchant Content.

**6.4** No Development. EACH PARTY ACKNOWLEDGES AND AGREES THAT THERE SHALL BE NO DEVELOPMENT OF TECHNOLOGY, CONTENT, MEDIA, OR OTHER INTELLECTUAL PARTY BY EITHER PARTY FOR THE OTHER PARTY PURSUANT TO THIS AGREEMENT.

**7. Marketing.** GolfNow and its affiliates may showcase the availability of Merchant's Items via the SmartPlay Services and/or GolfNow App through various promotional activities, including but not limited to social media, websites, e-mail, and advertisements.

**8. Ratings.** Merchant acknowledges and agrees that Customers who purchase Items through the SmartPlay Services may be prompted by GolfNow to provide a rating of such Items and/or to provide comments or feedback related to the Customer's experience with Merchant and the applicable Items on the GolfNow App or other GolfNow platforms ("**Customer Feedback**"). GolfNow and its affiliates reserve the right (i) to use, share, and display such Customer Feedback; and (ii) to edit or remove Customer Feedback as deemed necessary by GolfNow.

**9. SmartPlay Customer Data.** Any and all information about Customers generated or collected by GolfNow through the SmartPlay Services ("**SmartPlay Customer Data**"), including but not limited to Customer name(s), delivery location(s) or address(es), email address(es), phone numbers, purchase history, and/or preferences or any information that may otherwise be considered "personal data" or "personal information" under applicable law shall be considered GolfNow Account Data. However, to the extent GolfNow shares any SmartPlay Customer Data with Merchant for the purposes of fulfilling Customer orders or completing transactions through the SmartPlay Services, such SmartPlay Customer Data shall be considered Shared Data.

## 10. Representations and Warranties.

**10.1 General.** Merchant hereby represents and warrants that: (i) it has the authority to enter into the Agreement and these SmartPlay Terms and to grant the rights granted hereunder, and that doing so will not violate any other agreement to which it is a party; (ii) it is duly organized, validly existing, and in good standing under the laws of the jurisdiction of its origin; (iii) it has not entered into, and during the Term will not enter into, any agreement that would prevent it from comply with or performing under the Agreement or these SmartPlay Terms; (iv) it will comply with applicable retail food, beverage, or other health and safety codes, rules or regulations, as well as any other laws applicable to its business (including, without limitation, the obligation to pay tips to delivery and other workers, if any); and (v) it will provide accurate tax rates and calculations to GolfNow; and (vi) it will remit to the applicable taxing authority all legally-required taxes and will files all required tax returns and forms.

**10.2 Alcohol.** In the event Merchant offers alcohol to Customers as Item(s) for purchase through the SmartPlay Services, Merchant represents and warrants that Merchant and/or the applicable Golf Course(s) maintains a valid and active liquor license and all other applicable licenses, permits, and registrations for the sale, distribution, and delivery of alcohol (collectively, "Liquor Licenses"). Merchant will provide GolfNow with a copy of the Liquor Licenses and any renewal thereof, and will immediately notify GolfNow if any Liquor License is not renewed or is revoked, cancelled, or surrendered at any time during the Term. Merchant acknowledges and agrees that Merchant, and not GolfNow, is solely responsible for confirming via bona-fide government-issued identification ("ID") that all Customers who purchase alcohol from Merchant's Golf Courses through the SmartPlay Services are at least twenty-one (21) years old prior to Merchant serving or delivering alcohol to any such Customers.

**10.3 DISCLAIMER.** EXCEPT AS SET FORTH HEREIN, EACH PARTY MAKES NO REPRESENTATIONS, AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, REGARDING ITS SERVICES OR PRODUCTS OR ANY PORTION THEREOF, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND IMPLIED WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE.

## **B. Answers Reservation Center Services Terms and Conditions.**

These GolfNow Answers Terms and Conditions ("Answers Terms") shall apply specifically to Client's use of the GolfNow Answers reservation center services ("Answers Service") and are expressly incorporated into and made a part of the applicable Agreement between GolfNow and Client.

### **1. GolfNow Responsibilities.**

(a) GolfNow is responsible for the toll-free telephone charges associated with forwarding calls to the Answers Service, unless Client elects to use its own toll-free number.

(b) GolfNow will, in conjunction with Client, develop a telephone protocol to be used by GolfNow's customer service representatives ("CSR(s)") when answering telephone calls for Client's Golf Course(s).

(c) GolfNow CSR's, where appropriate, will attempt to collect relevant Personal Data of callers on Client's behalf, which may include first name, last name, postal code, phone number, and/or email address.

(d) GolfNow is not responsible to Client for any lost revenues resulting from errors made by CSR's performing the Answers Service on Client's behalf.

### **2. Client Responsibilities.**

(a) Client will at all times be responsible for providing and maintaining data connectivity at its Golf Course(s) as required to receive the Answers Services.

(b) Client will not forward the main phone number(s) of its Golf Course(s) to GolfNow, but shall implement an auto-attendant if all tee time calls are to be handled by the Answers Service.

(c) Client will be responsible for any costs and fees associated with implementing call forwarding, except for toll-free charges set forth in Section 1(a) above.

(d) The accuracy of tee time pricing or other Golf Course-specific information provided to provided to GolfNow for use in the Answers Service will at all times be the responsibility of Client, regardless of whether GolfNow assists in the data entry.

**3. Data Collection.** Except as otherwise set forth herein, data collected by CSR's from callers to a Client-controlled telephone number through the Answers Service, including Personal Data, will be considered Client Data under the Agreement.

**4. Trade Times.** Client acknowledges and agrees that GolfNow may sell the Trade Time(s) set forth on the relevant Order Form, if applicable, through the Answers Service. All Trade Times reserved through the Answers Service will be noted on Client's tee sheet as such. Client will not cancel, move or edit a Trade Time reserved through the Answers Service without first contacting GolfNow and Client will not apply a surcharge to golfers who reserved a Trade Time through the Answers Service.

## **C. Full Swing Terms and Conditions.**

Client acknowledges and agrees that the Full Swing simulator(s), technology, hardware, software, products, and services (collectively the "**Full Swing Technology**") are provided solely by a third-party, Full Swing Golf, Inc. ("**Full Swing**"), and that Client's receipt of the Full Swing Technology under this Agreement with GolfNow is contingent upon Client's execution of a separate and distinct contract(s) between Client and Full Swing, to which GolfNow will not be a party (collectively as the "**Full Swing Agreement(s)**"). Client's use of the Full Swing Technology, including any related hardware and/or software, will at all times be governed by the terms and conditions of the Full Swing Agreements. In the event Client fails to execute the Full Swing Agreements within seven (7) days of the execution of this Agreement, GolfNow shall have the option to terminate this Agreement.

Client's payment for the Full Swing Technology shall be the payment to GolfNow set forth in the applicable GolfNow Order Form. Client's payment obligations to GolfNow will begin immediately upon the effective date of the Agreement, regardless of when the Full Swing Technology is installed. For the avoidance of doubt, Client's payment to GolfNow for the Full Swing Technology shall be subject to the terms and conditions of this Agreement, and not the Full Swing Agreement. However, any breach of the payment terms contained in this Agreement shall also be considered a breach of the Full Swing Agreement. In the event that Client does not comply with the payment requirements herein or otherwise breaches the

terms of this Agreement (each a “Non-Compliance Event”) prior to the end of the Initial Term, Client shall pay GolfNow a fee totaling the following (the “Full Swing Termination Fee”):

$$\left[ \frac{\text{Full Retail Price of Full Swing Technology Received}}{\text{Total Number of Months in Initial Term}} \right] \times \text{Number of Months remaining in Initial Term at time of the Non-Compliance Event}$$

The Full Swing Termination Fee shall be due within thirty (30) days of Client’s receipt of written notice from GolfNow, is in addition to any other fees set forth in the Agreement, and shall not limit any other remedies of GolfNow at law or equity.

GolfNow makes no representations or warranties with respect to the Full Swing Technology and disclaims any and all liability relating to the Full Swing Technology or Client’s use of the Full Swing Technology. Full Swing, and not GolfNow, will be responsible for the installation of the Full Swing Technology and any related training, as well as any service, maintenance, or repairs to the Full Swing Technology required during the Term of the Agreement. Client agrees that all communications relating to the Full Swing Technology shall be directed to Full Swing.

Any disputes relating to the Full Swing Technology, excluding those relating to payment under this Agreement, shall be resolved between Client and Full Swing pursuant to the Full Swing Agreement. Client agrees to indemnify, defend and hold GolfNow, its parents and affiliates, and their respective officers, directors, employees, successors and assigns harmless from and against any and all losses, claims, damages, liabilities, costs and expenses (including reasonable attorney’s fees and costs of litigation) (collectively, “Claims”), including any and all Claims which may be asserted by third-parties, incurred as a result of or in connection with the installation, receipt, and/or use of the Full Swing Technology, or other Full Swing product(s), by Client or Client’s customers.

Client’s rights to use the Full Swing Technology and the Full Swing Agreement shall both expire upon the termination of this Agreement, and any use of the Full Swing Technology beyond the expiration of this Agreement shall require a new agreement between Client and Full Swing not involving GolfNow.

#### **D. Toptracer Terms and Conditions.**

Client acknowledges and agrees that the Toptracer technology, hardware, software, products, and services (collectively the “**Toptracer Technology**”) are provided solely by a third-party, Topgolf USA, Inc. (“**Topgolf**”), and that Client’s receipt of the Toptracer Technology under the applicable Agreement with GolfNow is contingent upon Client’s execution of a separate and distinct contract between Client and Topgolf, to which GolfNow will not be a party (the “**Topgolf Agreement**”). Client’s use of the Toptracer Technology, including any related hardware and/or software, will at all times be governed by the terms and conditions of the Topgolf Agreement. In the event Client fails to execute the Topgolf Agreement within seven (7) days of the execution of this Agreement, GolfNow shall have the option to terminate this Agreement.

Client’s payment for the Toptracer Technology shall be the payment to GolfNow set forth in the applicable GolfNow Order Form. Client’s payment obligations to GolfNow will begin immediately upon the effective date of this Agreement, regardless of when the Toptracer Technology is installed. For the avoidance of doubt, Client’s payment to GolfNow for the Toptracer Technology shall be subject to the terms and conditions of the Agreement, and not the Topgolf Agreement. However, any breach of the payment terms contained in the Agreement shall also be considered a breach of the Topgolf Agreement.

GolfNow makes no representations or warranties with respect to the Toptracer Technology and disclaims any and all liability relating to the Toptracer Technology or Client's use of the Toptracer Technology. Topgolf, and not GolfNow, will be responsible for the installation of the Toptracer Technology and any related training, as well as any service, maintenance, or repairs to the Toptracer Technology required during the Term of the Agreement. Client agrees that all communications relating to the Toptracer Technology shall be directed to Topgolf.

Any disputes relating to the Toptracer Technology, excluding those relating to payment under the Agreement, shall be resolved between Client and Topgolf pursuant to the Topgolf Agreement. Client agrees to indemnify, defend and hold GolfNow, its parents and affiliates, and their respective officers, directors, employees, successors and assigns harmless from and against any and all losses, claims, damages, liabilities, costs and expenses (including reasonable attorney's fees and costs of litigation) (collectively, "**Claims**"), including any and all Claims which may be asserted by third-parties, incurred as a result of or in connection with the installation, receipt, and/or use of the Toptracer Technology, or other Topgolf product(s), by Client or Client's customers.

Client's rights to use the Toptracer Technology and the Topgolf Agreement shall both expire upon the termination of the Agreement, and any use of the Toptracer Technology beyond the expiration of the Agreement shall require a new agreement between Client and Topgolf not involving GolfNow.

## **E. ClubBuy Terms and Conditions.**

The following ClubBuy Terms and Conditions ("**ClubBuy Terms**") shall govern Client's participation in GolfNow's ClubBuy Group Participation Program during the Term of the Agreement and are expressly incorporated into and made a part of the applicable Agreement between GolfNow and Client.

### **1. ClubBuy Group Participation Program.**

**a.** GolfNow has entered into group purchasing agreements with certain third-party vendors (the "**ClubBuy Vendors**") whereby the ClubBuy Vendors will grant select golf courses associated with GolfNow cost effective ways for such golf courses to make purchases of food, agronomy, and other products under the terms of separate agreements between such golf courses and the ClubBuy Vendors and/or the ClubBuy Vendors' third party partners (collectively referred to herein as the "**Group Purchasing Programs**" or "**GPP**").

**b.** If indicated on the applicable Order Form, GolfNow shall provide Client with access to the GPP, with such participation being at all times subject to these ClubBuy Terms and the terms of the Agreement.

**c.** Client acknowledges that participation in the GPP is conditioned upon the completion of certain letters of participation and/or membership applications (the "**Membership Application(s)**") designating the ClubBuy Vendors to act as Client's group purchasing agent(s) for certain products purchased through the GPP, and Client agrees all applicable Membership Applications must be completed prior to receiving access to the GPP.

### **2. Term and Termination.**

**a. Term.** The term of Client's participation in the GPP shall be the Term set forth in Section 1 of the Standard Terms and Conditions and applicable Order Form.

**b. Termination.** In addition to the conditions for termination set forth in Section 1 of the Standard Terms and Conditions, Client's participation in the GPP shall automatically terminate on the date of the event of either: (i) the termination of the Membership Application with the applicable ClubBuy Vendors; or (ii) the termination of GolfNow's relationship with the applicable ClubBuy Vendors under the GPP; or (iii) Client's discontinued participation in the GPP for any reason, including any defaults under the Membership Application.

### **3. Client Obligations.**

**a.** During the Term, Client shall continuously participate in the GPP. Client shall promptly complete all Membership Applications and other applicable paperwork as reasonably required from time to time by the ClubBuy Vendors and shall comply with all terms and conditions thereof. Client acknowledges and agrees that ongoing access to the GPP is contingent upon Client's timely and complete payment of all invoices, payments and amounts due under the GPP. Client agrees that GolfNow, in its sole and complete discretion, may withhold, or limit/restrict access to the GPP or other GolfNow products/services in the event Client fails to make timely payments in accordance with the specified payment terms of the ClubBuy Vendors or is otherwise delinquent in its participation in the GPP, until such time that the ClubBuy Vendors have certified to GolfNow that Client has become fully compliant with the terms of the GPP.

**b. Purchase Minimum.** If applicable, Client shall make the minimum purchases (net of returns, allowances, rebates, discounts and write-offs) set forth on the applicable Order Form through the GPP during each year of the Term (collectively the "**Purchase Minimum(s)**"). The Purchase Minimums shall apply for each and every year of the Term. Client agrees that the Purchase Minimum is a material element of the Agreement and agrees that GolfNow shall have no obligation to provide any consideration to Client if the Purchase Minimum is not met annually.

**c. Penalties.** Client acknowledges that GolfNow is providing Client with products and services in exchange for Client's participation in the GPP, and that if applicable, the Purchase Minimum(s) are a form of payment for those products and services. As such, in the event Client fails to meet the required Purchase Minimum(s) during a certain year of the Term, Client shall pay to GolfNow the penalties set forth on the applicable Order Form (the "**Penalties**").

Penalties will be calculated on the yearly anniversary of the Effective Date and Client shall pay any Penalties owed to GolfNow within thirty (30) days after the end of the Agreement year in which the Purchase Minimum(s) were not met.

For the avoidance of doubt, GolfNow reserves the right to terminate, limit, or restrict Client's access to the products and services provided to Client during any time in which the Purchase Minimum was not met and the Penalties have not been paid and Client's failure to pay any applicable Penalties shall constitute a Material Breach of the Agreement.

In the event the Agreement is terminated pursuant to Section 2(b) of these ClubBuy Terms and Client has failed to meet the Purchase Minimum(s) as of the date of termination, Client shall pay the Penalties to GolfNow based on the difference between the Purchase Minimums and Client's purchases through the GPP as of the date of termination. Such Penalties shall be paid by Client within thirty (30) days of the date of termination.

d. Client acknowledges that its legal rights and obligations with respect to the GPP are contained in the Membership Applications or other agreements that Client may enter into with the ClubBuy Vendors. Client acknowledges and agrees that GolfNow (i) is not a party to the Membership Applications and (ii) shall not be responsible for any obligations thereunder. Further, GolfNow shall not be involved with the administration of the GPP, including any purchases by Client through the ClubBuy Vendors, or any of the ClubBuy Vendors' vendors, and as such GolfNow shall have no liability with respect to such purchases. Client agrees that any dispute that arises under the Membership Applications will be resolved directly through and with the ClubBuy Vendors, without any obligation for GolfNow to resolve in any way; Client hereby releases GolfNow from any such claims. In turn, Client acknowledges and agrees that the ClubBuy Vendors (i) are not a party to this Agreement and (ii) shall not be responsible for any obligations hereunder. Client agrees that any dispute that arises under these ClubBuy Terms or the Agreement will be resolved directly with GolfNow, without any obligation for the ClubBuy Vendors to resolve in any way.

#### **4. Limitation of Liability.**

IN ADDITION TO THE LIMITATIONS SET FORTH IN SECTION 19 OF THE STANDARD TERMS AND CONDITIONS, CLIENT ACKNOWLEDGES AND AGREES THAT THE GROUP PURCHASING PROGRAM IS NOT ADMINISTERED BY GOLFNOW, AND AS SUCH, GOLFNOW IS SPECIFICALLY DISCLAIMING ANY AND ALL LIABILITY, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, FOR DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES ARISING OUT OF EITHER (I) CLIENT'S PARTICIPATION IN THE GROUP PURCHASING PROGRAM OR (II) CLIENT'S AGREEMENTS WITH THE CLUBBUY VENDORS OR THE CLUBBUY VENDORS' CONTRACTED VENDORS, AS APPLICABLE. CLIENT AGREES THAT GOLFNOW SHALL NOT BE LIABLE TO CLIENT FOR ANY SUCH CLAIMS OR DAMAGES. CLIENT AGREES TO SEEK RELIEF DIRECTLY FROM THE CLUBBUY VENDORS OR THE CLUBBUY VENDORS' CONTRACTED VENDORS, AS APPLICABLE FOR ANY AND ALL LIABILITIES OR DAMAGES RELATED TO CLIENT'S PARTICIPATION IN THE GROUP PURCHASING PROGRAM.

## **F. GolfNow Payments Merchant Services Agreement for Sub-Merchants.**

In connection with the Agreement Client has entered into with GolfNow, LLC ("Provider"), Vantiv, LLC, having its principal office at 8500 Governors Hill Drive, Symmes Township, OH 45249-1384 and its designated Member Bank (collectively "Acquirer(s)") may provide Client ("Sub-merchant") with certain payment processing services ("Acquirer Services") in accordance with the terms of this Sub-Merchant Agreement. For the avoidance of doubt, the Acquirer Services are not part of the services provided by Provider under the Agreement. The term "Service," as used in this Sub-Merchant Agreement, refers solely to the services provided by Provider under the Agreement.

In consideration of Sub-merchant's receipt of credit or debit card funded payments, and participation in programs affiliated with MasterCard International Inc. ("MasterCard"), VISA U.S.A. Inc. ("VISA"), Discover ("Discover"), and certain similar entities (collectively, "Associations"), Sub-merchant is required to (i) enter into a direct relationship with an entity that is a member of the Associations and (ii) agree to comply with Operating Regulations (defined below) and Association rules as they pertain to applicable credit and debit card payments. By entering into this Sub-Merchant Agreement, Sub-merchant is fulfilling the Association rule of entering into a direct relationship with a Member of the Associations; however, Acquirers understand that Sub-merchant has contracted with Provider to obtain certain processing services.

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises contained herein, the parties agree as follows:

### **1. Certain Sub-merchant Responsibilities.**

Sub-merchant agrees to participate, and to cause third parties acting as Sub-merchant's agent ("Agents"), to participate in the Associations in compliance with, and subject to, the by-laws, operating regulations and/or all other rules, policies and procedures of the Associations (collectively "Operating Regulations"). Sub-merchant also agrees to comply with all applicable state, federal, and local laws, rules, and regulations ("Laws"). Without limiting the foregoing, Sub-merchant agrees that it will fully comply with any and all confidentiality and security requirements of the USA Patriot Act (or similar law, rule or regulation), VISA, MasterCard, Discover, and/or Other Networks, including but not limited to the Payment Card Industry Data Security Standard, the VISA Cardholder Information Security Program, the MasterCard Site Data Protection Program, and any other program or requirement that may be published and/or mandated by the Associations. For purposes of this section, Agents include, but are not limited to, Sub-merchant's software providers and/or equipment providers.

Sub-merchant shall only complete sales transactions produced as the direct result of bona fide sales made by Sub-merchant to cardholders, and is expressly prohibited from processing, factoring, laundering, offering, and/or presenting sales transactions which are produced as a result of sales made by any person or entity other than Sub-merchant, or for any purposes related to any illegal or prohibited activity including but not limited to money-laundering or financing of terrorist activities.

Sub-merchant may set a minimum transaction amount to accept a card that provides access to a credit account, under the following conditions: (i) the minimum transaction amount does not differentiate between card issuers; (ii) the minimum transaction amount does not differentiate between MasterCard, Visa, or any other acceptance brand; and (iii) the minimum transaction amount does not exceed ten dollars (or any higher amount established by the Federal Reserve). Sub-merchant may set a maximum transaction amount to accept a card that provides access to a credit account, under the following conditions: Sub-merchant is a (i) department, agency or instrumentality of the U.S. government; (ii) corporation

owned or controlled by the U.S. government; or (iii) Sub-merchant whose primary business is reflected by one of the following MCCs: 7992, 7997, 5812 –public golf course, private golf course or restaurant.; and the maximum transaction amount does not differentiate between MasterCard, Visa, or any other acceptance brand.

## **2. Sub-merchant Prohibitions.**

Sub-merchant must not (i) require a cardholder to complete a postcard or similar device that includes the cardholder's account number, card expiration date, signature, or any other card account data in plain view when mailed, (ii) add any tax to transactions, unless applicable law expressly requires that a Sub-merchant impose a tax (any tax amount, if allowed, must be included in the transaction amount and not collected separately), (iii) request or use an account number for any purpose other than as payment for its goods or services, (iv) disburse funds in the form of travelers checks if the sole purpose is to allow the cardholder to make a cash purchase of goods or services from Sub-merchant, (v) disburse funds in the form of cash unless Sub-merchant is dispensing funds in the form of travelers checks, TravelMoney cards, or foreign currency (in such case, the transaction amount is limited to the value of the travelers checks, TravelMoney cards, or foreign currency, plus any commission or fee charged by the Sub-merchant), or Sub-merchant is participating in a cash back service, (vi) submit any transaction receipt for a transaction that was previously charged back to the acquirers and subsequently returned to Sub-merchant, irrespective of cardholder approval, (vii) accept a Visa consumer credit card or commercial Visa product issued by a U.S. issuer to collect or refinance an existing debt, (viii) accept a card to collect or refinance an existing debit that has been deemed uncollectable by Sub-merchant, or (ix) submit a transaction that represents collection of a dishonored check. Sub-merchant further agrees that, under no circumstance, will Sub-merchant store cardholder data in violation of the Laws or the Operating Regulations including but not limited to the storage of track-2 data. Neither Sub-merchant nor its Agent shall retain or store magnetic-stripe data subsequent to the authorization of a sales transaction.

In addition, Sub-merchant may not submit or knowingly permit any cardholder or other user of the Service to submit any transaction that is illegal or that Sub-merchant should have known is illegal, including but not limited to transactions involving pornography, money laundering, or financing terrorist activities. Sub-merchant agrees to comply with any and all instructions Provider gives Sub-merchant from time to time regarding payment processing provided hereunder. Sub-merchant agrees that Provider may investigate and audit Sub-merchant's compliance with this Sub-Merchant Agreement from time to time, and Sub-merchant agrees to cooperate fully with Provider in any investigation or audit. Sub-merchant acknowledges and agrees that this paragraph is a material obligation of this Sub-Merchant Agreement.

## **3. Rates and Settlement.**

Provider's current rates for the Provider Services are as set forth on the applicable Order Form between GolfNow and Sub-merchant. Card Present and Card Not Present transactions are as defined/categorized by Provider. For the avoidance of doubt, Sub-merchant shall be fully and solely liable for any and all chargebacks, including any excessive chargebacks.

Upon receipt of Sub-merchant's sales data for card transactions, Acquirer will process Sub-merchant's sales data to facilitate the funds transfer between the various Associations and Sub-merchant. After Acquirer receives credit for such sales data, Provider will provide funding instructions to Acquirer, and Acquirer will then fund Sub-merchant through Sub-merchant's designated demand deposit account ("Sub-merchant-Owned Designated Account") and/or Provider through Provider's designated demand deposit account ("Provided Designated Account") as directed. As applicable, Acquirer will debit the Provider Designated Account and/or Sub-merchant-Owned Designated Account for funds owed to Acquirer as a result of the Acquirer Services provided hereunder. Further, if a cardholder disputes a transaction, if a transaction is charged back for any reason, or if Acquirer or Provider reasonably believes a transaction is unauthorized or otherwise unacceptable, the amount of such transaction may be charged back and debited from Sub-merchant.

Provider, in its sole discretion, may change the following at any time for any reason upon providing Sub-Merchant with thirty (30) days written notice:

- The blended rate or any other rates charged for the Acquirer Services
- The frequency of settlement
- The chargeback fee
- The rates for any additional surcharges

## **4. Term and Termination.**

Sub-merchant agrees to provide Provider with such information as Provider may request in order to confirm that Sub-merchant is eligible to use the Acquirer Services, and Sub-merchant agrees that all information Sub-merchant provides to Provider for that purpose will be accurate and complete. In addition, Sub-merchant will furnish to Provider from time to time, promptly upon Provider's request, (i) a list of the current addresses of all Sub-merchant's offices, (ii) a list of all assumed business names (d/b/a's) used by Sub-merchant, and (iii) a list of all products and services provided by Sub-merchant.

Sub-merchant acknowledges that even though Sub-merchant signs up for the payment processing feature of the Service, Sub-merchant is not guaranteed use of that feature of the Service. The payment processing feature will not be available to Sub-merchant unless and until Provider has confirmed that Sub-merchant is eligible to use the Acquirer Services and this Sub-Merchant has become binding on all parties, as set forth in the paragraph below. If that occurs, the services of Provider and Acquirer described herein will be part of the Service and will be provided to Sub-merchant subject to and in accordance with the Agreement; provided that, if there is any conflict between the terms of this Sub-Merchant Agreement and the Agreement, then to the extent such terms apply to payment processing, the terms of this Sub-Merchant Agreement shall control.

This Sub-Merchant Agreement shall be binding upon Sub-merchant's execution. The term of this Sub-Merchant Agreement shall begin, and the terms of the Agreement shall be deemed accepted and binding upon Acquirers and Provider, on the date Acquirers accept this Agreement by issuing a merchant identification number, and shall terminate when Provider's Agreement with Sub-merchant terminates.

Notwithstanding the foregoing, Acquirers may immediately cease providing Acquirer Services and/or terminate this Sub-Merchant Agreement without notice if (i) Sub-merchant or Provider fails to pay any amount to Acquirers when due, (ii) in Acquirers' opinion, provision of a service to Sub-merchant or Provider may be a violation of the Operating Regulations, or any applicable state, federal, or local laws, rules, and regulations ("Laws"), (iii) Acquirers believes that Sub-merchant has violated or is likely to violate the Operating Regulations or the Laws, (iv) Acquirer's agreement with Provider terminates, or (v) Acquirers or Providers are required to do so by any of the Associations.

Further, Provider may terminate this Sub-Merchant Agreement at any time, in Provider's sole discretion, without prior notice to Sub-merchant. If this Sub-Merchant Agreement is terminated by any party hereto, the provisions of section 3 above will continue to apply until Sub-merchant has paid all amounts owed to Acquirer and/or Provider in respect of the Acquirer Service provided by Provider prior to termination.

## **5. Indemnification and Limits of Liability.**

Sub-merchant agrees to provide Acquirers, via a communication with Provider, with written notice, specifically detailing any alleged breach by Acquirer of this Sub-Merchant Agreement, within thirty (30) days of the date on which the alleged failure or error first occurred; failure to so provide notice shall be deemed an acceptance by Sub-merchant and a waiver of any and all rights to dispute such failure or error. Acquirers shall bear no liability and have no obligations to correct any errors resulting from Sub-merchant's failure to comply with the duties and obligations of the preceding sentence.

Sub-merchant shall indemnify and hold harmless Acquirers, and their directors, officers, employees, affiliates, and agents from and against all proceedings, claims, demands, losses, liabilities, damages and expenses resulting from or otherwise arising out of (i) the Acquirer Services in this Sub-Merchant Agreement, (ii) Sub-merchant's or Sub-merchant's employees and agents acts or omissions in connection with the Acquirer Services provided pursuant to this Sub-Merchant Agreement, (iii) any infiltration, hack, breach, or violation of the processing system resulting from, arising out of, or in any way related to Sub-merchant's ability to use of the Acquirer Services provided herein including but not limited to Sub-merchant's use of an Agent or any other third party processor or system or (iv) any issue between Sub-merchant and Provider. This indemnification shall survive the termination of the Sub-Merchant Agreement. Sub-merchant's sole and exclusive remedy for any and all claims against Acquirers arising out of or in any way related to the transactions contemplated herein shall be termination of this Sub-Merchant Agreement. In the event that Sub-merchant has any claim arising in connection with the Acquirer Services, rights, and/or obligations defined in this Sub-Merchant Agreement, Sub-merchant shall proceed against Provider and not against Acquirers, unless otherwise specifically set forth in the Operating Regulations. In no event shall Acquirers have any liability to Sub-merchant with respect to this Sub-Merchant Agreement or the Acquirer Services. Sub-merchant acknowledges Acquirers are only providing this Sub-Merchant Agreement to assist in Provider's processing relationship with Sub-merchant, that Acquirers are not liable for any action or failure to act by Provider, and that Acquirers shall have no liability whatsoever in connection with any products or services provided to Sub-merchant by Provider.

## **6. Special MasterCard Terms.**

As used in this Section 7: (i) "Corporation" means MasterCard International Incorporated, Maestro International Inc., and their subsidiaries and affiliates; (ii) "Interchange System" means the computer hardware and software operated by and on behalf of the Corporation for the routing, processing, and settlement of transactions; (iii) "Marks" means the names, logos, trade names, logotypes, trademarks, service marks, trade designations, and other designations, symbols, and marks that the Corporation owns, manages, licenses, or otherwise controls and makes available for use by authorized entities in accordance with the Standards, and "Mark" means any one of the Marks; and (iv) "Standards" means the Amended and Restated Certificate of Incorporation and the bylaws, operating rules, regulations, policies, and procedures of the Corporation, including but not limited to any manuals, guides or bulletins, as may be amended from time to time.

Sub-merchant acknowledges and agrees: (i) Sub-merchant will comply at all times with all applicable Standards, as amended from time to time; (ii) the Corporation is the sole and exclusive owner of the Marks, and Sub-merchant will not contest the ownership of the Marks for any reason; (iii) the Corporation may at any time, immediately and without advance notice, prohibit the Sub-merchant from using any of the Marks for any reason; and (iv) the Corporation has the right to enforce any provision of the Standards and to prohibit the Sub-merchant and/or Provider from engaging in any conduct the Corporation deems could injure or could create a risk of injury to the Corporation, including injury to reputation, or that could adversely affect the integrity of the Interchange System, the Corporation's "confidential information" (as defined in the Standards), or both; and Sub-merchant will not take any action that could interfere with or prevent the exercise of this right by the Corporation.

Sub-merchant agrees that Provider may require any changes to Sub-merchant's website or otherwise that Provider deems necessary or appropriate to ensure that Sub-merchant remains in compliance with the Standards governing the use of the Marks.

In addition to the termination provisions set forth in Section 4, this Sub-Merchant Agreement will automatically and immediately terminate if the Corporation de-registers Provider or if an Acquirer ceases to be approved by the Corporation for any reason or if such Acquirer fails to have a valid license with the Corporation to use any Mark accepted by Sub-merchant. Further, Provider, at its discretion or at the direction of an Acquirer or the Corporation, may terminate the Sub-Merchant Agreement immediately for activity deemed to be fraudulent or otherwise wrongful by Provider, an Acquirer, or the Corporation.

In the event of any conflict or inconsistency between any provision of this Sub-Merchant Agreement and the Standards, the Standards will govern as to any transaction involving the Corporation or its cards.

## **7. Miscellaneous.**

This Sub-Merchant Agreement is entered into, governed by, and construed pursuant to the laws of the State of Ohio for Acquirer and its Member Bank, and Florida for Provider, without regard to conflicts of law provisions. This Sub-Merchant Agreement may not be assigned by Sub-merchant without the prior written consent of both Acquirers and Provider. This Sub-Merchant Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, transferees and assignees. Acquirers and/or Provider may amend this Sub-Merchant Agreement upon notice to Sub-merchant. If any provision of this Sub-Merchant Agreement is determined to be illegal or invalid, such illegality or invalidity of that provision will not affect any of the remaining provisions and this Sub-Merchant Agreement will be construed as if such provision is not contained in the Sub-Merchant Agreement. "Member Bank" as used in this Sub-Merchant Agreement shall mean a member of VISA, MasterCard and/or Discover, as applicable, that provides sponsorship services in connection with this Sub-Merchant Agreement. As of the commencement of this Sub-Merchant Agreement, Member Banks shall be Fifth Third Bank, an Ohio Banking Corporation, located at 38 Fountain Square Plaza, Cincinnati, OH 45263. The Member Banks are party to this Sub-Merchant Agreement. The Member Banks may be changed, and their rights and obligations assigned to another party by Acquirers at any time without notice to Sub-merchant.