



# General Terms & Conditions

The commercial terms set out in the Key Terms together with the general terms and conditions set out below (the **Terms & Conditions**) together form the agreement between the parties (the **Agreement**). If there is any conflict or inconsistency between a provision in the Key Terms and a provision in the General Conditions, the provision in the Key Terms shall take precedence.

Any capitalised terms used in the left-hand column of the Key Terms and that are not contained in clause 1 below shall have the meaning given in the Key Terms.

**Registered address:** Ul. Starowislna 36/46, 31-031 Krakow

**Register Number:** 300515232

Definitions

**Kensho** means Kensho;

**Attendees** means the Attendees listed in the Key Terms and/or such other guests as are invited to the Event by the Customer in accordance with the terms of this Agreement;

**Background IP** means all Intellectual Property Rights belonging to a party prior to the Agreement;

**Deliverable(s)** means any materials created by KENSHO for the Customer pursuant to the Agreement, including any specific deliverables requested by the Customer, but excluding any of KENSHO's Background IP;

**Documentation** means any tickets, admission documents or other documentation required by the Customer for the enjoyment of the Services;

**Intellectual Property Rights** means any current and future intellectual property rights, including: (a) copyrights, trademarks, trade names, domain names, rights in logos and get-up, inventions, confidential information, trade secrets and know-how including commercial know-how, design rights, patents, rights in databases, privacy rights; (b) all intangible rights and privileges of a nature similar, analogous or allied to any of rights listed in (a); and (c) in every case in any part of the world and whether or not registered, including in relation to any of rights listed in (a) and (b): (i) all granted registrations and all applications for registration; (ii) all renewals, reversions or extensions; (iii) the right to sue for damages for past infringement; and (iv) all forms of protection of a similar nature which may subsist anywhere in the world;

**Force Majeure Event** means all events beyond the control of the affected party including war, hostilities, invasion, riot, civil commotion, strikes, government control, royal bereavement, lock-outs, fire, flood, storm or other natural catastrophe;

**Ordinary Expenses** means the expenses incurred by the Customer and the Customer's Attendees during the Event;



**Services** means the Event Services and/or the Bespoke Services, as applicable, and as set out in the Key Terms; and

**Start Date** means the date of receipt by KENSHO of the Customer's acceptance of this Agreement, whether online or in hard copy.

## 2. Term and Incorporation of Conditions

- The Agreement shall commence with effect from the Start Date and shall continue thereafter until the completion of the Event or the provision of the Services (whichever is the later and at KENSHO's sole discretion) or unless and until otherwise terminated in accordance with clause 5.3 (the **Term**).
- These Terms & Conditions supersede any earlier sets of terms and conditions and shall apply to the Agreement in preference to any other terms or conditions, whether incorporated into the Customer's booking requests or by any other means. If the Conditions differ in any respect from those of any request, offer or order made by the Customer, this document does not constitute acceptance of such request, offer or order but a counter-offer. When the Customer returns the signed (including by electronic signature) confirmation form to KENSHO the Customer accepts without qualification these Terms & Conditions, and a binding contract shall come into existence between KENSHO and the Customer.
- No amendments to the Terms & Conditions and the Agreement as a whole shall be effective unless agreed in writing by a director of KENSHO.

## 3. KENSHO's Obligations

- KENSHO shall perform the Services during the Term with reasonable skill and care and in accordance with the terms of the Agreement.
- The parties acknowledge and agree that the Services to be performed by KENSHO in accordance with the Key Terms may be subject to change at any time with the prior written approval of the Customer.
- Notwithstanding clause 3.2 above, in the event that the Customer wishes to change the scope of the Services or increase any activity contemplated therein or otherwise, such change or increase shall be subject to the prior written approval of KENSHO and clause 7 below. The terms of the Agreement shall apply to any changes agreed.
- The Customer acknowledges and agrees that the performance of the Services by KENSHO may be dependent, conditional or otherwise reliant upon the performance by the Customer or a third party of certain obligations, or the supply by the Customer or a third party of certain materials, information, access or other requirements. KENSHO will not be liable for any delay or failure to provide the Services if the Customer or such third party does not perform such obligations or supply such materials, information, access or requirements (or does not perform or supply them in good time).



- The Customer shall promptly provide to KENSHO all information, assistance and materials that it reasonably requests from time to time to facilitate the proper and timely performance of the Services.

#### **4. The Customer's Obligations**

- The Customer shall provide all reasonable co-operation and assistance to KENSHO to facilitate the performance of its obligations under the Agreement and shall provide all information, personnel, materials and/or any other requirements that are deemed by KENSHO to be necessary to enable to perform its obligations under the Agreement.
- The Customer shall make timely payment of all sums owed to KENSHO in accordance with clause 6 of the Agreement.

#### **5. Intellectual Property Rights**

- To the extent relevant, each party shall retain ownership of all of its Background IP.
- As between the parties, KENSHO shall own all right, title and interest in and to any Deliverables. Neither party shall be entitled to use the other party's trademarks without obtaining that party's prior written consent.
- If and to the extent that the Customer owns any Intellectual Property Rights in any Deliverables, the Customer hereby assigns all such Intellectual Property Rights (by way of a present assignment of past, present and future rights) to KENSHO (or Our nominee).

#### **6. Payment**

- If any Deposit is payable pursuant to the Key Terms, the Customer shall pay this in accordance with the date stipulated in the Key Terms and, in any event, not less than 30 days prior to the Event Date.
- The Customer shall pay the Price and the Management Fee (if applicable) plus any applicable VAT, on the dates stipulated in the Key Terms or as invoiced by KENSHO from time to time.
- The Customer agrees to pay any Ordinary Expenses as invoiced by KENSHO following the Event.
- Where the Price is less than £5,000 + VAT, a postage and packaging charge of £6.95 will be added to the Customer invoice for secure special delivery of any Documentation.
- All sums payable by the Customer to KENSHO under the Agreement shall be inclusive of any applicable duties, imposts, taxes or levies other than VAT and shall be made without any deduction, withholding, counter-claim or set off.
- Unless otherwise specified in the Key Terms, all KENSHO invoices are payable either by credit card or by electronic bank transfer within 7 days of the date of the invoice.



Where payment is made by credit card, the Customer agrees to pay the following payment fees:

(a) 2.5% of the invoice value if payment by VISA or Mastercard; and (b) 3.35% of the invoice value if payment by AMEX.

- KENSHO reserves the right to charge interest on any overdue outstanding amount, at the rate prevailing at the date of invoice as prescribed by the Secretary of State pursuant to section 6 of the Late Payment of Commercial Debts (Interest) Act 1998, until the outstanding amount and accrued interest thereon is paid.
- Without prejudice to any of KENSHO's rights, failure to pay any sums due from the Customer to KENSHO shall entitle KENSHO to cease provision of the Services, refuse to book any other events under this Agreement or any other contract with the Customer and to cancel any uncompleted booking without incurring any liability whatsoever to the Customer.

## **7. Cancellation and Amendments by You**

- 1. If the Customer wishes to amend the Services, it must notify KENSHO in writing. KENSHO will only accept such requests for amendments as it in its sole discretion shall decide.
- 2. If the Customer wishes to cancel the Services, it must notify KENSHO in writing. Any acceptance by KENSHO of any request for cancellation shall be in its sole discretion and KENSHO shall not be under any obligation to refund to the Customer any sums already paid to KENSHO and KENSHO reserves the right to invoice the Customer any costs and expenses that it may have incurred so far.
- 3. Subject always to clause 7.2, where the provision of the Services by KENSHO includes the provision of tickets or accommodation (for example), and where KENSHO is able to claim a refund from its supplier(s) for such tickets or accommodation (for example), KENSHO shall at its sole discretion refund to the Customer such amounts as it receives (less an administration fee of 15% where KENSHO has not charged a Management Fee).
- 4. In respect of Services for which KENSHO has specified a Management Fee, in the event of any agreed cancellation, the Customer shall pay KENSHO's Management Fee as set out below:

No of days to event from receipt of cancellation notice of Management Fee  
113 or more 25

57-112 50

29-56 75

0-28 90



- 5. If the Customer cancels any Services or reduces the number of Attendees and KENSHO has already sent the Customer the relevant Documentation, the Customer agrees to return such Documentation to KENSHO immediately at the Customer's cost.
- 6. By entering this Agreement the Customer acknowledges that the cancellation and administration fees set out above are reasonable. KENSHO levies these charges as a genuine pre-estimate of its loss, both to cover its administration costs and to protect it against losses when customers cancel bookings.

## **8. Flights**

If the Customer buys an ATOL protected flight or flight inclusive Services from us the Customer will receive an ATOL Certificate. This lists what is financially protected, where the Customer can get information on what this means for the Customer and who to contact if things go wrong."

KENSHO, or the suppliers identified on your ATOL Certificate, will provide the Customer with the services listed on the ATOL Certificate (or a suitable alternative). In some cases, where neither KENSHO nor the supplier are able to do so for reasons of insolvency, an alternative ATOL holder may provide the Customer with the services it has bought or a suitable alternative (at no extra cost to the Customer). The Customer agrees to accept that in those circumstances the alternative ATOL holder will perform those obligations and the Customer agrees to pay any money outstanding to be paid by the Customer under its contract to that alternative ATOL holder. However, the Customer also agrees that in some cases it will not be possible to appoint an alternative ATOL holder, in which case the Customer will be entitled to make a claim under the ATOL scheme (or the Customer's credit card issuer where applicable).

If KENSHO, or the suppliers identified on your ATOL certificate, are unable to provide the services listed (or a suitable alternative, through an alternative ATOL holder or otherwise) for reasons of insolvency, the Trustees of the Air Travel Trust may make a payment to (or confer a benefit on) the Customer under the ATOL scheme. The Customer agrees that in return for such a payment or benefit the Customer assigns absolutely to those Trustees any claims which the Customer has or may have arising out of or relating to the non-provision of the services, including any claim against KENSHO, any agent (or the Customer's credit card issuer where applicable). The Customer also agrees that any such claims may be re-assigned to another body, if that other body has paid sums the Customer has claimed under the ATOL scheme.

When you buy and ATOL protected flight or flight inclusive holiday from us you will receive an ATOL certificate. This lists what is financially protected, where you can get information on what this means for you and who to contact if things go wrong.

## **9. Documentation**

- 1. No Documentation shall be issued to the Customer until KENSHO has receipt and bank confirmation of full payment in respect of any Deposit, Price or Management Fee (as applicable).
- 2. If the Customer requests that KENSHO posts Documentation to it, rather than the



Customer collect it, the Customer agrees that risk in the Documentation posted shall pass to it upon KENSHO posting the Documentation to the address stated in the Key

Terms or otherwise notified in writing by the Customer. KENSHO shall not be liable for any loss, damage or cost arising from non-delivery of any Documentation and KENSHO reserves the right to levy an additional charge for issuing replacement Documentation for those lost by whatever means or at any stage.

- 3. The Customer agrees that, in addition to the Customer's compliance with the terms of this Agreement, the Customer shall comply with all relevant terms and conditions (including any ground regulations or other venue or ticket terms and conditions that may be applicable) of the Event itself.
- 4. No Documentation relating to the Event may be resold or transferred by the Customer. Any Documentation relating to entry to the Event which is obtained in breach of these Terms & Conditions shall be void and all rights conferred or evidenced by such Documentation shall be nullified. Any person seeking to use Documentation in breach of these Terms & Conditions in order to gain or provide entry to or remain at the Event shall be liable to be refused admission or to be ejected from the Event and may be liable to legal action.
- 5. Documentation relating to entry to the Event shall not be used as competition prizes, or trade incentives, nor may they be used in raffles, tombolas, lotteries or draws whether for commercial or charitable purposes without the prior written authority of the organisers of the Event which shall be entitled to withhold such authority at its discretion.

## **10. Force Majeure**

- KENSHO shall be not liable for any failure to fulfil any of its obligations under the Agreement insofar as such failure is due to a Force Majeure Event. In such circumstances, KENSHO shall promptly notify the Customer of the existence of such Force Majeure Event, and shall use reasonable endeavours to overcome the Force Majeure Event. If a Force Majeure Event occurs and continues for 14 days or more, KENSHO shall be entitled to suspend or terminate the Agreement immediately on written notice to the Customer.
- If the Agreement is or becomes suspended or terminated due to a Force Majeure Event then KENSHO shall be entitled to invoice Customer for any and all outstanding amounts due to be paid by the Customer to KENSHO under the Agreement as at the date of suspension or termination.

## **11. Insurance**

The Customer agrees to use best endeavours to ensure that all the Attendees at the Event will have separate and adequate insurance cover to protect them and their property against the risk of injury or harm accruing to them as a result of attending the Event.



## 12. Warranty

- The Customer warrants that: (a) as far as it is aware, all information provided by you to KENSHO shall be true and accurate; (b) the Customer is entitled to provide the same to KENSHO for its use without recourse to any third party; (c) in respect of any materials supplied by you to KENSHO which KENSHO is instructed by the Customer to incorporate into the performance of the Services (**Client Materials**), such Client Materials supplied can be used by KENSHO free of charge and for the purpose for which they were supplied without infringing the rights of any third parties; (d) the Customer will comply with all laws, including, without limitation, any obligations under the Data Protection Act 1998 and all related legislation; (e) the Customer has full capacity and authority to enter into this Agreement; and (f) the Customer's Background IP and Client Materials will not infringe the Intellectual Property Rights of any third party.
- KENSHO warrants that it will use reasonable care and skill in providing the Services. However, subject to clause 13.1, KENSHO will not accept responsibility for circumstances which fall outside its direct control or the direct control of its employees, servants or agents. Whilst KENSHO makes every effort to ensure that proper arrangements have been made for the provision of KENSHO Services, it will not accept responsibility for acts of persons who are not KENSHO employees.
- KENSHO gives no warranty about the Event for which the booking is made as to its quality, suitability or otherwise.

## 13. Exclusion of liability

- Nothing in these terms shall seek to limit KENSHO's liability for death or personal injury arising as a result of KENSHO's negligence.
- Where the Event is not organised by KENSHO, it cannot be held responsible for the non-appearance of any artist, performer, player or participant, or for the actions or omissions of the organisers or operators of the Event, their employees, servants or their agents.
- Where the Event is not organised by KENSHO, it gives no warranties that the Event shall take place on the Event Date or at all. KENSHO is not liable to give any refund in the event that the Event is cancelled or postponed.
- Where the Event is not organised by KENSHO, the details of the Event shown in any materials provided by KENSHO should be correct at the time of printing but the Customer is responsible for checking with the organisers of the Event that no alterations have been made.
- Where the Event is not organised by KENSHO, the Customer acknowledges that KENSHO has no control over the pricing policy of tickets for the Event (as applicable), save in situations where KENSHO has specifically tailored a hospitality package for the Customer and has identified itself as the sole organiser.
- To the maximum extent permitted by law, neither KENSHO nor its agents, servants or employees shall be held liable for any indirect, consequential, special or punitive damages or lost or imputed profits, lost business opportunity or cost of procuring



substitute Documentation relating to entry to the Event or the provision of the Services.

- In any event KENSHO's liability for any and all claims arising in connection with this Agreement shall be limited to the Price. All complaints must be registered in writing on the day of the alleged complaint or if not reasonably practicable, on the next business day. All claims for damages must be made within 14 days from the termination of the Event and/or Services or be forever barred.
- KENSHO does not accept responsibility for loss or damage to goods, luggage, personal property or personal effects in connection with your attendance at the Event.

#### **14. Indemnity**

The Customer agrees to indemnify and hold harmless, KENSHO and its agents, servants or employees for any costs, liability and expense resulting from any breach by the Customer of this Agreement.

#### **15. General**

- This Agreement constitutes the entire agreement between the Customer and KENSHO, and supersedes all previous or contemporaneous agreements, proposals, understandings and representations (written or oral).
- For the avoidance of doubt, nothing in this Agreement shall confer on any third party any benefit or the right to enforce any term of this Agreement.
- If any of the provisions of this Agreement is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of this Agreement and the remainder of the provisions in question shall not be affected.
- This Agreement (and any non-contractual obligations arising out of it) is governed by the law of England & Wales and both the Customer and KENSHO submit to the non-exclusive jurisdiction of the English courts.

15.5. The headings in these Conditions are for convenience only and shall have no effect on their interpretation.