Hotelsystems.co.uk

T/A TJC Systems Limited

Data Protection Addendum

Rev. 1.0

May 2018

This Data Protection Addendum ("**Addendum**") forms part of the Principal Agreement between: (i) HotelSystems.co.uk **("Vendor")** acting on its own behalf and as agent for each Vendor Affiliate; and (ii) the software user (**"Company"**) acting on its own behalf and as agent for each Company Affiliate.

The terms used in this Addendum shall have the meanings set forth in this Addendum. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Principal Agreement. Except as modified below, the terms of the Principal Agreement shall remain in full force and effect.

In consideration of the mutual obligations set out herein, the parties hereby agree that the terms and conditions set out below shall be added as an Addendum to the Principal Agreement. Except where the context requires otherwise, references in this Addendum to the Principal Agreement are to the Principal Agreement as amended by, and including, this Addendum.

1. Definitions

1.1 In this Addendum, the following terms shall have the meanings set out below and cognate terms shall be construed accordingly:

1.1.1 **"Applicable Laws"** means (a) European Union or Member State laws with respect to any Company Personal Data in respect of which any Company Group Member is subject to EU Data Protection Laws; and (b) any other applicable law with respect to any Company Personal Data in respect of which any Company Group Member is subject to any other Data Protection Laws;

1.1.2 **"Company Affiliate"** means an entity that owns or controls, is owned or controlled by or is or under common control or ownership with Company, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise;

1.1.3 **"Company Group Member"** means Company or any Company Affiliate;

1.1.4 **"Company Personal Data"** means any Personal Data Processed by a Contracted Processor on behalf of a Company Group Member pursuant to or in connection with the Principal Agreement;

1.1.5 **"Contracted Processor"** means Vendor or a Subprocessor;

1.1.6 **"Data Protection Laws"** means EU Data Protection Laws and, to the extent applicable, the data protection or privacy laws of any other country;

1.1.7 **"EEA"** means the European Economic Area;

1.1.8 **"EU Data Protection Laws"** means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the GDPR and laws implementing or supplementing the GDPR;

1.1.9 **"GDPR"** means EU General Data Protection Regulation 2016/679;

1.1.10 **"Services"** means the services and other activities to be supplied to or carried out by or on behalf of Vendor for Company Group Members pursuant to the Principal Agreement;

1.1.11 **"Subprocessor"** means any person (including any third party and any Vendor Affiliate, but excluding an employee of Vendor or any of its sub-contractors) appointed by or on behalf of Vendor or any Vendor Affiliate to Process Personal Data on behalf of any Company Group Member in connection with the Principal Agreement; and

1.1.12 **"Vendor Affiliate"** means an entity that owns or controls, is owned or controlled by or is or under common control or ownership with Vendor, where control is defined as the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise.

1.2 The terms, **"Commission"**, **"Controller"**, **"Data Subject"**, **"Member State"**, **"Personal Data"**, **"Personal Data Breach"**, **"Processing"** and **"Supervisory Authority"** shall have the same meaning as in the GDPR, and their cognate terms shall be construed accordingly.

1.3 The word **"include"** shall be construed to mean include without limitation, and cognate terms shall be construed accordingly.

2. Authority

Vendor warrants and represents that, before any Vendor Affiliate Processes any Company Personal Data on behalf of any Company Group Member, Vendor's entry into this Addendum as agent for and on behalf of that Vendor Affiliate will have been duly and effectively authorised (or subsequently ratified) by that Vendor Affiliate.

3. Processing of Company Personal Data

3.1 Vendor and each Vendor Affiliate shall:

3.1.1 comply with all applicable Data Protection Laws in the Processing of Company Personal Data; and

3.1.2 not Process Company Personal Data other than on the relevant Company Group Member's documented instructions unless Processing is required by Applicable Laws to which the relevant Contracted Processor is subject, in which case Vendor or the relevant Vendor Affiliate shall to the extent permitted by Applicable Laws inform the relevant Company Group Member of that legal requirement before the relevant Processing of that Personal Data.

3.2 Each Company Group Member:

3.2.1 instructs Vendor and each Vendor Affiliate (and authorises Vendor and each Vendor Affiliate to instruct each Subprocessor) to:

3.2.1.1 Process Company Personal Data; and

<blockquote>

3.2.1.2   in particular, transfer Company Personal Data to any country or territory,

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as reasonably necessary for the provision of the Services and consistent with the Principal Agreement; and

3.2.2   warrants and represents that it is and will at all relevant times remain duly and effectively authorised to give the instruction set out in section 3.2.1 on behalf of each relevant Company Affiliate.

4.   Vendor and Vendor Affiliate Personnel

Vendor and each Vendor Affiliate shall take reasonable steps to ensure the reliability of any employee, agent or contractor of any Contracted Processor who may have access to the Company Personal Data, ensuring in each case that access is strictly limited to those individuals who need to know / access the relevant Company Personal Data, as strictly necessary for the purposes of the Principal Agreement, and to comply with Applicable Laws in the context of that individual's duties to the Contracted Processor, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality.

5.   **Security**

5.1   Taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons, Vendor and each Vendor Affiliate shall in relation to the Company Personal Data implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR.

5.2   In assessing the appropriate level of security, Vendor and each Vendor Affiliate shall take account in particular of the risks that are presented by Processing, in particular from a Personal Data Breach.

6.   Subprocessing

6.1   Each Company Group Member authorises Vendor and each Vendor Affiliate to appoint (and permit each Subprocessor appointed in accordance with this section 6 to appoint) Subprocessors in accordance with this section 6 and any restrictions in the Principal Agreement.

6.2   Vendor and each Vendor Affiliate may continue to use those Subprocessors already engaged by Vendor or any Vendor Affiliate as at the date of this Addendum, subject to Vendor and each Vendor Affiliate in each case as soon as practicable meeting the obligations set out in section 6.4.

6.3   Vendor shall give Company prior written notice of the appointment of any new Subprocessor, including full details of the Processing to be undertaken by the Subprocessor. If, within 7 days of receipt of that notice, Company notifies Vendor in writing of any objections (on reasonable grounds) to the proposed appointment:

6.3.1   where such a change cannot be made within 30 days from Vendor's receipt of Company's notice, notwithstanding anything in the Principal Agreement, Company may by written notice to Vendor with immediate effect terminate the

Principal Agreement to the extent that it relates to the Services which require the use of the proposed Subprocessor.]

7. **Data Subject Rights**

7.1   Taking into account the nature of the Processing, Vendor and each Vendor Affiliate shall assist each Company Group Member by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Company Group Members' obligations, as reasonably understood by Company, to respond to requests to exercise Data Subject rights under the Data Protection Laws.

7.2   Vendor shall:

7.2.1   promptly notify Company if any Contracted Processor receives a request from a Data Subject under any Data Protection Law in respect of Company Personal Data; and

7.2.2   ensure that the Contracted Processor does not respond to that request except on the documented instructions of Company or the relevant Company Affiliate or as required by Applicable Laws to which the Contracted Processor is subject, in which case Vendor shall to the extent permitted by Applicable Laws inform Company of that legal requirement before the Contracted Processor responds to the request.

8. **Personal Data Breach**

8.1   Vendor shall notify Company without undue delay upon Vendor or any Subprocessor becoming aware of a Personal Data Breach affecting Company Personal Data, providing Company with sufficient information to allow each Company Group Member to meet any obligations to report or inform Data Subjects of the Personal Data Breach under the Data Protection Laws.

8.2   Vendor shall co-operate with Company and each Company Group Member and take such reasonable commercial steps as are directed by Company to assist in the investigation, mitigation and remediation of each such Personal Data Breach.

9. **Data Protection Impact Assessment and Prior Consultation**

Vendor and each Vendor Affiliate shall provide reasonable assistance to each Company Group Member with any data protection impact assessments, and prior consultations with Supervising Authorities or other competent data privacy authorities, which Company reasonably considers to be required of any Company Group Member by article 35 or 36 of the GDPR or equivalent provisions of any other Data Protection Law, in each case solely in relation to Processing of Company Personal Data by, and taking into account the nature of the Processing and information available to, the Contracted Processors.

10. **Deletion or return of Company Personal Data**

10.1   Subject to sections 10.2 and 10.3 Vendor and each Vendor Affiliate shall promptly and in any event within a timely manner (or within 48 hours, if instructed) of the date of cessation of any Services involving the Processing of Company Personal Data (the "**Cessation Date**"), delete and procure the deletion of all copies of those Company Personal Data.

10.2   Subject to section 10.3, Company may in its absolute discretion by written notice to Vendor within 48 Hours of the Cessation Date require Vendor and each Vendor Affiliate to (a) return a complete copy of all Company Personal Data to Company by secure file transfer in such format as is reasonably notified by Company to Vendor; and (b) delete and procure the deletion of all other copies of Company Personal Data Processed by any Contracted Processor. Vendor and each Vendor Affiliate shall comply with any such written request within 14 days of the Cessation Date.

10.3   Each Contracted Processor may retain Company Personal Data to the extent required by Applicable Laws and only to the extent and for such period as required by Applicable Laws and always provided that Vendor and each Vendor Affiliate shall ensure the confidentiality of all such Company Personal Data and shall ensure that such Company Personal Data is only Processed as necessary for the purpose(s) specified in the Applicable Laws requiring its storage and for no other purpose.

11.   Audit rights

11.1   Subject to section [11.2], Vendor and each Vendor Affiliate shall make available to each Company Group Member on request all information necessary to demonstrate compliance with this Addendum, and shall contribute data, on request, for audits by any Company Group Member or an auditor mandated by any Company Group Member in relation to the Processing of the Company Personal Data by the Contracted Processors.

11.2   [Company or the relevant Company Affiliate undertaking an audit shall give Vendor or the relevant Vendor Affiliate reasonable notice of any audit to be conducted under section 11.1 and shall make (and ensure that each of its mandated auditors makes) reasonable endeavours to avoid causing (or, if it cannot avoid, to minimise) disruption to the Contracted Processors.

12.   Restricted Transfers

12.1   Subject to section 12.3, each Company Group Member (as "data exporter") and each Contracted Processor, as appropriate, (as "data importer") hereby enter into the Standard Contractual Clauses in respect of any Restricted Transfer from that Company Group Member to that Contracted Processor.

12.2   The Standard Contractual Clauses shall come into effect under section 12.1 on the later of:

12.2.1   the data exporter becoming a party to them;

12.2.2   the data importer becoming a party to them; and

12.2.3   commencement of the relevant Restricted Transfer.

12.3   Section 12.1 shall not apply to a Restricted Transfer unless its effect, together with other reasonably practicable compliance steps (which, for the avoidance of doubt, do not include obtaining consents from Data Subjects), is to allow the relevant Restricted Transfer to take place without breach of applicable Data Protection Law.

12.4   [Vendor warrants and represents that, before the commencement of any Restricted Transfer to a Subprocessor which is not a Vendor Affiliate, Vendor's or the relevant Vendor Affiliate's entry into the Standard Contractual Clauses under section 12.1, and agreement to variations to those Standard Contractual Clauses made under section 13.4.1, as agent for and on behalf of that Subprocessor will have been duly and effectively authorised (or subsequently ratified) by that Subprocessor.]

13. General Terms

Governing law and jurisdiction

13.1   Without prejudice to clauses 7 (Mediation and Jurisdiction) and 9 (Governing Law) of the Standard Contractual Clauses:

13.1.1   the parties to this Addendum hereby submit to the choice of jurisdiction stipulated in the Principal Agreement with respect to any disputes or claims howsoever arising under this Addendum, including disputes regarding its existence, validity or termination or the consequences of its nullity; and

13.1.2   this Addendum and all non-contractual or other obligations arising out of or in connection with it are governed by the laws of the country or territory stipulated for this purpose in the Principal Agreement.

13.2   Nothing in this Addendum reduces Vendor's or any Vendor Affiliate's obligations under the Principal Agreement in relation to the protection of Personal Data or permits Vendor or any Vendor Affiliate to Process (or permit the Processing of) Personal Data in a manner which is prohibited by the Principal Agreement. In the event of any conflict or inconsistency between this Addendum and the Standard Contractual Clauses, the Standard Contractual Clauses shall prevail.

13.3   Subject to section 13.2, with regard to the subject matter of this Addendum, in the event of inconsistencies between the provisions of this Addendum and any other agreements between the parties, including the Principal Agreement and including (except where explicitly agreed otherwise in writing, signed on behalf of the parties) agreements entered into or purported to be entered into after the date of this Addendum, the provisions of this Addendum shall prevail.

Changes in Data Protection Laws, etc.

13.4   Company may:

13.4.1   by at least [30 (thirty) calendar days'] written notice to Vendor from time to time make any variations to the Standard Contractual Clauses (including any Standard Contractual Clauses entered into under section 12.1), as they apply to Restricted Transfers which are subject to a particular Data Protection Law, which are required, as a result of any change in, or decision of a competent authority under, that Data Protection Law, to allow those Restricted Transfers to be made (or continue to be made) without breach of that Data Protection Law; and

13.4.2   propose any other variations to this Addendum which Company reasonably considers to be necessary to address the requirements of any Data Protection Law.

13.5   If Company gives notice under section 13.4.1:

13.5.1   [Vendor and each Vendor Affiliate shall promptly co-operate (and ensure that any affected Subprocessors promptly co-operate) to ensure that equivalent variations are made to any agreement put in place under section 6.4.3; and]

13.5.2   Company shall not unreasonably withhold or delay agreement to any consequential variations to this Addendum proposed by Vendor to protect the

Contracted Processors against additional risks associated with the variations made under section 13.4.1 [and/or 13.5.1].

13.6   If Company gives notice under section 13.4.2, the parties shall promptly discuss the proposed variations and negotiate in good faith with a view to agreeing and implementing those or alternative variations designed to address the requirements identified in Company's notice as soon as is reasonably practicable.

13.7   Neither Company nor Vendor shall require the consent or approval of any Company Affiliate or Vendor Affiliate to amend this Addendum pursuant to this section 13.5 or otherwise.

Severance

13.8   Should any provision of this Addendum be invalid or unenforceable, then the remainder of this Addendum shall remain valid and in force. The invalid or unenforceable provision shall be either (i) amended as necessary to ensure its validity and enforceability, while preserving the parties' intentions as closely as possible or, if this is not possible, (ii) construed in a manner as if the invalid or unenforceable part had never been contained therein.

IN WITNESS WHEREOF, this Addendum is entered into and becomes a binding part of the Principal Agreement with effect from the date first set out above.

[Company]

Signature _____

Name _____

Title _____

Date Signed _____

[Vendor]

Signature _____

Name _____

Title _____

Date Signed _____

ANNEX 1: DETAILS OF PROCESSING OF COMPANY PERSONAL DATA

This Annex 1 includes certain details of the Processing of Company Personal Data as required by Article 28(3) GDPR.

Subject matter and duration of the Processing of Company Personal Data

The subject matter and duration of the Processing of the Company Personal Data are set out in this Addendum.

The nature and purpose of the Processing of Company Personal Data

As outlined in the Data Privacy Policy, Vendor holds contact information for Company/ Software Users or Hotel Guest Data in cases where Company subscribes to 'Online booking System'.

The types of Company Personal Data to be Processed

User Data Stored may include, but is not limited to:

- User ID

- Company Name

- Contact Name

- Company Address

- Email Addressing

- Contact Number

The obligations and rights of Company and Company Affiliates

The obligations and rights of Company and Company Affiliates are set out in this Addendum.

On behalf of the Vendor:
Name (written out in full):   Tristan Collings
Position: Director
Address: Hotelsystems.co.uk T/A TJC Systems Limited
153 Mortimer Street
Herne Bay
Kent
CT6 5HA

Other information necessary in order for the contract to be binding (if any):

Signature………………………………………….

On behalf of the Company:
Name (written out in full):
Position:
Address:

Other information necessary in order for the contract to be binding (if any):

Signature………………………………………….