**GDPR Guidance (March 2018): Controller/Processor Contracts**

This briefing note provides broad template language for Venues to consider putting in place alongside any agreement or arrangements which involve a third party processing personal data on behalf of the Venue. This will help to meet the "controller/processor" requirements under GDPR which require "controller" organisations to impose various contractual obligations on sub-contracted "processors".

Venues should also undertake practical due diligence on any such supplier and its data security arrangements. Venues may find that larger suppliers may seek to impose their own controller/processor language on Venues.

This note and drafting is intended to provide general guidance on GDPR requirements but Venues must rely on their own review of this document and take legal advice on it if required.

Revised controller/processor terms should be in place before 25 May 2018.

1. This Data Processing Agreement relates to the processing of personal data carried out by INSERT SUPPLIER NAME AND DETAILS to INSERT VENUE NAME AND DETAILS under any agreement or arrangements between them. **Background**

In this Variation, “**Data Protection Law**” means the Data Protection Act 1998, the Privacy and Electronic Communications Regulations 2003, and all other applicable laws, each as may be amended or superseded from time to time (including the General Data Protection Regulation, which shall supersede the Data Protection Act with effect from 25 May 2018).

In the course of the Supplier providing its services to the Venue under any agreement or arrangements between them, the Supplier may have access to, or be required to, process personal data on the Venue's behalf. Further details of that processing may be set out in any relevant agreement or other documentation.

The parties acknowledge that for the purposes of Data Protection Law, the Venue is the controller/data controller and is required to meet its statutory obligations in relation to the processing of personal data (as defined in the Data Protection Law), irrespective of whether the processing is undertaken directly by the Venue or by a data processor acting on behalf of the Venue. For the purposes of Data Protection Law, the Supplier is a processor/data processor.

Section (B) below sets out the Supplier's obligations in relation to such personal data processing ("**Processor Obligations**"). In return for the sum of one pound (£1) (receipt and adequacy of which the Supplier hereby acknowledges), the Supplier has agreed to comply with the Processor Obligations, which constitute a binding data processor contract between the Venue and the Supplier.

In the event of any conflict or inconsistency between this Data Processing Agreement and any other agreement or arrangements, the terms of this Data Processing Agreement shall prevail. It shall be governed by English law.

1. **Processor Obligations**
2. If the Supplier processes any personal data (as defined in Data Protection Law) on the Venue's behalf, the Supplier shall:
3. only carry out processing of any such personal data on the Venue's documented instructions from time to time and in compliance with the provisions of Data Protection Law, and only then to the extent necessary for and in connection with the provision of the Services, and for no other purpose whatsoever;
4. not engage any third party to carry out processing in connection with the Services on behalf of the Venue without the Venue's prior written consent, and only then on terms which replicate this Data Processing Agreement. The Supplier shall remain liable to the Venue for any acts or omissions of its sub-processors.
5. take and/or implement all appropriate technical and organisational measures against unauthorised or unlawful processing of such personal data, and against accidental loss, alteration or destruction of, or damage to, such personal data, and ensure the security of such data at all times (and the Supplier shall promptly inform the Venue if any personal data are lost, altered or destroyed or becomes damaged, corrupted or unusable and shall take such steps as the Venue may reasonably require to restore the personal data to its original condition);
6. not modify, amend or alter the contents of such personal data other than as strictly necessary for the purposes of providing the Services;
7. not disclose or permit the disclosure of any such personal data to any third party (including a data subject) unless specifically authorised in writing by the Venue;
8. only transfer such personal data to countries outside the European Economic Area that ensure an adequate level of protection for the personal data and the rights of the data subject and in any event only with the express prior written authorisation of the Venue which may be granted subject to such conditions as the Venue deems necessary;
9. on termination of this Data Processing Agreement or any earlier termination of the Supplier's obligation to process personal data, and as otherwise directed by the Venue, the Supplier shall either, as elected by the Venue:
10. destroy the personal data and all copies thereof; or
11. transfer the personal data to the Venue or such other third party as the Venue may direct; or
12. archive the personal data subject to agreement on terms of archiving including costs.
13. If the Supplier receives any complaint, notice or communication which relates directly or indirectly to the processing of personal data or to compliance by it or the Venue with Data Protection Law (including requests from data subjects for the exercising of their statutory rights), it shall promptly notify the Venue and shall provide the Venue with full co-operation and assistance in relation to any such complaint, notice or communication.
14. The Supplier shall provide all reasonable assistance to the Venue, having regard to the nature of processing and the information available to the Supplier, in order to assist the Venue to comply with its obligations under Data Protection Law.
15. The Supplier shall keep and provide to the Venue on request a record of the Supplier's use of the personal data and processing activities and shall make available to the Venue all information necessary (and allow for and contribute to audits or inspections) to demonstrate compliance with the Supplier's data processing obligations set out in this Data Processing Agreement, and that it is competent to process personal data in accordance with Data Protection Law.
16. The Supplier shall take reasonable steps to ensure the reliability of all its employees or other representatives who have access to the personal data and shall ensure that all such persons:
17. are informed of the confidential nature of the personal data before they gain access to it;
18. have committed themselves to confidentiality obligations or are under an appropriate statutory obligation of confidentiality; and
19. have undertaken training in the requirements of Data Protection Law.
20. The Supplier agrees to indemnify (and keep indemnified) the Venue against all costs, expenses and liabilities arising from the Supplier's breach of its obligations under this Data Processing Agreement.
21. This Data Processing Agreement shall continue in force for so long as the Supplier processes any personal data on behalf of the Venue.

SIGNED for and on behalf of the Supplier

Signed:

Name:

Title:

Dated:

SIGNED for and on behalf of the Venue

Signed:

Name:

Title:

Dated: