



Marketplace Client Terms (UK)

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TERMS AND CONDITIONS

1. INTRODUCTION

1.1 **YUNOJUNO HAS A SINGLE, BOLD MISSION: UNLOCK THE TRUE POTENTIAL OF FREELANCE. The way the YunoJuno platform works supports this. The platform lets freelance contractors who are looking for clients connect with clients who need their specific skills and services. Clients and freelance contractors use the platform together to agree and manage assignments in a direct and transparent manner.** Please see clause 26 for the definitions of capitalised words used in these Terms and Conditions and the interpretation of certain words and phrases. For any questions about these Terms and Conditions please contact hello@yunojuno.com. Thank you.

1.2 **The effective date of these Terms and Conditions, version 2.1, is 13 March 2020 and they apply to all use of the Platform and all services by Freelance Contractors from that date.**

1.3 The changes from version 2.0 to version 2.1 are to implement the changes because of the New Rules relating to 'IR35' which come into force with effect from 6 April 2020. The New Rules are a part of the Off-Payroll Working Rules, which affect only PSC Freelance Contractors.

2. COMMENCEMENT AND DURATION OF MARKETPLACE AGREEMENT

2.1 All use by client users and their Personnel of the Platform is subject to these Terms and Conditions. Clients are responsible for all use of the Platform by their Personnel.

2.2 Before a client can register as a Client on the Platform, it must submit a request for access via the Platform.

2.3 Client shall provide all information requested by YunoJuno as part of the Platform registration request or at any time (including for compliance and credit checking).

2.4 YunoJuno in its absolute discretion determines which requests to accept.

2.5 If YunoJuno accepts a client on the Platform, YunoJuno shall send a Registration Confirmation to client, at which point a binding agreement is formed (called the Marketplace Agreement) between YunoJuno and Client.

2.6 A Marketplace Agreement shall not enter into force between a client and YunoJuno, be legally binding or have any other effect unless YunoJuno has sent a Registration Confirmation.

- 2.7 The Marketplace Agreement between Marketplace User and YunoJuno begins on the Registration Date and continues for the Term unless terminated earlier in accordance with these Terms and Conditions.
- 2.8 The Marketplace Agreement governs the overall contractual relationship between Marketplace User and YunoJuno for access to the Platform and use of the Marketplace Services.
- 2.9 For each Assignment agreed between a Client and a Freelance Contractor, a separate contract is formed between YunoJuno and Client governing the delivery of that Assignment (called the Client Contract).
- 2.10 A Client Contract shall not enter into force, be legally binding or have any other effect unless the relevant Booking has been agreed between a Client and Freelance Contractor and recorded as such in the Platform.

3. ACCESS TO THE PLATFORM

- 3.1 Marketplace User acknowledges and agrees that it understands the basis upon which the Platform has been developed, and the basis upon which access is being provided to Marketplace User:
- 3.1.1 in providing access to the Platform to Marketplace User, YunoJuno is primarily a technology business but also operates as an employment business for the purposes of the Conduct Regulations;
- 3.1.2 the Platform is for Freelance Contractors in business on their own account;
- 3.1.3 Marketplace User is a client of any Freelance Contractors;
- 3.1.4 Freelance Contractors provide services to their clients (including to Clients) through a variety of models entirely at their discretion, including as sole traders, via personal services companies, via consultancies and via umbrella companies (and for the purposes of these terms and conditions each of these is a **Supplier**);
- 3.1.5 under the Freelancer Terms the Supplier is under an obligation to procure compliance by the individual with the Freelancer Terms and (where the context requires) references to **Freelance Contractor** shall be to the Supplier of the individual (the business name of the Supplier of the Freelance Contractor is set out in the Assignment Details);
- 3.1.6 YunoJuno has no day to day control over Clients' and Freelance Contractors' use of the Platform, including in relation to the briefs submitted, the type of services or rates charged, or any other arrangements for assignments (such as when, where and how an Assignment is delivered), which are negotiated entirely between Clients and Freelance Contractors;
- 3.1.7 the Platform is not for temporary workers or employees, whether of YunoJuno or otherwise; and
- 3.1.8 pursuant to regulation 3(2)(b) of the Agency Worker Regulations YunoJuno does not operate as a temporary worker agency and does not therefore gather nor provide any information relating to 'day one' or '12 week' rights.
- 3.2 Subject to payment and compliance with the Marketplace Agreement, YunoJuno shall use reasonable endeavours to provide access to the Platform to the Marketplace User for the Term in accordance with the Marketplace Agreement.
- 3.3 The acceptable use policy for the Platform is at https://uk.yunojuno.com/acceptable_use/ (**Acceptable Use Policy**). Marketplace User shall, and shall ensure anyone using the Platform by or on Marketplace User's behalf shall, comply with the Acceptable Use Policy.
- 3.4 In performing its obligations under the Marketplace Agreement, YunoJuno shall:
- 3.4.1 comply with Applicable Law; and
- 3.4.2 use reasonable endeavours to Screen Contractors as part of their registration for the Platform or before first Booking.
- 3.5 YunoJuno uses reasonable endeavours to keep users of the Platform informed of any scheduled maintenance by placing notices to users on the Platform.
- 3.6 Marketplace User shall use the Platform to submit Briefs for potential Assignments. Marketplace User shall then use the Platform to agree Assignments and conclude Bookings in respect of Freelance Contractors who Marketplace User engages.
- 3.7 Marketplace User shall, in relation to its use of the Marketplace Services:
- 3.7.1 comply with all Applicable Law;
- 3.7.2 give YunoJuno all reasonable and necessary access to Marketplace User, Marketplace User Personnel, and any information or interfaces necessary to enable YunoJuno to provide the Marketplace Services;
- 3.7.3 complete all information and tasks requested in a timely, accurate, complete and compliant manner; and
- 3.7.4 not knowingly or recklessly do, or omit to do, anything which may cause YunoJuno or YunoJuno Personnel to be in breach of Applicable Law or suffer reputational damage.
- 3.8 Marketplace User shall, in relation to the Platform:
- 3.8.1 keep all user logins secret and secure and not allow users to share any logins;
- 3.8.2 use it only as intended pursuant to its functionality and instructions from time to time, including following all instructions, processes and rules for placing Briefs and agreeing, contracting, managing and administering Assignments;

- 3.8.3 not conduct any systematic or automated data scraping, data mining, data extraction or data harvesting, or other data collection activity, whether or not systematic or automated;
- 3.8.4 not use the Platform in any way that will or may have a material negative effect upon the performance of the Platform; and
- 3.8.5 ensure that no viruses, worms, spyware, adware or other harmful or malicious software, programs, routines, applications or technologies are (directly or indirectly) uploaded or connected to the Platform or any computer or device accessing the Platform.

4. PLACING BRIEFS AND AGREEING ASSIGNMENTS

4.1 For each Brief, Marketplace User shall include:

- 4.1.1 the date on which Marketplace User requires Freelance Contractor to begin, and the likely duration of, the Assignment;
- 4.1.2 the Assignment the Marketplace User seeks to have done, including the type of services someone undertaking such an assignment would be required to provide;
- 4.1.3 the location at which, and the hours during which, the Freelance Contractor would be required to provide services;
- 4.1.4 any health or safety risks for the Assignment and what steps Marketplace User has taken to prevent or control such risks;
- 4.1.5 details of any training, qualifications and other authorisations required by Marketplace User, Applicable Law and any professional body which the Freelance Contractor is required to have to undertake the Assignment;
- 4.1.6 the target Freelance Contractor Fee the Marketplace User has budgeted for;
- 4.1.7 details of the arrangements for expenses (if no specific details are provided in the Assignment Details, Marketplace User shall pay Freelance Contractor expenses in accordance with the applicable Client Policy and Freelance Contractor shall claim reimbursement of pre-approved expenses directly from Marketplace User using its internal procedures);
- 4.1.8 the number of days advance notice that either Marketplace User or Freelance Contractor must give to end the Assignment early; and
- 4.1.9 a copy of its Client Undertakings;

and if any of the information in clauses 4.1.1 to 4.1.9 changes during the course of agreeing a Booking, Marketplace User shall update the Brief before proceeding to the Booking stage with any Freelance Contractor.

4.2 All Freelance Contractors are separately subject to the Freelancer Terms, which independently govern use of the Platform by them. The Freelancer Terms require Freelance Contractors to:

- 4.2.1 execute any Client Undertakings (provided the Freelance Contractor has been provided with a copy by the Client in advance as part of the process of agreeing the Assignment Details);
- 4.2.2 comply with Applicable Law;
- 4.2.3 account for all tax liabilities (including corporation tax, PAYE, income tax and National Insurance contributions) where such liability, assessment or claim arises or is made in connection with payments received by Freelance Contractor in respect of any Assignments;
- 4.2.4 refrain from disclosing any secret or confidential information of Client which may be acquired when undertaking the Assignment;
- 4.2.5 follow all relevant and reasonable Client Policies applicable to the delivery of the Assignment and/or delivering services at Client Premises (provided the Freelance Contractor has been made aware of these by Client in advance as part of the Assignment Details);
- 4.2.6 treat all Client Personnel with respect and irrespective of their age, sex, marital status, sexual orientation, religion, religious belief, colour, race, ethnic or national origin or any disability which they may have; and
- 4.2.7 not bully, harass or otherwise unlawfully discriminate against any persons.

4.3 Freelance Contractors are under no obligation to consider or negotiate any Brief submitted by Clients, and Clients are under no obligation to accept the services of any Freelance Contractors responding to Briefs.

4.4 Marketplace User acknowledges that the functionality of the Platform requires Freelance Contractors to provide and/or confirm the following information directly to Marketplace User as part of the Brief response and/or Booking process (and Marketplace User acknowledges that the Platform can only display such information to the extent provided by the Freelance Contractor in their Profile and/or via the Platform):

- 4.4.1 the Freelance Contractor's experience, training, qualifications and authorisations relevant to the Assignment;
- 4.4.2 (by responding to the Brief) the Freelance Contractor's willingness to carry out an Assignment;
- 4.4.3 the Freelance Contractor Fees;
- 4.4.4 the Assignment Cancellation Fee payable by Client for cancelling the Assignment before it begins (which Marketplace User shall consider and agree in good faith taking into account the start date, length of time

committed by Freelance Contractor for the Assignment and the impact late cancellation may have on the Freelance Contractor); and

- 4.4.5 confirmation that the Freelance Contractor is willing to accept the notice period referred to in clause 4.1.8.
- 4.5 If YunoJuno and the Freelance Contractor have agreed to an Opt Out, YunoJuno shall inform the Customer as part of the Booking process.
- 4.6 If Marketplace User wishes to offer Freelance Contractor an Assignment following a successful Brief response, Marketplace User must do so by offering Freelance Contractor a Booking via the Platform. (If pursuant to clause 8.10 YunoJuno requires a payment in advance, Marketplace User will not be able to proceed to Booking until YunoJuno has received payment in cleared funds. Client may pay any payment in advance using any payment method accepted by YunoJuno from time to time.)
- 4.7 As soon as a Booking offered by Marketplace User is accepted by Freelance Contractor, two separate contracts are formed, each beginning on the Booking date and ending on the last day of the Assignment Term:
 - 4.7.1 Client Contract between YunoJuno and Marketplace User under which YunoJuno agrees to facilitate the provision of services by the Freelance Contractor to Marketplace User as agreed between Marketplace User and Freelance Contractor in the Assignment Details; and
 - 4.7.2 Freelancer Contract between Freelance Contractor and YunoJuno, under which the Booked Freelance Contractor agrees to deliver the services in the Assignment Details to a Marketplace User.
- 4.8 The Parties agree that for the purposes of signing a Client Contract:
 - 4.8.1 (subject to the Freelance Contractor's acceptance of the Booking) Marketplace User is deemed to have signed the Client Contract by pressing the 'Book' button on the Platform and offering the Freelance Contractor the Assignment; and
 - 4.8.2 YunoJuno is deemed to have signed the Client Contract by the platform generating the Signed Client Contract at the point the Freelance Contractor presses the 'Accept' button on the Platform.
- 4.9 Marketplace User shall ensure that all Bookings of Freelance Contractors who have been found via the Platform shall be conducted exclusively through the Platform. (Marketplace User shall not use the Platform to find any Contractor with the intention of then booking the Contractor off-Platform.)

5. OFF-PAYROLL WORKING RULES

The *IR35 Clauses (Marketplace clients)* (set out below these Terms and Conditions) shall be incorporated into this Marketplace Agreement.

6. INDIVIDUAL CLIENT CONTRACT FOR EACH ASSIGNMENT

- 6.1 Each separate Client Contract incorporates these Terms and Conditions.
- 6.2 Each separate Client Contract is a single contract for services between Client and YunoJuno under which YunoJuno shall enter into a corresponding Freelancer Contract with the Freelance Contractor to deliver the Assignment to Client.
- 6.3 Each Client Contract constitutes the entire agreement between YunoJuno and Client for Freelance Contractor's supply of services to the Client for the Assignment.
- 6.4 The Terms and Conditions take precedence of any front sheet for a Client Contract.
- 6.5 In receiving services from the Freelance Contractor under the Client Contract, Marketplace User shall:
 - 6.5.1 comply with Applicable Law;
 - 6.5.2 ensure that Freelance Contractor is aware of and understands any Client Policies (including any relating to incurring any expenses);
 - 6.5.3 not by any act or omission engage any Freelance Contractor or manage the delivery of any services being delivered by any Freelance Contractor in such a manner as to cause Freelance Contractor to be subject to Marketplace User's supervision, direction or control (which shall include allowing the Freelance Contractor a reasonable discretion, taking into account the nature of the Assignment, as to where, when and how the Freelance Contractor delivers the Assignment);
 - 6.5.4 not do anything or act in any way which may result in any Freelance Contractor being treated as any employee or worker of Marketplace User, including providing any Freelance Contractor with any benefits usually available solely to employees and/or workers of Marketplace User or Affiliates;
 - 6.5.5 not knowingly or recklessly do, or omit to do, anything which may cause a Freelance Contractor to be in breach of Applicable Law or suffer reputational damage;
 - 6.5.6 treat Freelance Contractor with respect and irrespective of their age, sex, marital status, sexual orientation, religion, religious belief, colour, race, ethnic or national origin or any disability which they may have; and
 - 6.5.7 not bully, harass or otherwise unlawfully discriminate against any Freelance Contractor.
- 6.6 Clients and not YunoJuno are responsible for all acts, errors or omissions of Freelance Contractors during the course of Assignments, whether wilful, negligent or otherwise. If Marketplace User wishes to impose any direct

obligations on Freelance Contractors, or obtain any indemnities from Freelance Contractors, Marketplace User shall include these in the Client Undertakings.

- 6.7 Client Contracts cannot be amended once Booked except:
 - 6.7.1 Marketplace User may extend the Assignment Term and/or update the Freelance Contractor Fee using the Platform;
 - 6.7.2 the Platform then notifies Freelance Contractor of the change; and
 - 6.7.3 upon confirmation by the Freelance Contractor that the change submitted by Marketplace User is agreed, the end date of the Assignment Term and/or Freelance Contractor Fee in the Client Contract between YunoJuno and Marketplace User shall be amended accordingly.
- 6.8 Until the Freelance Contractor confirms that an amendment is agreed, the un-changed Assignment Term and Freelance Contractor Fee shall continue to apply.
- 6.9 If Marketplace User submits a brief to a Freelance Contractor outside of the Platform, Marketplace User shall promptly update the Platform to include the Brief and any Assignment Details agreed with the Freelance Contractor. Marketplace User remains liable to pay Charges for assignments with Freelance Contractors submitted off-Platform.
- 6.10 Marketplace User acknowledges that the Freelance Contractor has the unfettered right to substitute other Personnel in relation to the Assignment, provided such Substitute Personnel possesses the necessary skills, qualifications and experience necessary to deliver the Assignment.
- 6.11 Provided that Marketplace User is reasonably satisfied that any proposed Substitute Personnel chosen by Freelance Contractor possesses the necessary skills, qualifications and experience for the satisfactory completion of the Assignment, Marketplace User may not refuse the Substitute Personnel.
- 6.12 Under the Freelancer Terms the original Freelance Contractor remains responsible for the services completed by Substitute and payment of Substitute's charges.
- 6.13 Should any dispute or disagreement arise between Marketplace User and Freelance Contractor about Freelance Contractor's services in relation to an Assignment, then Marketplace User shall acting reasonably and in good faith seek to resolve the dispute or disagreement directly with the Freelance Contractor using the following process:
 - 6.13.1 either Freelance Contractor or Marketplace User (**Complainant**) may use the *YunoJuno Dispute Form* (available from YunoJuno) to summarise the dispute and promptly provide this to YunoJuno;
 - 6.13.2 YunoJuno shall provide the form completed by the Complainant to the other (**Recipient**) and ask the Recipient to fill in their response within 14 days;
 - 6.13.3 YunoJuno shall promptly provide the form completed by the Recipient to Complainant; and
 - 6.13.4 Marketplace User and Freelance Contractor shall meet (in person or by telephone) within 14 days of YunoJuno providing the form completed by the Recipient to the Complainant and seek to resolve the dispute or disagreement.
- 6.14 If the dispute or disagreement is not resolved within 28 days of first being discussed under clause 6.13.4, Marketplace User shall resolve the dispute or disagreement through conciliation by CEDR, with CEDR appointing the mediator. Marketplace User shall bear the costs of the mediation.
- 6.15 While such a dispute or disagreement is ongoing the Charges shall remain payable under the Client Contract.
- 6.16 Client Contracts may be terminated as set out in clause 7.

7. TERMINATION OR EXPIRY OF A CLIENT CONTRACT FOR AN ASSIGNMENT

- 7.1 Each Client Contract shall expire automatically at the end of its Assignment Term.
- 7.2 Each Client Contract may be terminated by YunoJuno (including following termination by Freelance Contractor of Freelancer Contract) as set out in this clause 7.
- 7.3 Marketplace User acknowledges and agrees that termination of a Freelancer Contract for any reason shall automatically result in a mirrored termination of that Assignment's Client Contract at the same time.
- 7.4 Marketplace User may terminate a Client Contract as follows:
 - 7.4.1 before the Assignment begins, by payment of the Assignment Cancellation Fee (see clause 7.5);
 - 7.4.2 within the first 48 hours of an Assignment, upon written notice to hello@yunojuno.com (with the subject line 'Unsatisfactory Freelancer') that Freelance Contractor is unsuitable to deliver the Assignment (**Unsatisfactory Freelance Contractor**) (see clause 7.6);
 - 7.4.3 once an Assignment has begun, for convenience by ending the Client Contract early on the Platform (see clause 7.8);
 - 7.4.4 at any time, if the Freelance Contractor is in material breach of any part of the Freelancer Contract referred to in clause 4.2 (and if capable of remedy, the breach has not been remedied within 30 days of receiving notice specifying the breach and requiring the breach to be remedied) (see clause 7.12); and/or
 - 7.4.5 at any time, if Freelance Contractor is in proven breach of the Client Undertakings (see clause 7.12).

- 7.5 If Marketplace User terminates its Client Contract as described in clause 7.4.1, then the Client Contract shall terminate with effect from the date YunoJuno receives payment of the Assignment Cancellation Fee from Marketplace User.
- 7.6 Marketplace User acknowledges and agrees that as part of the Brief process it has an extensive opportunity to review the quality of any services to be potentially provided by any Freelance Contractor (including a review of their Profile and the ability to communicate directly with them). Therefore, Marketplace User agrees that it may only exercise its right under clause 7.4.2 if, in the first 48 hours of the Assignment, it reasonably determines that the Booked Freelancer Contractor substantially and materially lacks the necessary skills, qualifications and experience to deliver the Assignment.
- 7.7 If Marketplace User terminates its Client Contract under clause 7.4.2, then the Client Contract shall terminate with effect from the end of the Business Day YunoJuno receives valid notice from Marketplace User that Freelance Contractor is an Unsatisfactory Freelance Contractor (and the Freelance Contractor Fee shall be payable until the end of that day (for Time-based charges) or based on the number of Units completed at the end of the day (for Unit-based charges)).
- 7.8 If Client wishes to end a Client Contract early:
- 7.8.1 Client must close the Client Contract on the Platform (**Client Notice**) and provide the Assignment Term's earlier end date (**Client End Date**) and no other form of notice shall be effective under the Client Contract;
- 7.8.2 the Platform notifies Freelance Contractor of the Client Notice and Client End Date; and
- 7.8.3 (subject to clause 7.9) the Client Contract shall terminate on the Client End Date at the end of the day.
- 7.9 Subject to clause 7.10, Marketplace User shall continue to allow Freelance Contractor to deliver the Assignment in accordance with the Assignment Details. If the Freelance Contractor fails to deliver the Assignment until the Client End Date, no Freelance Contractor Fees shall be payable for the period of non-performance.
- 7.10 Subject to clause 7.11, if the Freelance Contractor is willing to deliver the Assignment until the Client End Date, but Marketplace User asks Freelance Contractor to stop before the Client End Date, Marketplace User remains responsible for payment of the Freelance Contractor Fee as follows:
- 7.10.1 Time-based Freelance Contractor Fees: Standard Day Rate x full number of days in the Notice Period; or
- 7.10.2 Unit-based Freelance Contractor Fees: average total daily Freelance Contractor Fee x full number of days in the Notice Period
- which shall be invoiced via timesheets which Marketplace User shall be deemed to have approved.
- 7.11 If the number of days between the date the Marketplace User told the Freelance Contractor to stop under clause 7.10 and the last day of the Assignment Term is fewer days than the number of days in the Notice Period, then the Freelance Contractor Fee payable by Marketplace User after telling the Freelance Contractor to stop delivering the Assignment is the lesser number of days.
- 7.12 If Marketplace User exercises its right to terminate its Client Contract as described in clause 7.4.4 or 7.4.5, then the Client Contract shall terminate either immediately on notice or within 30 days of notice as applicable. If Marketplace User asks Freelance Contractor not to deliver the Assignment during the 30 day notice period, the Charges shall remain payable for the lesser of the Notice Period and 30 days.
- 7.13 Subject to clause 7.14, if Freelance Contractor gives notice via the Platform to end an Assignment early (**Freelancer Notice**):
- 7.13.1 the Platform then notifies Marketplace User of the Freelancer Notice of the Assignment Term's new end date in the Freelancer Notice (**Freelancer End Date**); and
- 7.13.2 the Client Contract shall terminate on the Freelancer End Date at the end of the day.
- 7.14 If the number of days between the date of the Freelancer Notice and the Freelancer End Date is fewer than the number of days in the Notice Period, then:
- 7.14.1 Marketplace User shall raise any objection to the Freelancer End Date by emailing hello@yunojuno.com immediately; and
- 7.14.2 if Marketplace User does not object within 48 hours of being notified, Marketplace User shall be deemed to have waived its requirement for the Notice Period and the Freelancer End Date shall be deemed accepted by Marketplace User.
- 7.15 Subject to clause 7.16, Marketplace User shall allow Freelance Contractor to continue to deliver the Assignment until the Freelancer End Date in accordance with the Assignment Details. If the Freelance Contractor fails to deliver the Assignment until the Freelancer End Date, no Freelance Contractor Fees shall be payable for the period of non-performance.
- 7.16 Subject to clause 7.16, if the Freelance Contractor is willing to deliver the Assignment until the Freelancer End Date, but Marketplace User asks Freelance Contractor to stop before the Freelancer End Date, Marketplace User remains responsible for payment of the Freelance Contractor Fee as follows:
- 7.16.1 Time-based Freelance Contractor Fees: Standard Day Rate x full number of days in the Notice Period; or
- 7.16.2 Unit-based Freelance Contractor Fees: average total daily Freelance Contractor Fee x full number of days in the Notice Period

which shall be invoiced via timesheets which Marketplace User shall be deemed to have approved.

- 7.17 If the number of days between the date the Marketplace User told the Freelance Contractor to stop under clause 7.16 and the last day of the Assignment Term is fewer days than the number of days in the Notice Period, then the Freelance Contractor Fee payable by Marketplace User after telling the Freelance Contractor to stop delivering the Assignment is the lesser number of days.
- 7.18 Unless exceptional circumstances apply, a Freelance Contractor's failure to deliver an Assignment in accordance with the Client Contract for whatever reason (including failure by Freelance Contractor to provide a Substitute) will be treated as immediate termination of the Freelance Contractor and corresponding Client Contract for that Assignment, and the Client Contract will terminate at the end of the Business Day on which the inability to deliver the Assignment (or failure to appoint a Substitute) became apparent and the Charges for the Assignment shall be payable up to the date of such termination. YunoJuno shall have no liability to Marketplace User for Freelance Contractor's failure to deliver the Assignment or provide a Substitute.
- 7.19 YunoJuno may terminate a Client Contract with immediate effect if:
- 7.19.1 the Marketplace User commits a material breach of the Client Contract which is not capable of remedy (or if it is capable of remedy, but which Marketplace User fails to remedy within five Business Days (or such faster period as the context of the Assignment would reasonably justify) of receiving notice specifying the breach and requiring the breach to be remedied);
- 7.19.2 the Marketplace User has committed any serious or persistent breach of the Client Contract;
- 7.19.3 the Marketplace User breaches any of the terms of the Client Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Marketplace Contract;
- 7.19.4 any of the circumstances in clause 19.3 apply to Marketplace User or Affiliates;
- 7.19.5 the Marketplace User or any of its Personnel are suspected of any fraud or dishonesty in relation to the Client Contract; and/or
- 7.19.6 the Marketplace User is convicted of any corporate criminal offence.
- 7.20 After termination or expiry of a Client Contract, Marketplace User shall solely be responsible for ensuring the return to Marketplace User of any Client Confidential Information, documents, ID cards, swipe cards, devices, equipment and other materials belonging to the Marketplace User which are in Freelance Contractor's physical possession immediately upon expiry or termination of an Assignment.
- 7.21 Termination of the Marketplace Agreement under clause 19 shall not terminate any Client Contracts for Assignments which have been Booked, which shall continue until their expiry or termination under their individual Client Contracts.

8. CHARGES AND PAYMENT

- 8.1 The current Rate used to calculate the Charges is available on the Platform at any time and is also displayed at the time of each Booking.
- 8.2 The Freelance Contractor Fee is either Time-based or Unit-based and is set out in the Assignment Details and is subject to the Platform Commission shown by the Platform at the time of Booking. The Platform Commission is calculated in accordance with the Rate and is payable on all Freelance Contractor Fees (including the Assignment Cancellation Fee and any charges under clause 7). Marketplace User acknowledges that IR35 compliance is not included in the Marketplace Services or the Charges.
- 8.3 The following conditions apply to all Freelance Contractor Fees:
- 8.3.1 Freelance Contractor Fees are either Time-based or Unit-based and are as agreed between Clients and Freelance Contractors in Assignment Details;
- 8.3.2 Where approval is required, Marketplace User must promptly approve any approval requests in connection with an Assignment. If Marketplace User disputes the time or units stated to provide an Assignment, Marketplace User must inform Freelance Contractor via the Platform as soon as is reasonably practicable and in any event within 48 hours of such approval request (and if no dispute in respect of a timesheet is raised within two Business Days of posting by Freelance Contractor, approval of that timesheet shall be deemed to have been given by Marketplace User);
- 8.3.3 Marketplace User must approve all timesheets which match the time during which Freelance Contractor provided services or which match the number of Units completed by Freelance Contractor and may not decline to approve a timesheet on the basis that they are dissatisfied with the services delivered by any Freelance Contractor; and
- 8.3.4 (except in relation to the Assignment Cancellation Fee) no Freelance Contractor Fees are incurred by Marketplace User until the Freelance Contractor begins providing services for the Assignment.
- 8.4 Marketplace User shall pay YunoJuno the Charges. If Marketplace User's invoice payment procedures require a PO number, Marketplace User shall provide this at the time of Booking.
- 8.5 The Charges do not include VAT, which Marketplace User shall pay, in addition to the Charges, without set-off or withholding (and if withholding is required by Applicable Law, Marketplace User shall gross up its payment accordingly).

- 8.6 The Platform generates Time-based invoices to the nearest half-day or whole day for Services provided by Freelance Contractors inside a standard day, with invoices generated to the nearest half-hour for services provided by Freelance Contractors outside of a standard day. The Platform generates Unit-based invoices based on the number of Units completed by Freelance Contractor. YunoJuno shall invoice as follows:
- 8.6.1 Assignment Fees: weekly or earlier in the event an Assignment lasts for less than a week;
- 8.6.2 charges under clause 7: weekly; and
- 8.6.3 any other charges: as otherwise agreed in writing between YunoJuno and Marketplace User.
- 8.7 Unless the subject of a genuine dispute, Marketplace User shall pay all invoices within 30 days of the date of the invoice. (In the event of a dispute relating to part of an invoice, Marketplace User shall pay the undisputed amount promptly in accordance with this clause 8.7.) Failure by Marketplace User to provide a correct PO number, or requests by Marketplace User to amend a PO number may result in a new invoice being issued, but any new invoice will be subject to the original invoice's payment date.
- 8.8 In respect of any disputes raised by Marketplace User under clause 8.3.2 and taking into account that Marketplace User and Freelance Contractor negotiated the Assignment Details (including the Freelance Contractor Fees) directly, if there is a dispute by Marketplace User about Freelance Contractor's time/units, charges or expenses submitted for approval, the Marketplace User shall acting reasonably and in good faith seek to resolve the dispute directly with the Freelance Contractor using the following process:
- 8.8.1 Marketplace User shall use the *YunoJuno Dispute Form* (available from YunoJuno) to summarise the dispute for the Freelance Contractor and promptly provide this to YunoJuno;
- 8.8.2 YunoJuno shall provide the form completed by Marketplace User to the Freelance Contractor and ask the Freelance Contractor to fill in their response within seven days;
- 8.8.3 YunoJuno shall promptly provide the form completed by the Freelance Contractor to Marketplace User; and
- 8.8.4 Marketplace User and Freelance Contractor shall meet (in person or by telephone) within seven days of YunoJuno providing the form completed by the Freelance Contractor to Marketplace User and seek to resolve the dispute or disagreement.
- 8.9 If the Freelance Contractor and Marketplace User are unable to resolve the dispute under clause 8.8 directly within 28 days of Marketplace User raising the dispute under clause 8.3.2 (**Dispute Date**), either Marketplace User or Freelance Contractor (at the requestor's cost) may ask CEDR to help resolve the dispute through conciliation (with CEDR appointing the mediator). YunoJuno shall upon request provide all necessary information requested by Freelance Contractor or Marketplace User for any mediation (at the requestor's cost). If neither Marketplace User nor Freelance Contractor chooses to appoint CEDR within 28 days of the Dispute Date, and the dispute is still outstanding, YunoJuno may acting in good faith determine the amount to be invoiced by Freelance Contractor which shall be binding on Marketplace User in the absence of manifest error.
- 8.10 If Marketplace User fails a credit check or, in YunoJuno's reasonable opinion, may not in future pay YunoJuno's invoices in accordance with these Terms and Conditions, YunoJuno may ask for payment in advance at the time of Booking. If a Client Contract in respect of which YunoJuno has required payment in advance is terminated early under clause 7, YunoJuno shall issue Marketplace User with a refund if applicable under the terms for payment of Freelance Contractor Fees under clause 7.
- 8.11 If Marketplace User fails to pay in full on the due date any amount payable by it under or in connection with the Marketplace Agreement:
- 8.11.1 interest on the outstanding amount shall accrue on a daily basis from the due date until the date of payment (whether before or after judgment) at the higher of: (a) 8% per annum above the base rate of the Bank of England or (ii) the rate set out in the Late Payment of Commercial Debts (Interest) Act 1998;
- 8.11.2 YunoJuno may suspend use of the Marketplace Services to all users until payment is made; and
- 8.11.3 Marketplace User shall on demand indemnify and hold harmless YunoJuno against Losses in connection with recovery of unpaid amount.
- 8.12 YunoJuno may revise the Rate or Charges at any time upon notice via the Platform. The revised Rate and/or Charges shall be applicable to any Assignment renewals or Bookings for new Assignments from the effective date stated in the notice. YunoJuno shall use reasonable endeavours to give one month's notice on the Platform of any changes to Rate or Charges.
- 8.13 YunoJuno may at any time set off any liability of Marketplace User to YunoJuno against any liability of YunoJuno to Marketplace User, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this agreement. Any exercise by YunoJuno of its rights under this clause shall not limit or affect any other rights or remedies available to it under this agreement or otherwise.
- 8.14 If Marketplace User or any Affiliate (**Acquirer**) acquires or gains control of a third party that is a then-current client of YunoJuno (**Other YJ Client**) (including acquisition of assets resulting in an assignment to Acquirer of an agreement between Other YJ Client and YunoJuno (**Other YJ Agreement**)), then the Other YJ Agreement shall remain subject to its pre-acquisition terms, conditions and pricing. Any renewal of the Other YJ Agreement shall be subject to re-negotiation between YunoJuno and Marketplace User or applicable Affiliate.

9. ENGAGEMENT OF FREELANCE CONTRACTOR DURING OR AFTER AN ASSIGNMENT

- 9.1 Where a Booked Freelance Contractor Introduced by YunoJuno is Engaged by Marketplace User or any of its Affiliates either directly or via another supplier then either:
- 9.1.1 if the Booked Freelance Contractor has not Opted Out: clauses 9.2 to 9.6 and 9.8 shall apply; or
- 9.1.2 if the Booked Freelance Contractor has Opted Out: clauses 9.7 and 9.8 shall apply.
- 9.2 Where a Booked Freelance Contractor Introduced by YunoJuno is Engaged by Marketplace User or any of its Affiliates either directly or via another supplier during the Relevant Period then the Marketplace User shall be liable to YunoJuno for either an Extended Assignment or a Transfer Fee, at the Marketplace User's choice.
- 9.3 An **Extended Assignment** is an additional Assignment for 26 weeks. The **Transfer Fee** is a sum equal to 25% of Annual Charges.
- 9.4 If the Marketplace User wants to choose the Extended Assignment option, Marketplace User shall notify YunoJuno in writing within seven days of the first date of the Engagement and the Charges normally payable by Marketplace User for an Assignment with the Booked Freelance Contractor shall continue to apply. Failure to provide notice in writing shall result in Marketplace User becoming immediately liable to pay the Transfer Fee.
- 9.5 If the Engagement terminates earlier than anticipated, no refund shall be payable of any Transfer Fee paid by Marketplace User to the YunoJuno.
- 9.6 YunoJuno shall not be liable to Marketplace User for failure to provide the Booked Freelance Contractor for the Extended Assignment if such failure is beyond its reasonable control (for example, the Booked Freelance Contractor does not wish to be supplied to Marketplace User via the Platform). If YunoJuno cannot provide the Booked Freelance Contractor for a reason beyond its control, Marketplace User shall pay the Transfer Fee.
- 9.7 If the Booked Freelance Contractor has Opted Out, then Marketplace User shall pay the Standard Transfer Fee.
- 9.8 Marketplace User shall immediately notify YunoJuno of any Engagement under this clause 9 by email to hello@yunojuno.com with the subject line *Notice of Freelancer Engagement*.

10. ENGAGEMENT OF A FREELANCE CONTRACTOR INTRODUCED BY YUNOJUNO

- 10.1 Where a Freelance Contractor Introduced by YunoJuno (but not Booked by Marketplace User) (**Introduced Freelance Contractor**) is Engaged by Marketplace User or any of its Affiliates either directly or via another supplier within six months of the Introduction then either:
- 10.1.1 if the Introduced Freelance Contractor has not Opted Out: clauses 10.2 to 10.6 and 10.8 shall apply; or
- 10.1.2 if the Introduced Freelance Contractor has Opted Out: clauses 10.7 and 10.8 shall apply.
- 10.2 Upon the Engagement of the Introduced Freelance Contractor the Marketplace User shall be liable to YunoJuno for either a First Assignment or an Introduction Fee, at the Marketplace User's option.
- 10.3 A **Single Assignment** is an Assignment for 26 weeks. The **Introduction Fee** is a sum equal to 25% of Annual Charges.
- 10.4 If the Marketplace User wants to choose the Single Assignment option, Marketplace User shall notify YunoJuno in writing within seven days of the first date of the Engagement and the Charges normally payable by Marketplace User for an Assignment with the Freelance Contractor shall apply. Failure to provide notice in writing shall result in Marketplace User becoming immediately liable to pay the Introduction Fee.
- 10.5 If the Engagement terminates earlier than anticipated, no refund shall be payable of any Introduction Fee paid by Marketplace User to the YunoJuno.
- 10.6 YunoJuno shall not be liable to Marketplace User for failure to provide the Introduced Freelance Contractor for the Single Assignment if such failure is beyond its reasonable control (for example, the Introduced Freelance Contractor does not wish to be supplied to Marketplace User via the Platform). If YunoJuno cannot provide the Introduced Freelance Contractor for a reason beyond its control, Marketplace User shall pay the Introduction Fee.
- 10.7 If the Introduced Freelance Contractor has Opted Out, then Marketplace User pay the Standard Transfer Fee.
- 10.8 Marketplace User shall immediately notify YunoJuno of any Engagement under this clause 10 by email to hello@yunojuno.com with the subject line *Notice of Freelancer Engagement*.

11. AUDIT

Marketplace User shall allow YunoJuno or YunoJuno's authorised representatives or agents to have access to Marketplace User's systems and premises at all reasonable times in order to audit and take copies of Marketplace User's books and records related to compliance with the Marketplace Agreement and/or any Client Contract. YunoJuno shall pay the cost and expenses of any audit, except where the audit identifies that Marketplace User has made an underpayment equal to 5% or more of the actual amount owed to YunoJuno in respect of the matters covered by the audit, in which case Marketplace User shall pay the costs and expenses of the audit on demand.

12. INTELLECTUAL PROPERTY RIGHTS

- 12.1 Marketplace User acknowledges and agrees that YunoJuno and/or its licensors own all Intellectual Property Rights in the Platform and its services (but not in any Assignment Materials). Marketplace User's use of any such Intellectual Property Rights in the Platform is limited to that required to receive and use the Marketplace Services

via the Platform as envisaged by the Marketplace Agreement. Marketplace User acknowledges that the Platform's methodology and algorithms for matching Briefs to Freelance Contractors is a trade secret.

- 12.2 Unless permitted and necessary under Applicable Law, Marketplace User may not copy, modify, adapt, redistribute, decompile, reverse engineer, disassemble, or create derivative works of any software, data or content made available by YunoJuno or its licensors or any component of such software or content. Marketplace User may not use any work around to seek to circumvent any technical limitations.
- 12.3 Nothing in these Terms and Conditions, or any Marketplace Agreement, shall transfer the Background IPR of one Party to the other Party.
- 12.4 Any and all transfers of Intellectual Property Rights (including in Assignment Materials) from Booked Freelance Contractor to Marketplace User shall be by way of the Client Undertakings.

13. DATA PROTECTION

- 13.1 YunoJuno is the Controller of all Personal Data relating to individual users of the Platform. Such users are either freelance contractor users under the Platform's freelance contractor privacy policy or client users under the Platform's client privacy policy. Depending on whether a user registers and logs in as a freelance contractor user or a client user, the applicable privacy policy is available via <https://uk.yunojuno.com/privacy/>.
- 13.2 In its provision of the Marketplace Services under the Marketplace Agreement YunoJuno is a Controller.
- 13.3 In its receipt of the Marketplace Services from YunoJuno Marketplace User is an independent Controller.
- 13.4 Each Party shall comply with the Data Protection Laws.
- 13.5 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 of severity for rights and freedoms of natural persons, each Party shall have in place and maintain appropriate technical and organisational measures to ensure a level of security appropriate to the risk arising from its processing of Personal Data in connection with the Marketplace Agreement, including as appropriate:
 - 13.5.1 the pseudonymisation and encryption of Personal Data;
 - 13.5.2 the ability to ensure the ongoing confidentiality, integrity, availability and resilience of processing systems and services;
 - 13.5.3 the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident; and
 - 13.5.4 a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of processing.
- 13.6 In assessing the appropriate level of security each Party shall take into account the risks that are presented by the processing, in particular from accidental, unauthorised or unlawful processing, destruction, loss, damage or disclosure of Personal Data.
- 13.7 Neither Party shall knowingly or recklessly cause the other Party to be in breach of Data Protection Laws.
- 13.8 Any and all obligations relating to the processing of Personal Data by Booked Freelance Contractor in connection with an Assignment shall be in the Client Undertakings.

14. USE OF MARKETPLACE USER'S NAME AND LOGO

YunoJuno may use Marketplace User's name and logo to refer to Marketplace User as a client of YunoJuno and/or a user of the Platform (including as part of its client list on any YunoJuno website).

15. INSURANCE

- 15.1 Each Party shall maintain in force at its own expense all insurances required by Applicable Law with a reputable insurer.
- 15.2 Marketplace User warrants and represents that its public liability and professional indemnity insurances cover acts and omissions of Freelance Contractors for the purposes of clause 6.6.

16. WARRANTIES

- 16.1 Each Party represents and warrants that it has the power and authority to enter into and perform its obligations under the Marketplace Agreement, which constitutes valid and binding obligations on it in accordance with its terms.
- 16.2 Marketplace User acknowledges that many aspects of the Marketplace Services are dependent on third party services and that such third party services are provided to YunoJuno and Marketplace User on an as is and as available basis.
- 16.3 Except as expressly set out in the Marketplace Agreement, neither YunoJuno nor any of its suppliers, distributors or investors make any specific promises about the Platform or associated Marketplace Services.
- 16.4 Except as expressly set out in the Marketplace Agreement, YunoJuno does not warrant that the Platform or any of the Marketplace Services will be secure, accurate, uninterrupted or error free or that they will meet Marketplace User's or users' specific requirements.

- 16.5 Marketplace User acknowledges that all third party data, content, goods and services which it or users may access through use of the Platform or associated Marketplace Services (including the services provided by a Booked Freelance Contractor) are the sole responsibility of the person from which they originated.
- 16.6 Marketplace User acknowledges that use of third party data, content, goods and services may be subject to separate terms between Marketplace User and the relevant third party. In that case, the Marketplace Agreement does not affect Marketplace User's legal relationship with these third parties.
- 16.7 YunoJuno shall use reasonable endeavours to remedy any Platform failures as soon as reasonably possible by ensuring that the performance of the Platform (or the relevant part of the Platform) is brought back into operation, and by taking reasonable steps to ensure that such service failure does not recur. Where the failure has been caused or contributed to by Marketplace User or any of its users, Marketplace User shall be responsible for any Losses of YunoJuno associated with remedying the Marketplace Services.
- 16.8 YunoJuno represents and warrants that:
 - 16.8.1 the provision of the Platform and associated Marketplace Services by YunoJuno to Marketplace User shall not infringe the Intellectual Property Rights of a third party in the territory from which YunoJuno provides its Marketplace Services; and
 - 16.8.2 in performing its obligations under the Marketplace Agreement it shall comply with Applicable Law (including relating to Intellectual Property Rights and Data Protection Laws).
- 16.9 Marketplace User represents and warrants that:
 - 16.9.1 in performing its obligations under the Marketplace Agreement it shall comply with Applicable Law (including relating to Intellectual Property Rights and Data Protection Laws);
 - 16.9.2 it shall not use the Platform to find or book any Contractor for any assignment that involves working with any vulnerable persons within the meaning given in regulation 2 of the Conduct Regulations; and
 - 16.9.3 it is not entering into the Marketplace Agreement so as to unlawfully gain access to confidential information or intellectual property with the intention of developing any product or service the same as or similar to the Platform.

17. CLAIMS AND INDEMNITIES

- 17.1 Subject to clause 17.3, YunoJuno shall indemnify and hold harmless Marketplace User against:
 - 17.1.1 Losses in connection with any claim by a third party that use by Marketplace User of the Platform in accordance with the Marketplace Agreement infringes the Intellectual Property Rights of that third party in a territory from which YunoJuno provides its Services; and
 - 17.1.2 any liability, assessment or claim by HMRC for any National Insurance contributions, income tax or other taxation obligations which are obligations of YunoJuno under Applicable Law where such liability, assessment, or claim ordinarily arises from or is made in connection with payments made by Marketplace User to YunoJuno in respect of an Assignment (excluding Losses (i) to the extent they have arisen and/or increased because of Marketplace User's breach of clause 6.5 and (ii) arising from or in connection with the so-called 'off-payroll' or 'IR35' rules which are the responsibility of Marketplace User under Applicable Law (including those which become the responsibility of Marketplace User upon failure to take reasonable care));

(each a **Client Claim**).
- 17.2 In respect of each Client Claim, Marketplace User shall:
 - 17.2.1 give written notice of the Client Claim to YunoJuno as soon as reasonably practicable (and in any event within seven days), specifying the nature of the Client Claim in reasonable detail;
 - 17.2.2 not make any admission of liability, agreement or compromise without the prior written consent of YunoJuno;
 - 17.2.3 give YunoJuno and its professional advisers access at reasonable times and on reasonable prior notice to the extent permitted by Applicable Law, to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of Marketplace User or Affiliates, to enable YunoJuno and its professional advisers to examine them and to take copies (at YunoJuno's expense) for the purpose of assessing the Client Claim; and
 - 17.2.4 give YunoJuno sole authority to avoid, dispute, compromise or defend the Client Claim.
- 17.3 The indemnities at clause 17.1 shall not cover Marketplace User or Affiliates to the extent that the Client Claim results from (or Losses under the Client Claim are increased because of):
 - 17.3.1 breach by Marketplace User or Affiliates of the Marketplace Agreement;
 - 17.3.2 use the Platform other than as intended pursuant to its functionality or instructions from time to time;
 - 17.3.3 any liability for breach by Marketplace User or Affiliates of any taxation legislation or guidance or any other Applicable Law;
 - 17.3.4 any dispute between HMRC and Marketplace User or Affiliates compliance with any tax legislation or guidance; and/or
 - 17.3.5 any act, breach, omission or infringement which Marketplace User or Affiliates, or any of their Personnel, deliberately, spitefully, dishonestly or recklessly commit, condone or ignore.

- 17.4 If any Client Claim is made under clause 17.1.1, or in YunoJuno's reasonable opinion is likely to be made, YunoJuno may at its sole option and expense alter the Platform (or that part of it) so that ceases to be infringing.
- 17.5 Subject to clause 17.6, Marketplace User shall indemnify and hold harmless YunoJuno against:
- 17.5.1 use of the Platform outside of the scope of use granted in the Marketplace Agreement, including any breach of YunoJuno or its licensors' Intellectual Property Rights;
- 17.5.2 Losses in connection with a breach by Marketplace User or its users of the Platform of the Acceptable Use Policy;
- 17.5.3 Losses in connection with any claim by Freelance Contractor arising out of Marketplace User's or Marketplace User Personnel's treatment of the Freelance Contractor in connection with their age, sex, marital status, sexual orientation, religion, religious belief, colour, race, ethnic or national origin or any disability which they may have;
- 17.5.4 Losses in connection with any claim by Freelance Contractor arising out of Marketplace User's or Marketplace User Personnel's treatment of the Freelance Contractor in connection with bullying, harassment or otherwise unlawfully discriminating against any Freelance Contractor; and
- 17.5.5 Losses arising from or in connection the Off-payroll Working Rules (as defined in clause **Error! Reference source not found.**) arising out of Marketplace User or any Marketplace User's Personnel's breach of clause 5 failure to take reasonable care whether wilful, reckless, negligent or otherwise;
- (each a **YunoJuno Claim**).
- 17.6 In respect of each YunoJuno Claim, YunoJuno shall:
- 17.6.1 give written notice of the YunoJuno Claim to Marketplace User as soon as reasonably practicable (and in any event within seven days), specifying the nature of the YunoJuno Claim in reasonable detail;
- 17.6.2 not make any admission of liability, agreement or compromise without the prior written consent of Marketplace User;
- 17.6.3 give Marketplace User and its professional advisers access at reasonable times and on reasonable prior notice to the extent permitted by Applicable Law, to its premises and its officers, directors, employees, agents, representatives or advisers, and to any relevant assets, accounts, documents and records within the power or control of YunoJuno or a member of YunoJuno Group, to enable Marketplace User and its professional advisers to examine them and to take copies (at Marketplace User's expense) for the purpose of assessing the YunoJuno Claim (YunoJuno shall not be required to give any access under this clause to Marketplace User or any third party of any trade secrets in the Platform; if reasonably requested by YunoJuno for the protection of the trade secrets relating to the Platform, YunoJuno may insist on prior approval and separate confidentiality agreements with any professional advisors appointed by Marketplace User to whom it allows access); and
- 17.6.4 give Marketplace User sole authority to avoid, dispute, compromise or defend the YunoJuno Claim.
- 17.7 The indemnity at clause 17.5 shall not cover YunoJuno or any member of YunoJuno Group to the extent that the YunoJuno Claim results from (or Losses under the YunoJuno Claim are increased because of):
- 17.7.1 breach by YunoJuno or YunoJuno Group of the Marketplace Agreement;
- 17.7.2 any liability for breach by YunoJuno or YunoJuno Group of any taxation legislation or any other Applicable Law;
- 17.7.3 any act, breach, omission or infringement which YunoJuno or YunoJuno Group or any YunoJuno Group Personnel deliberately, spitefully, dishonestly or recklessly commit, condone or ignore.
- 17.8 Nothing in this clause 17 shall restrict or limit a Party's general obligation at law to mitigate any loss it may suffer or incur as a result of an event that may give rise to a claim under this clause 17.
- 17.9 Liability under the indemnities in this clause 17 is limited and excluded under clause 18.

18. LIMITATIONS ON LIABILITY AND EXCLUSIONS

- 18.1 Subject to clauses 18.2 to 18.4, the total liability of each Party to the other in connection with a Marketplace Agreement, whether arising from contract, negligence or otherwise, shall be limited as follows:
- 18.1.1 in respect of each individual Client Contract, a sum equal to the total YJ Fees for that Client Contract; and
- 18.1.2 for all claims by Marketplace User in respect of which an event giving rise to the claim arose in a Year, an aggregate sum equal to all YJ Fees paid or payable in that Year.
- 18.2 Subject to clause 18.3, neither Party shall be liable for:
- 18.2.1 any indirect or consequential loss;
- 18.2.2 any loss or corruption of data or information, or loss of profits, business opportunity or anticipated savings.
- 18.3 The exclusions and limitation of liability set out in clause 18 do not apply to:
- 18.3.1 liability arising from death or injury to persons caused by negligence;
- 18.3.2 Marketplace User's obligation to pay the Charges;
- 18.3.3 the indemnity in clause 17.5.5;
- 18.3.4 breach of sub-clauses 6.5.6 or 6.5.7;

- 18.3.5 liability arising as a result of fraud; and/or
- 18.3.6 anything else which cannot be excluded or limited by Applicable Law, to which no limit or exclusion applies.
- 18.4 Subject to clause 18.3, YunoJuno shall not be liable to Marketplace User or any third party for:
 - 18.4.1 the inability of Marketplace User to find a Freelance Contractor for an Assignment using the Platform;
 - 18.4.2 any other acts, errors or omissions of Freelance Contractor including negligence, dishonesty, misconduct or lack of skill; and/or
 - 18.4.3 any liability arising out of the Assignment Materials.
- 18.5 Subject to clause 18.3, Marketplace User waives the right to bring any claim against YunoJuno arising out of or in any way relating to an Assignment more than one year after the end of the Assignment.
- 18.6 If Marketplace User receives any allegation or claim about or from a Freelance Contractor in connection with an Assignment, it shall promptly inform YunoJuno (unless Applicable Law would prevent it from doing so). The Parties shall co-operate with each other in relation to responding to any allegation or claim.

19. TERMINATION OF MARKETPLACE AGREEMENT

- 19.1 Either Party may terminate the Marketplace Agreement with immediate effect by giving written notice to the other Party if:
 - 19.1.1 the other Party commits a material breach of the Marketplace Agreement which is not capable of remedy (or is capable of remedy, but which the other Party fails to remedy within 30 days of receiving notice specifying the breach and requiring the breach to be remedied); and/or
 - 19.1.2 the other Party repeatedly breaches any of the terms of the Marketplace Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Marketplace Agreement.
- 19.2 YunoJuno may terminate the Marketplace Agreement if:
 - 19.2.1 Marketplace User commits a breach of clause 8.4 and Marketplace User does not remedy the relevant breach within 14 days of receipt of written notice of the breach being given by YunoJuno;
 - 19.2.2 Marketplace User or any of its Personnel are suspected of any fraud or dishonesty in relation to the Marketplace Agreement; and/or
 - 19.2.3 the Marketplace User is convicted of any corporate criminal offence.
- 19.3 Either Party may terminate the Marketplace Agreement with immediate effect by giving the other Party notice if:
 - 19.3.1 such other Party becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
 - 19.3.2 such other Party ceases or threatens to cease to carry on the whole or a substantial part of its business;
 - 19.3.3 any distress or execution shall be levied upon such other Party's property or assets;
 - 19.3.4 such other Party shall make or offer to make any voluntary arrangement or composition with its creditors;
 - 19.3.5 any resolution to wind up such other Party (other than for the purpose of a bona fide reconstruction or amalgamation without insolvency) shall be passed, any petition to wind up such other Party shall be presented and not withdrawn or dismissed within seven days or an order is made for the winding up of such other Party;
 - 19.3.6 such other Party is the subject of a notice of intention to appoint an administrator, is the subject of a notice of appointment of an administrator, is the subject of an administration application, becomes subject to an administration order, or has an administrator appointed over it;
 - 19.3.7 a receiver or administrative receiver is appointed over all or any of such other Party's undertaking property or assets;
 - 19.3.8 any bankruptcy petition is presented, or a bankruptcy order is made against such other Party;
 - 19.3.9 an application is made for a debt relief order, or a debt relief order is made in relation to such other Party;
 - 19.3.10 such other Party is dissolved or otherwise ceases to exist; and/or
 - 19.3.11 the equivalent of any of the events described in clauses 19.3.1 to 19.3.10 occurs in relation to such other Party under the laws of any jurisdiction.
- 19.4 Either Party may terminate the Platform Agreement for convenience as follows:
 - 19.5 Marketplace User: by cancelling its registration on the Platform; or
 - 19.6 YunoJuno: by giving one months' notice by email to Marketplace User.
- 19.7 For the purposes of clause 19, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects other than as to the time of performance.
- 19.8 Termination of a Marketplace Agreement shall be without prejudice to any other Marketplace Agreement (or other agreement) between YunoJuno and Marketplace User or YunoJuno and any Affiliate.

19.9 Termination of a Marketplace Agreement under this clause 19 shall not terminate any Assignments which have been Booked, which shall continue until their individual expiry or termination under clause 8.

20. TERMINATION ASSISTANCE

Immediately after receipt (or service) of notice to terminate the Marketplace Agreement under clause 19, each Party shall provide all reasonable assistance and information to the other to ensure an orderly end to the relationship.

21. FORCE MAJEURE

Neither Party shall be liable for any breach of the Marketplace Agreement directly or indirectly caused by circumstances beyond the reasonable control of that Party and which prevent that Party from performing its obligations to the other, provided that a lack of funds shall not be regarded as a circumstance beyond that Party's reasonable control.

22. MODERN SLAVERY

22.1 In performing their obligations under the Marketplace Agreement, each Party shall comply with all applicable anti-slavery and human trafficking laws, statutes and regulations including the Modern Slavery Act 2015.

22.2 Each Party warrants that at the date of the Marketplace Agreement it has not been convicted of any offence involving slavery and human trafficking; nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

22.3 Breach of this clause 22 shall be deemed a material breach of these Terms and Conditions which is irremediable.

22.4 A copy of YunoJuno's modern slavery statement is available at <https://www.yunojuno.com/modern-slavery-statement>.

23. ANTI-BRIBERY AND CORRUPTION

23.1 Each Party agrees to:

23.1.1 comply with all Applicable Law relating to anti-bribery and anti-corruption including the Bribery Act 2010;

23.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 (as amended) if such activity, practice or conduct had been carried out in the United Kingdom; and

23.1.3 promptly report to, respectively, the other Party's CEO or Chair, any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of these Terms and Conditions.

23.2 Breach of this clause 23 shall be deemed a material breach of these Terms and Conditions which is irremediable.

24. ANTI-FACILITATION OF TAX EVASION

24.1 Each Party shall:

24.1.1 not engage in any activity, practice or conduct which would constitute a tax evasion facilitation offence under the Criminal Finances Act 2017;

24.1.2 have and shall maintain such policies and procedures as are reasonable in all the circumstances to prevent the facilitation of tax evasion by another person; and

24.1.3 promptly report to the other Party any relevant request or demand received from a third party to facilitate the evasion of tax in connection with the performance of the Marketplace Agreement.

24.2 Breach of this clause 24 shall be deemed a material breach of these Terms and Conditions which is irremediable.

25. GENERAL

25.1 Marketplace User shall not directly or indirectly solicit or attempt to solicit any YunoJuno Personnel who have worked in procuring or providing services to Marketplace User in the previous six months. YunoJuno agrees that Marketplace User is entitled to recruit Personnel as a result of a general public recruitment advertisement or campaign.

25.2 YunoJuno may assign, transfer, grant any security interest over or hold on trust any of its rights or obligations under these Terms and Conditions or any interest in them. Nothing in these Terms and Conditions shall prevent YunoJuno from entering into any agreement or arrangement in relation to any fundraising or public offering.

25.3 Marketplace User shall not, without the written consent of YunoJuno (which shall not be unreasonably withheld or delayed) assign or transfer any of its rights or obligations under these Terms and Conditions to any third party which is not an Affiliate.

25.4 Nothing in these Terms and Conditions is intended to or shall operate to create a partnership or joint venture of any kind between the Parties. Neither Party shall have the authority to bind the other Party or to contract in the name of, or create a liability against, the other Party in any way or for any purpose.

25.5 Other than as set out in this clause, the Parties do not intend any third party to have the right to enforce any provision of these Terms and Conditions under the Contracts (Rights of Third Parties) Act 1999 or otherwise. In respect of each Client Contract, the applicable Freelance Contractor may as a third party beneficiary (**Third Party Beneficiary**) enforce any provision of these Terms and Conditions or the relevant Client Contract which confers a benefit on them (including for the purposes of dispute resolution). These Terms and Conditions may be amended without the consent of Third Party Beneficiaries.

- 25.6 These Terms and Conditions are the entire agreement between the Parties, and replace all previous agreements and understandings between them, relating to their subject matter.
- 25.7 Subject to clause 25.8, no variation of these Terms and Conditions shall be effective unless it is in writing and signed by or on behalf of each Party.
- 25.8 If an event occurs which has or is likely to have a substantial adverse impact on YunoJuno's ability to perform its obligations accordance these Terms and Conditions or Applicable Law (**Adverse Impact**), YunoJuno may amend the Terms and Conditions to alleviate the Adverse Impact. Adverse Impact shall include an unforeseen change to Applicable Law and/or any material change to the business or economic environment in which YunoJuno operates. YunoJuno shall notify Marketplace User via the Platform of any such amendment (**Amendment Notice**) and the amendment shall come into effect on the date stated in the Amendment Notice. This clause is without prejudice to either Party's termination rights under clause 19.
- 25.9 The rights and remedies expressly conferred by these Terms and Conditions are cumulative and additional to any other rights or remedies a Party may have.
- 25.10 Notices under clause 19 shall be in writing and delivered by hand or sent by recorded delivery post to the relevant Party at its registered address (and if not registered, principal place of business). Without evidence of earlier receipt, notices are deemed received:
- 25.10.1 if delivered by hand, at the time of delivery;
- 25.10.2 if sent by recorded delivery, at 9.00 am on the second Business Day after posting; and
- 25.10.3 in the case of post, it shall be sufficient to prove that the notice was properly addressed and posted or transmitted.
- 25.11 Any other notices and communications under these Terms and Conditions may be delivered in writing and/or electronically (save that notices by Marketplace User under clause 7 to end a Client Contract must follow the mechanics specified in that clause).
- 25.12 If any provision or part-provision of these Terms and Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Terms and Conditions. If any provision or part-provision of this agreement is deemed deleted, YunoJuno may replace it with a provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 25.13 The Parties shall ensure that the Account Manager and the Client Representative shall use their best efforts to negotiate in good faith and settle any dispute or difference that may arise out of or relate to the provision of the Marketplace Services before resorting to legal action.
- 25.14 If any such dispute or difference is not resolved through discussion under clause 25.13 within 10 Business Days, the dispute shall be referred an appropriately senior person at the Marketplace User and a member of the YunoJuno executive team for further discussion.
- 25.15 If any such dispute or difference is not resolved under clause 25.14 within a further 15 Business Days of referral, either Party may ask the other to enter into mediation in good faith to settle such a dispute and will do so in accordance with the CEDR Model Mediation Procedure. To initiate the mediation a Party must give notice in writing (**ADR Notice**) to the other Party to the dispute, referring the dispute to mediation. A copy of the referral should be sent to CEDR.
- 25.16 Unless otherwise agreed within 14 days of notice of the dispute to CEDR, the mediator will be nominated by CEDR. Unless otherwise agreed, the mediation will start not later than 28 days after the date of the ADR Notice. The costs of the mediator shall be paid by the party submitting the ADR Notice.
- 25.17 Neither Party may commence any court proceedings in relation to any dispute or difference between Marketplace User and YunoJuno arising out of the Marketplace Agreement or any Client Contract until that Party has attempted to settle the dispute by mediation and either the mediation has terminated or the other Party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay. Nothing in this clause 25.17 shall prevent a Party from seeking relief to protect its Intellectual Property Rights or Confidential Information.
- 25.18 If the Parties reach agreement on the resolution of the dispute or difference, such agreement shall be recorded in writing and once signed by the Parties' authorised representatives, it shall be final and binding on the Parties.
- 25.19 Termination of the Marketplace Agreement or termination or expiry of any Client Contract (howsoever occurring) shall not affect either of the Parties' accrued rights or liabilities, or the coming into force or the continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after termination or expiry.
- 25.20 The Marketplace Agreement and each Client Contract and any non-contractual obligations arising in connection with them are governed by and construed in accordance with English law, and the English courts have exclusive jurisdiction to determine any dispute arising in connection with the Marketplace Agreement or any Client Contract, including disputes relating to any non-contractual obligations.

26. DEFINITIONS AND INTERPRETATION

- 26.1 In these terms and conditions:

Account Manager means a member of the YunoJuno *Platform Success* team.

Affiliate means any member of Marketplace User Group.

Agency Worker Regulations means Agency Worker Regulations 2010.

Annual Charge is defined in Standard Transfer Fee.

Applicable Law means all applicable laws, regulations, regulatory requirements and mandatory codes of practice, as amended and in force from time to time.

Assignment means a single provision of services to be carried out by a Freelance Contractor, the details of which are set out in the Assignment Details.

Assignment Cancellation Fee means the fee set by the Freelance Contractor for any cancellation of the Assignment before it begins as set out in the Assignment Details.

Assignment Details means the details of an Assignment agreed directly between a Client and a Freelance Contractor as recorded by the Platform.

Assignment Fee means the Freelance Contractor Fee, plus the Platform Commission.

Assignment Materials means any and all documents, products and materials developed by the Freelance Contractor or Freelance Contractor Personnel in relation to an Assignment in any form, including, but not limited to, computer programs, data, reports and specifications and any deliverables specified in the relevant Brief or which result from or otherwise come into existence as a result of the supply of services by Freelance Contractor or Freelance Contractor Personnel in relation to an Assignment.

Assignment Term means the period from the start date to the end date set out in the Assignment Details.

Background IPR means all Intellectual Property Rights owned or controlled by the relevant Party (or any member of their Group) which are in existence as at the Registration Date or which were or are created, invented or conceived independently of any Marketplace Agreement (whether before or after the Registration Date).

Booked Freelance Contractor means a Freelance Contractor who has been Booked by a Client as recorded by the Platform.

Booking means a booking confirmed between a Client and a Freelance Contractor via the Platform for an Assignment by Freelance Contractor and **Booked** shall be construed accordingly.

Brief means the details of the services required for a potential Assignment, as required from a Client by the Platform as the first stage of a Client and a Freelance Contractor agreeing a potential Assignment.

Business Day means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Charges means the charges payable by a Client to YunoJuno for the Marketplace Services, being the Assignment Fees and any other additional costs and expenses chargeable in accordance with the Marketplace Agreement.

Client means a client on the Platform.

Client Contract means the contract between YunoJuno and Marketplace User (comprising the front-sheet called *Client Contract for a Single Assignment* and the Terms and Conditions).

Client Policies means policies and procedures applicable to staff and/or suppliers of a Client.

Client Premises means any premises owned, occupied or used by or on behalf of any Client.

Client Representative means the individual user named as the user of a Client account on the Platform.

Client Undertakings means any Client-standard undertakings required to be signed by Freelance Contractors concerning confidentiality, personal data, intellectual property rights, indemnities and/or insurance before beginning an Assignment (and Marketplace User acknowledges that is the author of the Client Undertakings and can impose whatever direct undertakings it wishes, including in relation to Intellectual Property Rights, confidentiality, data protection, insurance and indemnities; Marketplace User shall make clear in its Client Undertakings if Marketplace User requires signature by the Freelance Contractor's personal services company, consultancy or umbrella company as well as the individual Freelance Contractor).

Conduct Regulations means the Conduct of Employment Agencies and Employment Business Regulations 2003.

Confidential Information means any and all confidential information, (whether in oral, written or electronic form) including technical or other information imparted in confidence or disclosed by one Party to the other or otherwise obtained by one Party relating to the other's business, finance or technology, know-how, Intellectual Property Rights, assets, strategy, products, suppliers and customers, including information relating to management, financial, marketing, technical and other arrangements or operations of any associate, person, firm, or organisation associated with that Party, but not including information which is or comes into the public domain through no fault of the other Party, was already lawfully in the other Party's possession or comes into the other Party's possession without breach of any third party's confidentiality obligation to the disclosing Party, or is independently developed by or on behalf of the other Party.

Contractor means as the case may be a sole trader, personal services company, consultancy, umbrella company or other limited company or partnership.

Controller shall have the meaning given under the Data Protection Laws.

Data Protection Laws means the General Data Protection Regulation 2016/ 679, the Data Protection Act 2018 and any other laws applicable to privacy and data protection, and at any time any subsequent United Kingdom or

European Union legislation in relation to the protection of personal data including any similar or equivalent legislation in any other relevant jurisdiction.

Engage means the employment or engagement of a Freelance Contractor other than via YunoJuno, whether directly by a Client or indirectly through any Affiliate or third party and whether for a definite or indefinite period and **Engaged** and **Engagement** shall be construed accordingly.

Existing Relationship means an existing relationship between a Client and Contractor and in respect of which Contractor has a record verified to the reasonable satisfaction of YunoJuno showing that the Contractor has supplied services for a Client prior to that Contractor's registration on the Platform.

Freelance Contractor means an individual with a Profile on the Platform.

Freelance Contractor Fees means the Time-based or Unit-based fees charged for a Booked Freelance Contractor's services in relation to an Assignment (including any Assignment Cancellation Fees or any charges under clause 7) as agreed and/or amended directly between a Client and a Freelance Contractor and as recorded by the Platform in the Assignment Details (the Platform Commission is payable in addition to the Freelance Contractor Fee).

Freelance Contractor Rate means the indicative day rate for their services set in the Platform by Freelance Contractors (Marketplace User acknowledges and agrees that Freelance Contractor Fees for Inside IR35 Assignments may be higher than for those which are Outside IR35 and any rates/fees set by Freelance Contractors are entirely in Freelance Contractors' discretion (see clause 5)).

Freelancer Contract means the contract between YunoJuno and a Booked Freelance Contractor, under which the Booked Freelance Contractor is contracted to deliver a single instance of services in the form of the Assignment to a Client subject to the administration and payment for the Assignment being facilitated by the Platform in accordance with the Freelancer Terms.

Freelancer Terms means the terms applicable to Freelance Contractors from time to time and available upon request from YunoJuno.

Group means a group of entities comprising any subsidiary undertaking, parent undertaking or associated company of a person as the context requires.

Intellectual Property Rights means all vested and future rights of copyright and related rights, design rights, database rights, patents, rights to inventions, trade marks and get-up (and goodwill attaching to those trade marks and that get up), domain names, social media assets, applications for and the right to apply for any of the above, moral rights, goodwill (and the right to sue for passing off and unfair competition), rights in know-how, rights in confidential information, rights in computer software, and any other intellectual or industrial property rights or equivalent forms of protection, whether or not registered or capable of registration, and all renewals and extensions of such rights, whether now known or in future subsisting in any part of the world.

Introduce means the provision to a Client of information about a Freelance Contractor which identifies a Freelance Contractor either (i) via the Platform (including all Freelancer Contractors in a Client's *Freelancer Directory* on the Platform which are not Existing Relationships) or (ii) via YunoJuno (including the *Platform Success* and *Talent* teams) and **Introduction** and **Introduced** shall be construed accordingly.

Losses means claims, demands, actions, awards, judgments, settlements, costs, expenses, liabilities, damages and losses (including all interest, fines, penalties, management time and legal and other professional costs and expenses).

Marketplace Agreement means a contract between YunoJuno and a Client for Marketplace Services comprising: the Registration Confirmation and these Terms and Conditions, as varied, novated, supplemented, amended, or replaced from time to time in accordance with these term and conditions.

Marketplace Services means the services which comprise that part of the Platform known as *Marketplace* from time to time.

Marketplace User means the Client named by YunoJuno in the Registration Confirmation and/or identified as the Client in the Client Contract, and its successors and assigns.

Notice Period means the convenience notice period set out in the Assignment Details and which may be given by either Freelance Contractor or Marketplace User to end an Assignment early.

Opt Out means an opt out under regulation 32(9) of the Conduct Regulations and **Opted Out** shall be construed accordingly.

Party or **Parties** means either or both parties to the Marketplace Agreement and their successors and permitted assignees.

Personal Data shall have the meaning given under the Data Protection Laws.

Personnel means employees, workers, directors, officers, agents and subcontractors.

Platform means YunoJuno's proprietary online platform available at the URL www.yunojuno.com.

Platform Commission means the fee payable by a Client for access to the Platform, on a per Booking basis, calculated on the rate set out on the Platform.

Rate means the then-current % rate displayed by the Platform at the time of Booking and which is applied to the Freelance Contractor Fee to calculate the Platform Commission.

Registration Confirmation means the confirmation of acceptance of Marketplace User sent by YunoJuno to Marketplace User as recorded by the Platform.

Registration Date means the date of the Registration Confirmation as recorded by the Platform.

Registration Request means a Registration Request by a client for the Marketplace Services to which these Terms and Conditions apply.

Relevant Period shall be calculated in accordance with the Conduct Regulations.

Screen means to carry out the checks described here:

<https://onfido-support.zendesk.com/hc/en-us/sections/115000570105-Right-To-Work>

<https://onfido-support.zendesk.com/hc/en-us/sections/115000571045-Identity-Checks>

Signed Client Contract means the copy of the Client Contract generated by the Platform following a Freelance Contractor's acceptance of a Booking (and available to Client to download as a pdf at any time).

Standard Transfer Fee means the fee calculated as follows: Annual Charge x Applicable %, where:

Annual Charge is Freelance Contractor Day Rate x 260;

Freelance Contractor Day Rate is the Freelance Contractor's average day rate in the Platform over the 12 months prior to the Engagement;

Applicable % 25% of Annual Charges.

Substitute means in respect of a Booked Freelance Contractor, substitute Personnel chosen by that Booked Freelance Contractor and not stated in the Assignment Details at the time of Booking.

Term means the period beginning on the Registration Date and ending on termination of the Marketplace Agreement in accordance with these Terms and Conditions.

Terms and Conditions means the then-current version of these terms and conditions (which are available to Clients at the time of each Booking).

Time-based means the Freelance Contractor Fee will be based on the time spent by Freelance Contractor delivering an Assignment.

Unit means an individual item of activity as described in the Assignment Details.

Unit-based means the Freelance Contractor Fee will be based on the Units completed by Freelance Contractor delivering an Assignment.

VAT means value added tax as provided for within EU VAT legislation (Directive 2006/112/EC) and any tax replacing the same or of a similar nature applicable in the relevant jurisdiction.

Year means each period of 12 calendar months calculated from the Registration Date.

YJ Fees means the Platform Commission.

YunoJuno means **YunoJuno Limited** (a company registered in England with company number 08117525), Waverley House, 9 Noel Street, London W1F 8GQ.

- 26.2 The terms **holding company, subsidiary, parent undertaking, subsidiary undertaking** and **wholly-owned subsidiary** shall be interpreted in accordance with the Companies Act 2006, and the term **associated company** shall be interpreted in accordance with section 449 of the Corporation Tax Act 2010.
- 26.3 Unless otherwise stated, time shall not be of the essence for the performance of any obligation.
- 26.4 Headings shall not affect the interpretation of the Marketplace Agreement or any Client Contract.
- 26.5 Interpretation of general words shall not be restricted by words indicating a particular class or particular examples.
- 26.6 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 26.7 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 26.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 26.9 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 26.10 Unless the context otherwise requires, any reference to European Union law that is directly applicable or directly effective in the UK at any time is a reference to it as it applies in England and Wales from time to time including as retained, amended, extended or re-enacted on or after Exit Day (as defined in the European Union (Withdrawal) Act 2018).

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Off-payroll Working Clauses (Marketplace)

1. INTRODUCTION

- 1.1 YunoJuno and Marketplace User have entered into a Marketplace Agreement. These OPW Clauses are incorporated into the Marketplace Agreement.
- 1.2 **Nothing in the Marketplace Agreement or these OPW Clauses shall affect a Party's obligation to generally comply with the OPW Rules or any other Tax Law.**
- 1.3 If there is any inconsistency between these OPW Clauses and the remainder of the Marketplace Agreement, these OPW Clauses shall prevail.

2. DEFINITIONS

- 2.1 In these OPW Clauses:

Applicable Law means all applicable laws, regulations, regulatory requirements and mandatory codes of practice, as amended and in force from time to time.

Assignment means a single provision of services to be carried out by a PSC Freelance Contractor, the details of which are set out in the Assignment Details.

Assignment Details means the details of an Assignment agreed directly between a Marketplace User and a PSC Freelance Contractor as recorded by the Platform.

Assignment Term means the period from the start date to the end date set out in the Assignment Details.

Booking means a booking confirmed between Marketplace User and a PSC Freelance Contractor via the Platform for an Assignment by PSC Freelance Contractor and **Book/Booked** shall be construed accordingly.

Business Day means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Marketplace User is the Client identified in the Client Contract.

Client Contract means the *Client Contract for a Single Assignment* recorded in the Platform for each Assignment agreed between Marketplace User and a PSC Freelance Contractor.

Client Representative means the registered admin user of the Marketplace User on the Platform.

Deemed Payment Basis means the payment of the PSC Freelance Contractor Fee on a deemed payment basis as defined in the OPW Rules.

Freelance Contractor means an individual with a profile on the Platform.

Good Industry Practice means the exercise of that degree of skill and care which would be reasonably and ordinarily expected of a person engaged in the same task in a similar organisation with appropriate training and oversight and exercising reasonable prudence and diligence taking into account the nature of the task (including, in respect of the obligation of reasonable care under the OPW Rules, meeting the requirements of ESM10014).

Hiring Manager means the person or persons making the Booking of the PSC Freelance Contractor for or on behalf of Marketplace User.

HMRC means Her Majesty's Revenue and Customs or any successor.

Inside IR35 is as described in the definition of OPW Status.

Inside IR35 Partner means (for Assignments which are Inside IR35) Giant Business Connect Limited.

ITEPA means the Income Tax (Earnings and Pensions) Act 2003.

Large Client means (i) any end-user of PSC Freelance Contractor's services in the public sector and (ii) any end-user of the PSC Freelance Contractor's services in the private sector who is not a Small Client.

Losses means claims, demands, actions, awards, judgments, settlements, costs, expenses, liabilities, damages and losses (including all interest, fines, penalties, management time and legal and other professional costs and expenses).

Marketplace Agreement means the Marketplace Agreement in place between Marketplace User and YunoJuno.

OPW Rules means (upon receiving Royal Assent) the new rules contained in Part 2, Chapter 10 of ITEPA in force from 6 April 2020 as applicable to services provided by contractors via personal services companies to any public sector organisation or any medium and large private sector organisation (including all relevant HMRC guidance, including at ESM 10000 (<https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm10000>)).

OPW Clauses means these *Off-payroll Working Clauses (Marketplace)*.

OPW Status means the status of an individual providing services for employment tax purposes under section 61M of Part 2, Chapter 10 of ITEPA, being either 'employed' (commonly known as **Inside IR35**) or 'self-employed' (commonly known as **Outside IR35**).

Outside IR35 is as described in the definition of OPW Status.

Party means either or both parties to the Marketplace Agreement and their successors and permitted assignees.

Personnel means employees, workers, directors, officers, agents and subcontractors.

Platform means YunoJuno's proprietary online platform available at the URL www.yunojuno.com.

PSC Freelance Contractor means a Freelance Contractor who operates via a personal services company or PSC (as such term is defined in the OPW Rules).

Re-assessment Trigger includes a change in Working Practices and any change in Tax Law.

Small Client a small or medium sized private sector end-user of PSC Freelance Contractor's services as defined in the OPW Rules.

Status Assessment means the process of carrying out an assessment to determine OPW Status.

Status Determination Statement or **SDS** means a Status Determination Statement under section 61NA of Part 2, Chapter 10 of ITEPA.

Tax Law means all Applicable Law relating to the status of an individual providing services for employment tax purposes (including all relevant guidance published by HMRC).

Working Practices means the working practices of the PSC Freelance Contractor when delivering services to Marketplace User for an Assignment, including working practices identified in Tax Law (e.g. ESM11000 (<https://www.gov.uk/hmrc-internal-manuals/employment-status-manual/esm11000>)).

YunoJuno means YunoJuno Limited (a company registered in England with company number 08117525), Waverley House, 9 Noel Street, London W1F 8GQ.

3. MARKETPLACE USER SIZE (ALL MARKETPLACE USERS)

3.1 **Marketplace User represents that has correctly entered its size into the Platform for the purposes of the applicability of the OPW Rules.**

3.2 Marketplace User shall inform YunoJuno's Chief Financial Officer within 14 days of becoming aware that its size may change by email to hello@yunojuno.com with the subject line 'For the attention of CFO'.

4. MARKETPLACE USER ROLE UNDER THE OPW RULES (LARGE CLIENTS ONLY)

4.1 Marketplace User acknowledges that pursuant to the OPW Rules, Marketplace User has a statutory obligation to:

4.1.1 carry out a Status Assessment for each Assignment where a PSC Freelance Contractor may accept the Booking;

4.1.2 provide each such PSC Freelance Contractor with the result of the Status Assessment in the form of a Status Determination Statement;

4.1.3 comply with the Client-led disagreement process in accordance with section 61T of Part 2, Chapter 10 of ITEPA; and

4.1.4 withdraw all SDSs on the Platform for then-current Assignments and future Bookings upon becoming a small company in accordance with section 61TA of Part 2, Chapter 10 of ITEPA (which Marketplace User shall do by email to hello@yunojuno.com with the subject line '[Client name] - Small Company Notification under OPW Rules').

5. STATUS ASSESSMENT AND REASONABLE CARE (LARGE CLIENTS ONLY)

5.1 Marketplace User acknowledges and agrees:

5.1.1 that the completion of any Status Assessment (including via HMRC's *Check Employment Status for Tax* tool) will not meet the requirements of Tax Law unless the information provided accurately and fully reflects the particular Working Practices for the Assignment in respect of which the Status Assessment is being completed;

5.1.2 that Hiring Manager (or another Personnel on behalf of Marketplace User) must perform a critical review of the outcome of any Status Assessment, howsoever obtained, before making any decision as to the OPW Status of any PSC Freelance Contractor and formalising this in the SDS; and

5.1.3 that YunoJuno relies entirely on instructions and information from Marketplace User entered into the Platform in respect of: (i) identifying the OPW Status at Brief stage; and (ii) receiving and passing on to the PSC Freelance Contractor an SDS which has been completed in compliance with Tax Law.

5.2 Therefore Marketplace User represents and undertakes:

5.2.1 that Marketplace User shall carry out (or procure the carrying out of) each Status Assessment using Good Industry Practice to take reasonable care (as such term is interpreted under Tax Law);

5.2.2 that Marketplace User shall ensure all Hiring Managers and any other Personnel involved in carrying out and/or approving any OPW Status and/or SDS: (i) are aware of and understand the importance of compliance with Marketplace User's legal obligations under the OPW Rules; (ii) are sufficiently trained to be able to carry out a Status Assessment in accordance with Tax Law at the time of Booking, including taking reasonable care in coming

to the conclusion of a Status Assessment and matching the OPW Status to the Working Practices; (iii) are sufficiently trained to be able to identify any Re-Assessment Trigger during the Assignment Term (such as a change in Working Practices or Tax Law); and (iv) (if there has been a Re-Assessment Trigger) carry out a new Status Assessment;

- 5.2.3 that Marketplace User shall upload (in pdf format) the result of its Status Assessment in the form of an SDS to enable a PSC Freelance Contractor to properly consider a Brief;
- 5.2.4 that each Hiring Manager shall correctly select Inside IR35 or Outside IR35 and upload the correct SDS: (i) when requested by the Platform; and (ii) immediately upon completion of any new Status Assessment which resulted in a change to OPW Status (howsoever triggered); and
- 5.2.5 that any SDS uploaded shall be complete, compliant and accurately reflect the Working Practices of the Booked PSC Freelance Contractor (and Marketplace User acknowledges that YunoJuno relies entirely on the selection of Inside IR35 or Outside IR35 made by the Hiring Manager when using the Platform and (as a technology platform) does not itself review the SDS).
- 5.3 Marketplace User acknowledges and agrees that the pdf attached to the Booking page on the Platform at the time of pressing the 'Book' button shall be the SDS applicable to that Client Contract and (subject to clause 7) no other document, however communicated, shall be a valid SDS.
- 5.4 It shall be a material breach of the relevant Client Contract, and a failure of reasonable care, to fail to conduct a Re-Assessment when a Re-Assessment Trigger occurs.
- 5.5 A breach of this clause 5 shall be a material breach of the Marketplace Agreement.

6. YUNOJUNO ROLE UNDER THE OFF-PAYROLL WORKING RULES (LARGE CLIENTS ONLY)

- 6.1 YunoJuno acknowledges that pursuant to the Off-payroll Working Clauses, YunoJuno has a statutory obligation to ensure payment of PSC Freelance Contractors who are Inside IR35 on a Deemed Payment Basis and therefore YunoJuno represents and undertakes that:
 - 6.1.1 for each PSC Freelance Contractor categorised by Hiring Manager in the Platform as Inside IR35, YunoJuno shall instruct Payment Partner to supply the PSC Freelance Contractor to YunoJuno and pay the PSC Freelance Contractor Fee to PSC Freelance Contractor on a Deemed Payment Basis; and
 - 6.1.2 for each PSC Freelance Contractor categorised by Hiring Manager on the Platform as Outside IR35, YunoJuno shall pay the PSC Freelance Contractor on the same basis as all other Freelance Contractors (i.e. on the amounts invoiced by Freelance Contractor to YunoJuno plus VAT (if applicable)).

7. STATUS CHALLENGE (LARGE CLIENTS ONLY)

- 7.1 If a PSC Freelance Contractor makes any representations to Marketplace User (via the Platform messaging facility or otherwise) that the conclusion of a Status Assessment is incorrect, Marketplace User shall promptly (and in any event within 45 days of the representations being received):
 - 7.1.1 inform the PSC Freelance Contractor and YunoJuno in writing that it has considered the representations and has decided that the conclusion in the SDS is correct (and at the same time give Marketplace User's reasons for deciding that the conclusion is correct); or
 - 7.1.2 give the PSC Freelance Contractor and YunoJuno a pdf of the new SDS which contains a different conclusion and states that the previous SDS is withdrawn,
- 7.2 Marketplace User shall send all communications to PSC Freelance Contractors pursuant to this clause 7 by email to hello@yunojuno.com with the subject line '[Client name] - [PSC Freelance Contractor name] - OPW Status Challenge Decision'.
- 7.3 Marketplace User warrants that it shall take reasonable care in considering and responding to any status challenge by a PSC Freelance Contractor.

8. QUERIES AND HMRC COMMUNICATIONS (ALL CLIENTS)

- 8.1 The Parties, via YunoJuno and Client Representative, shall cooperate with each other in relation to any query relating to PSC Freelance Contractors and the OPW Rules.
- 8.2 If Marketplace User receives any communication (written or verbal) from HMRC querying the OPW Status of a PSC Freelance Contractor, Marketplace User shall inform YunoJuno's Chief Financial Officer in writing within five Business Days. The Parties shall co-operate with each other in good faith in relation liaising with relevant insurers and responding to HMRC and neither Party shall make any admission of liability, agreement or compromise without the prior written consent of the other Party and relevant insurers.

9. WARRANTIES AND INDEMNITIES RELATING TO OPW RULES (LARGE CLIENTS ONLY)

- 9.1 Each Party warrants and represents that it has the power and authority to perform its obligations under these OPW Clauses, which constitute valid and binding obligations.
- 9.2 Marketplace User shall indemnify and hold harmless YunoJuno against Losses in connection with:
 - 9.2.1 any breach by Marketplace User of clauses 3, 4, 5 or 7;
 - 9.2.2 YunoJuno relying in good faith on any SDS which was (at the time of uploading to the Platform) or has become (during the Assignment Term) incorrect, incomplete, out of date or misleading; and

- 9.2.3 any act, omission, default, delay, negligence or breach of the OPW Rules by Marketplace User,
(YunoJuno OPW Claim).
- 9.3 In respect of each YunoJuno OPW Claim, YunoJuno shall:
- 9.3.1 give written notice of the YunoJuno OPW Claim to Marketplace User as soon as reasonably practicable (and in any event within 14 days), specifying the nature of the YunoJuno OPW Claim in reasonable detail;
- 9.3.2 not make any admission of liability, agreement or compromise without the prior written consent of Marketplace User or relevant insurers;
- 9.3.3 give relevant insurers access at reasonable times and on reasonable prior written notice to the extent permitted by Applicable Law, to information and records within the power or control of YunoJuno, to enable relevant insurers to examine them and to take copies (at relevant insurer's expense) for the purpose of assessing the YunoJuno OPW Claim; and
- 9.3.4 give relevant insurers sole authority to avoid, dispute, compromise or defend the YunoJuno OPW Claim.
- 9.4 YunoJuno shall indemnify and hold harmless Marketplace User against Losses in connection with a failure by YunoJuno to properly instruct Payment Partner under clause 6.1.1 which has resulted in HMRC not receiving the proper amounts of income tax, national insurance and Apprenticeship Levy for an Assignment which was properly classified by Marketplace User as Inside IR35
(Client OPW Claim).
- 9.5 In respect of each Client OPW Claim, Marketplace User shall:
- 9.5.1 give written notice of the Client OPW Claim to YunoJuno as soon as reasonably practicable (and in any event within 14 days), specifying the nature of the Client OPW Claim in reasonable detail;
- 9.5.2 not make any admission of liability, agreement or compromise without the prior written consent of YunoJuno or relevant insurers;
- 9.5.3 give relevant insurers access at reasonable times and on reasonable prior written notice to the extent permitted by Applicable Law, to information and records within the power or control of Marketplace User, to enable relevant insurers to examine them and to take copies (at relevant insurer's expense) for the purpose of assessing the Client OPW Claim; and
- 9.5.4 give relevant insurers sole authority to avoid, dispute, compromise or defend the YunoJuno OPW Claim.
- 10. EXCLUSIONS RELATING TO OPW RULES (ALL CLIENTS)**
- 10.1 **Marketplace User acknowledges and agrees that it remains solely responsible for making its own business decisions relating to the OPW Status of any PSC Freelance Contractor for an Assignment and that doing so is inherently an assumption of risk. YunoJuno does not underwrite this risk in any way and nothing shall transfer this particular risk to YunoJuno. Marketplace User acknowledges and agrees that it must take its own professional advice on its particular risks relating to its compliance with the OPW Rules.**
- 10.2 In the context of the transfer of liability provisions of the OPW Rules, to the extent that any general tax indemnity by YunoJuno in the Marketplace Agreement is narrowed by this clause 10, this clause 10 shall prevail.
- 10.3 Subject to clauses 10.4 and 10.5, other than for a breach by YunoJuno of its obligations under clause 6.1.1, YunoJuno shall not be responsible to Marketplace User or any third party for any Losses of Marketplace User or any third party (including taxes, interest and penalties) for which HMRC hold Marketplace User responsible under the OPW Rules.
- 10.4 Subject to clause 10.5, neither Party shall be liable for any indirect or consequential loss.
- 10.5 The exclusions of liability set out in the OPW Clauses do not apply to:
- 10.5.1 the indemnities at clauses 9.2 and 9.4;
- 10.5.2 liability arising from death or injury to persons caused by negligence;
- 10.5.3 liability arising as a result of fraud or fraudulent misrepresentation; and/or
- 10.5.4 anything else which cannot be excluded or limited by Applicable Law, to which no limit or exclusion applies.
- 11. DEALING WITH PSC FREELANCE CONTRACTORS FAIRLY (LARGE CLIENTS ONLY)**
- 11.1 If YunoJuno reasonably believes:
- 11.1.1 that Marketplace User is not complying with these the OPW Rules (for example, Status Assessments are not being undertaken using Good Industry Practice or compliant SDSs are not being uploaded onto the Platform); and/or
- 11.1.2 that Marketplace User is not dealing with PSC Freelance Contractors in good faith (for example, regularly creating Outside IR35 Bookings and then changing them to Inside IR35 Bookings once the PSC Freelance Contractor has committed to provide their services),
- YunoJuno may suspend Marketplace User's ability to Book PSC Freelance Contractors on the Platform.

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