

Trade Partner Contract

Date: The date this contract becomes effective is determined by the date an agent/tour operator first logs into the Avenue Six portal and accepts the Terms and Conditions which are the same as detailed in this contract.

The Term of the contact is from the date an agent/tour operator first logs into the Avenue Six portal for two years and thereafter under the terms of clause 2 and clause 8.

The contract is between Avenue Six Limited (company number 12373004), 14 Lancaster Street, Newcastle upon Tyne, NE4 5EU. VAT registration number 345 297969.

And the agent/tour operator provided with log in details who then logs into the Avenue Six portal and accepts the Terms and Conditions.

This contract is for:

the provision of Avenue Six Services relating to the Avenue Six API, Extranet and Central Reservation Platform (CRS) provided to enable bookings to be made by trade partners in order to create an itinerary of accommodation, tours, attractions and activities for their customers visiting any of the territories covered by Avenue Six;

the provision of access to the Trade Partner to use the Platform to search for and make, amend and cancel bookings of accommodation, tours, attractions and activities at locations included in the Avenue Six portfolio covered by Avenue Six subject to the terms of the Contract;

the provision of access to the Trade Partner to suppliers of accommodation, tours, attractions or activities included in Avenue Six's portfolio who have agreed to make their accommodation, tours, attractions or activities available for booking by the Trade Partner using the Service

1. This Contract is made up of the following:

(a) The Contract Details.

(b) The Conditions.

(c) The Special Conditions.

2. If there is any conflict or ambiguity between the terms of the documents listed in paragraph 1, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

Contract Conditions

1. Interpretation

a. Definitions:

"Business Day"	a day other than a Saturday, Sunday or public holiday day in England
"Charges"	the amount payable by the Travel Partner to Avenue Six on making a booking of accommodation, tours, attractions or activities using the Platform, as advertised on the Platform at the time the booking is made and confirmed by Avenue Six by way of an invoice.
"Conditions"	these terms and conditions set out in clause 1 (Interpretation) to clause 10 (General) (inclusive).
"Contractors" "Contract"	as defined in Clause 5.a.iii. the contract between the Trade Partner and Avenue Six for the supply of the services in accordance with the Contract Details, these Conditions and the Special Conditions.
"Control"	the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and controls, controlled and the expression change of control shall be construed accordingly.
"Initial Term"	the period stated in the Contract Details
"Intellectual Property Rights"	rights to inventions, copyright and neighbouring and related rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of,

and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

"Avenue Six IPRs"	all Intellectual Property Rights subsisting in the Avenue Six Services excluding any Trade Partner Materials incorporated in them.
"Avenue Six Services"	the services to be provided by Avenue Six pursuant to the Contract, using the Planning and Booking Platform.
"Avenue Six Services Start Date"	the day on which Avenue Six is to start provision of the Services, as set out in the Contract Details.
"Trade Partner Materials"	all materials, equipment and tools, drawings, specifications and data supplied by the Trade Partner to Avenue Six.

b. Interpretation:

- i. A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time. A reference to a statute or statutory provision includes any subordinate legislation made from time to time under that statute or statutory provision.
- ii. Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- iii. A reference to **writing or written** includes email.

2. Commencement and term

The Contract shall commence on the date that an agent/tour operator logs into the Avenue Six portal and accepts the Terms and Conditions of this contract and shall continue for the Initial Term, which is two years, unless terminated earlier in accordance with its terms, and thereafter until either party gives to the other not less than 12 months' written notice to terminate, expiring on or after the expiry of the Initial Term.

3. Supply of services

- a. Avenue Six shall supply the Planning and Booking Platform Services to the Trade Partner to use the Platform from the Services Start Date in accordance with the Contract.
- b. In supplying the Planning and Booking Platform, Avenue Six shall:
 - i. perform the Avenue Six Services with reasonable care and skill;

- ii. be entitled to add to, remove or change the Avenue Six Suppliers that the Trade Partner can access using the Platform from time to time;
- iii. comply with all applicable laws, statutes, regulations from time to time in force, provided that Avenue Six shall not be liable under the Contract if, as a result of such compliance, it is in breach of any of its obligations under the Contract;
- iv. not allow individual consumers to use the Platform to make bookings with Avenue Six Suppliers at the trade rates at which the Trade Partner or the Contractors can make bookings;
- v. not directly contact Contractors agreed with the Trade Partner from time to time under Clause 4.a.iii.

4. Trade Partner's obligations

- a. The Trade Partner shall:
 - i. co-operate with Avenue Six in all matters relating to the Planning and Booking Platform;
 - ii. provide, in a timely manner, such information as Avenue Six may reasonably require, and ensure that it is accurate and complete in all material respects;
 - iii. from time to time agree with Avenue Six a list of clients, re-sellers, tour operators or travel agencies ("Contractors") that Avenue Six agrees that the Trade Partner can allow to use the Platform and/or to advertise and re- sell Avenue Six products booked through the Trade Partner;
 - iv. use, and ensure that its Contractors use, only the Platform for the booking of all the requirements of its or the Contractors' customers for accommodation, tours, attractions or activities within the geographical locations covered by Avenue Six Services;
 - v. not make any reservations or bookings of accommodation, tours, attractions or activities with Avenue Six Suppliers directly or otherwise than through the Platform (except in the case of Contractors who have an existing contract with an Avenue Six Supplier) ;
 - vi. not cancel, or allow a Contractor to cancel, any booking made using the Platform less than 14 days prior to the arrival date of the customers to which the booking relates;
- b. If Avenue Six's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Trade Partner, its agents, subcontractors, consultants or employees, Avenue Six shall:
 - i. not be liable for any costs, charges or losses sustained or incurred by the Trade Partner that arise directly or indirectly from such prevention or delay; and
 - ii. be entitled to recover any additional costs, charges or losses Avenue

Six sustains or incurs that arise directly or indirectly from such prevention or delay.

5. Intellectual property

- a. Avenue Six and its licensors shall retain ownership of all Avenue Six IPRs. The Trade Partner and its licensors shall retain ownership of all Intellectual Property Rights in the Trade Partner Materials.
- b. Avenue Six grants the Trade Partner, or shall procure the direct grant to the Trade Partner of, a fully paid-up, worldwide, non-exclusive, royalty-free, licence access and use the Platform for the purpose of receiving and using the Avenue Services in the Trade Partner's business during the term of the Contract.
- c. The Trade Partner grants Avenue Six a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable licence to copy and modify the Trade Partner Materials for the term of the Contract for the purpose of providing the Avenue Six Services to the Trade Partner in accordance with the Contract.

6. Charges and payment

- a. In consideration for the provision of the Avenue Six Services, the Trade Partner shall pay Avenue Six the Charges in accordance with this clause 6.
- b. All amounts payable by the Trade Partner exclude amounts in respect of value added tax (VAT), which the Trade Partner shall additionally be liable to pay to Avenue Six at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.
- c. Avenue Six shall submit invoices for the Charges plus VAT if applicable to the Trade Partner in respect of all bookings placed for its customers due to arrive during the next 28 days. Each invoice shall include all reasonable supporting information required by the Trade Partner.
- d. The Trade Partner shall pay each invoice due and submitted to it by Avenue Six, not more than 28 days and not less than 14 days before the date of arrival in the United Kingdom of the customers of the Trade Partner to which the invoice relates, to a bank account nominated in writing by Avenue Six.
- e. If the Trade Partner fails to make any payment due to Avenue Six under the Contract by the due date for payment, then, without limiting Avenue Six's remedies under Clause 8 (Termination):
 - i. the Trade Partner shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 4% a year above NatWest's base rate from time to time.
 - ii. Avenue Six may suspend all Services until payment has been made in full; and
 - iii. Avenue Six may cancel the booking of the accommodation, tours, attractions or activities to which the overdue invoice relates.

- f. All amounts due under the Contract from the Trade Partner to Avenue Six shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

7. Limitation of liability

- a. Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- i. death or personal injury caused by negligence;
 - ii. fraud or fraudulent misrepresentation; and
 - iii. breach of the terms as to title, insofar as they are implied by law.
- b. Subject to clause a, Avenue Six's total liability to the Trade Partner shall not exceed one hundred per cent (100%) of the total Charges paid by the Trade Partner to Avenue Six in the twelve month period in which the breaches occurred. Avenue Six's total liability includes liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract.
- c. This Clause 7.c sets out specific heads of excluded loss:
- i. Subject to clause a, the types of loss listed in clause 7.c.ii are wholly excluded by the parties.
 - ii. The following types of loss are wholly excluded:
 - Loss of profits.
 - Loss of sales or business.
 - Loss of agreements or contracts.
 - Loss of anticipated savings.
 - Loss of use or corruption of software, data or information.
 - Loss of or damage to goodwill.
 - Indirect or consequential loss.
- d. Avenue Six has given commitments as to compliance of the Avenue Six Services with relevant specifications in clause 3. In view of these commitments, the terms implied by any applicable law are, to the fullest extent permitted by law, excluded from the Contract.
- e. In particular, Avenue Six is not responsible for the accommodation, tours, attractions or activities that are booked by the Trade Partner or a Contractor and therefore accepts no responsibility or liability for the quality or end user customer experience of the same or for any failure or substandard or non-performance by an Avenue Six Supplier. The Trade Partner agrees that the solely remedy that it, a Contractor or its customer has in this respect is against the Avenue Six Supplier direct.
- f. Unless the Trade Partner notifies Avenue Six that it intends to make a claim in respect of an event within the notice period, Avenue Six shall have no liability for that event. The notice period for an event shall start on the day on which the Trade Partner became, or ought reasonably to have become, aware of its having grounds to make a claim in respect of the event] and shall expire 12

months from that date.

The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

8. Termination

- a. Without affecting any other right or remedy available to it, either party to the Contract may terminate it with immediate effect by giving written notice to the other party if:
 - i. the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - ii. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - iii. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
 - iv. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- b. Without affecting any other right or remedy available to it, Avenue Six may terminate the Contract with immediate effect by giving written notice to the Trade Partner if:
 - i. the Trade Partner fails to pay any amount due under the Contract on the due date for payment; or
 - ii. there is a change of control of the Trade Partner.
- c. On termination of the Contract for whatever reason:
 - i. the Trade Partner shall immediately pay to Avenue Six all of Avenue Six's outstanding unpaid invoices and interest and, in respect of Avenue Six Services supplied but for which no invoice has been submitted, Avenue Six may submit an invoice, which shall be payable immediately on receipt;
 - ii. any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect; and
 - iii. termination or expiry of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages

in respect of any breach of the Contract which existed at or before the date of termination or expiry.

9. General

- a. **Force majeure.** Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control.

b. Assignment and other dealings.

- i. The Trade Partner shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract without Avenue Six's prior written consent.
- ii. Avenue Six may at any time assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights under the Contract.

c. Confidentiality.

- i. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, suppliers or clients of the other party or of any member of the group to which the other party belongs, except as permitted by clause c. For the purposes of this clause, group means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.
- ii. Each party may disclose the other party's confidential information:
 - to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause c; and
 - as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- iii. Neither party shall use any other party's confidential information for any purpose other than to perform its obligations under the Contract.

d. Entire agreement.

- i. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- ii. Each party acknowledges that in entering into the Contract it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or

negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

e. **Variation.** No variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

f. **Waiver.**

i. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

ii. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

g. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

h. **Notices.**

i. Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

- delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- sent by email to the address specified in the Contract Details

ii. Any notice shall be deemed to have been received:

- if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second] Business Day after posting or at the time recorded by the delivery service; and
- if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause 3, business hours means

9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

iii. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

i. **Third party rights.** The Contract does not give rise to any rights for a third party to enforce any term of the Contract.

j. **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the laws of England and Wales.

k. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

l. Language.

i. This agreement is drafted in the English language. If this agreement is translated into any other language, the English language version shall prevail.

ii. Any notice given under or in connection with this agreement shall be in the English language. All other documents provided under or in connection with this agreement shall be in the English language, or accompanied by a certified English translation.

iii. If such document is translated into any other language, the English language version shall prevail.