

## MARKETING IN KIND AGREEMENT – VR MIK TERMS AND CONDITIONS

These Marketing In Kind Agreement – VR MIK Terms and Conditions are an incorporated and binding part of the Marketing In Kind Agreement made between you (“Partner”, “you/your”) and Value Retail Management (Bicester Village) Limited (“VR”) on its own behalf and on behalf of members of the Value Retail Brand (defined below).

### 1 The Partner’s agreement with VR

These VR MIK Terms and Conditions are between the Partner and VR and must be read in conjunction with the Marketing in Kind Agreement, the Offer, the VR Brand Guidelines and the VR Benefit Terms as updated from time to time, which collectively shall be referred to herein as the “Agreement”. The Partner’s promotion of the Benefits to its Customers will constitute its acceptance of the terms and conditions of this Agreement.

### 2 Definitions and Interpretation

“Affiliate” means in relation to a Party, any other entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that Party from time to time;

“Agreement” has the definition given to it in clause 1 and includes the table labelled as the Contract Data Table;

“Benefit” means the benefit(s) set out in the Offer;

“Business Day” means a day other than a Saturday, Sunday or a bank or public holiday in England;

“Chauffer Drive Service”/“CD” means VR’s luxury chauffeur driver service to Participating Villages from convenient city centre locations, which can be booked online at the VR Site;

“Concierge Service” means a personalised service provided by the concierge team of the Participating Village to enhance a customer’s experience whilst they are visiting the Participating Village based on the customer’s preferences and special requests, including a welcome refreshment upon arrival, making in village restaurant reservations, arranging priority access to boutiques and arranging Reserved Parking.

“Confidential Information” means: (a) the Value Retail Data, and (b) all other information whether conveyed orally, in writing, in machine readable form or otherwise which relates to a Party’s business, products, developments, trade secrets, know-how, processes, methodologies, personnel, suppliers and customers (whether or not designated as “confidential information” by the disclosing Party) together with all information derived from the above and all information designated confidential or which ought reasonably to be considered confidential;

“Contract Data Table” means the table set out in the Marketing In Kind Agreement.

“Control” and its derivatives means the power of a person to secure: (a) by means of the holding of shares or the possession of voting power in an entity; or (b) by virtue of any powers conferred by the articles of association or other document regulating or relating to an entity, that the affairs of that entity are conducted in accordance with that person’s wishes;

“Customers” means the Partner’s customers;

“Data Protection Laws” means any applicable law relating to the processing, privacy and use of personal data including the Data Protection Act 2018 and Regulation (EU) 2016/679 (General Data Protection Regulation) (“GDPR”) and any other applicable data protection or privacy regulations;

“Handsfree Shopping”/“HFS” means VR’s handsfree shopping services which can be booked upon arrival at a Participating Village and which for all Participating Villages enables customers to shop at their favourite boutiques and collect their purchases from a central location at the end of their visit to a Participating Village;

“Insolvency Event” means in relation to either Party, that that Party: (a) is unable to pay its debts or becomes insolvent or bankrupt; (b) is the subject of an order made or a resolution passed for its administration, winding-up or dissolution; (c) is subject to any proceedings for the appointment of an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer appointed over all or any substantial part of its assets; (d) proposes or enters into any composition or arrangement with its creditors generally (except for the purposes of a bona fide solvent amalgamation, reconstruction or re-organisation (provided this does not materially reduce the assets of the Partner)); or (e) is subject to an analogous event to the foregoing in any jurisdiction;

“Intellectual Property Rights” means patents, trade marks, service marks, logos, get up, trade names, internet domain names, rights in designs, copyright (including rights in computer software) and moral rights, database rights, semiconductor topography rights, utility models, rights in know how and other intellectual property rights, in each case whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world;

“Modern Slavery Laws” means all anti-slavery and human trafficking laws, statutes, regulations and

codes from time to time in force and applicable to the provision of the goods and/or services in connection with this Agreement (including, where the Partner carries on business in the UK, the Modern Slavery Act 2015);

**“Offer”** means the written commercial proposal setting out the Benefit(s) that VR will offer to the Partner’s Customers;

**“Participating Village”** means the participating village(s) listed in the Offer;

**“Partner”** means the entity identified in the Contract Data Table, whose address is the Partner Address and whose address for the service of notices is the Partner Address for Notices;

**“Party”** means each of VR and the Partner and collectively VR and the Partner shall be referred to as “Parties”;

**“Refreshment Voucher”/“F&B Voucher”** means a complimentary refreshment/food and beverage voucher for use at participating restaurants, cafes or kiosks at Participating Villages;

**“Regulations”** means, any law or regulation applicable to any part of the services, the Benefits or the Partner or VR;

**“Reserved Parking”** means VR’s pre-bookable service to reserve prime location parking spaces at a Participating Village;

**“Shopping Express”/“SE”** means a regular, luxury coach service taking customers from main city centre locations to Participating Villages and can be booked online at the VR Site or such other link as notified to Partner from time to time;

**“Shopping Packages”/“SP”** means shopping day experiences (with various luxury value add services) that are available to be booked online at the VR Site or such other link as notified to Partner from time to time;

**“The Apartment/VIP Lounge”** means VR’s luxury VIP lounge located at Participating Villages subject to availability, which can be booked by emailing the VR Booking Email not less than forty-eight (48) hours before a Customer’s visit to a Participating Village;

**“Valet Parking”** means VR’s premium valet parking service, where a customer’s vehicle will be parked by a valet parking steward in the valet parking preferred parking bays during a customer’s visit to a Participating Village;

**“Value Retail Brand”** means: (a) VR, its shareholders and Affiliates; and (b) Value Retail PLC (Registered Number 2782532), its shareholders and Affiliates; and (c) any company or entity, and its Affiliates, to which (i) VR, (ii) Value Retail PLC, and any Affiliates of either of (i) or (ii) licenses rights or

provides services;

**“Value Retail Data”** means any information, data, documents, text, drawings, diagrams, images, sound or other materials in any media that are supplied to or made available to the Partner by or on behalf of VR pursuant to this Agreement;

**“Value Retail Trade Marks”** means the trade marks that VR permits the Partner to use under this Agreement, as more particularly set out in the Contract Data Table;

**“VIP Pass”/“eVIP Pass”** means a reward card which will entitle a customer to receive an additional ten per cent (10%) discount on products within participating boutiques at the Participating Villages (subject always to the specific terms and conditions which apply to the use of the VIP Pass and any “blackout” or “further reduction” periods which will be advertised on the Participating Village websites and communicated to Customers at the time of collection of the VIP Pass; and

**“VR”** means Value Retail Management (Bicester Village) Limited, a limited company incorporated and registered in England and Wales with company number 02884096 whose registered office is at Management Suite, Bicester Village, 50 Pingle Drive, Bicester, Oxfordshire, OX26 6WD England, and whose address for the service of notices is given in the Contract Data Table; and

**“Welcome Drink”** means a complimentary drink given to guests upon their arrival at a Participating Village; and

**“Welcome Gift”** means a complimentary gift from one of the boutiques at a Participating Village.

### **3 Services**

3.1 During the validity of the Offer, the Partner shall collaborate with VR to provide the Benefit(s) to the Customers and to promote the Benefit(s), VR and the Participating Villages to such Customers.

3.2 The Partner shall ensure that it notifies all such Customers of the VR Benefit Terms.

### **4 Warranties and Undertakings**

#### **4.1 Partner undertakings**

4.1.1 The Partner undertakes that it shall perform its obligations under this Agreement: (a) in accordance with the Regulations; (b) in accordance with best industry practice; (c) exercising all due skill, care and attention; and (d) through suitably qualified, skilled and experienced personnel. The Partner further undertakes that it shall comply with all reasonable requests of VR in relation to the performance of its obligations under this Agreement.

4.1.2 In addition to the undertakings set out at clause 4.1.1 above, the Partner warrants that it has not and

undertakes that it will not, in performing its obligations under this Agreement, do any act or thing that contravenes the UK Bribery Act 2010 or any other applicable anti-bribery or anti-money laundering laws and/or regulations.

4.1.3 In performing its obligations under this Agreement, the Partner shall:

4.1.3.1 not by any act or omission engage in any activity, practice or conduct which would constitute:

4.1.3.1.1 a UK tax evasion facilitation offence under section 45(1) Criminal Finances Act 2017 ("CFA"), or

4.1.3.1.2 a foreign tax evasion facilitation offence under section 46(1) CFA;

4.1.3.2 have and shall maintain in place throughout the validity of the Offer policies and procedures as are reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Supplier);

4.1.3.3 comply with its obligations under all Modern Slavery Laws;

4.1.3.4 without prejudice to clause 4.1.3.3, not engage in any activity, practice or conduct that would constitute slavery, servitude, forced or compulsory labour, or human trafficking, including by aiding, abetting, counselling or procuring any of the above; and

4.1.3.5 include in its contracts, with its subcontractors and suppliers, provisions that are at least as onerous as those set out in this clause 4.1.3.

4.1.4 Each Party shall comply with all applicable Data Protection Laws relating to the processing, privacy and use of Personal Data and shall not do (or omit to do) anything which may cause the other Party to breach its obligations under applicable Data Protection Laws. Further, the Parties agree that for the purposes of this Agreement, each Party is a separate Data Controller, and that neither Party shall provide the other Party with Personal Data, or process Personal Data on behalf of the other Party. Notwithstanding the foregoing, the Partner agrees that, to the extent that it, as a Data Controller, processes any Personal Data concerning Customers in connection with the fulfilment of its obligations under this Agreement, it shall, so far as is applicable, comply with all applicable Data Protection Laws, including (i) by ensuring that there is a lawful basis on which to process any Personal Data of the Customers; and (ii) ensuring that the Customers are provided with appropriate privacy notices that explain how their Personal Data will be processed, including, without limitation, for the

purposes set out in this Agreement. "Data Controller", "Data Processor", "Personal Data" shall have the meanings given to them as applicable in the applicable Data Protection Laws.

4.1.5 The Partner shall be liable to VR and shall indemnify and hold harmless VR in full for all and any actions, claims, proceedings, demands, costs, damages, losses, fines, penalties and expenses suffered or incurred by VR arising out of the Partner's failure to comply with clauses 4.1.2, 4.1.3 and 4.1.4.

## **4.2 Mutual undertakings**

4.2.1 VR and the Partner represent and warrant to each other that they have full power and authority to enter into and perform this Agreement, and that its entry into and performance of this Agreement will not cause it to be in breach of any obligation to a third party.

4.2.2 Neither Party shall make any statement, orally or in writing, publicly or privately, or do any act or otherwise conduct itself in such a manner as will or may, in the reasonable opinion of the other Party, disparage the other Party or its business, clients, services or employees, and shall take reasonable steps to ensure that its employees, agents and contractors behave accordingly.

## **5 Intellectual Property**

5.1 The Parties agree that: (a) the Value Retail Trade Marks are owned by, or licensed to, VR; and (b) except for the licences and permissions granted to it under this Agreement, the Partner has no right, title or interest in the Value Retail Trade Marks or any images that may be provided to it by VR.

5.2 VR grants to the Partner a limited licence to use the Value Retail Trade Marks and the images that VR provides to the Partner for the sole purpose of performing its obligations set out in this Agreement, provided that such use is in accordance with all specifications, standards of quality and any other directions given by VR from time to time, including any marketing guidelines published by VR and provided to the Partner and the VR Brand Guidelines.

5.3 VR may terminate the licence granted under clause 5.2 above at any time by providing not less than fourteen (14) days' written notice to the Partner. In the event of such termination the Partner will return all copies (including, without limitation, any electronic copies) of the Value Retail Trade Marks or images that are in the Partner's possession to VR within thirty (30) days.

5.4 The Partner hereby grants to VR a royalty-free, global, irrevocable licence to use the Partner's Intellectual Property Rights for the purposes of: (a)

marketing the collaboration between the Parties under this Agreement and (b) performing its obligations as set out in this Agreement.

## **6 Confidentiality**

6.1 The Partner undertakes: (a) to keep confidential all Confidential Information; (b) to use Confidential Information solely for the purpose of performing this Agreement; and (c) not to divulge such Confidential Information without VR's prior written consent, except to its employees and any Personnel who need to know the same for the purposes of this Agreement.

6.2 The Partner shall ensure that its personnel are aware of and comply with this duty of confidentiality.

6.3 The Partner may disclose Confidential Information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction provided, to the extent permitted by law, it shall provide VR with as much notice of the disclosure as possible and shall take into account the reasonable requests of VR in relation to the disclosure.

6.4 Confidential Information remains the property of the disclosing party and no licence or other right, title or interest in such Confidential Information is granted except strictly as set out in this Agreement.

6.5 Without prejudice to any other rights or remedies that VR may have, the Partner acknowledges and agrees that damages alone would not be an adequate remedy for any breach by the Partner of the terms of this clause 6. Accordingly, VR shall be entitled to seek the remedies of injunctions, specific performance or other equitable relief for any threatened or actual breach of this clause 6.

## **7 Liability**

7.1 Subject to clauses 7.2, 7.3 and 9.1 below, in no event will either Party, or in the case of VR, the Value Retail Brand be liable for any of the following: indirect, incidental, consequential, special, or punitive damages even if it has been advised of the possibility of such damages. The Partner agrees that the recovery by VR of any loss suffered by another member of the Value Retail Brand shall not constitute consequential loss under this Agreement.

7.2 Notwithstanding the foregoing, no limitation or exclusion of the Partner's liability will apply with respect to any claims arising out of or relating to any obligation to indemnify hereunder and/or arising out of or relating to clauses 4.1.4 ("Data Protection"), 5 ("Intellectual Property"), 6 ("Confidentiality"), or 8.3 ("Consequences of termination") of this Agreement, or its wilful misconduct or negligence, or its

deliberate abandonment of the Agreement in part or in whole, or any claims for property damage (including without limitation all costs associated with the recovery or replacement of lost or damaged data). For the avoidance of doubt, any fines or penalties assessed on a Party under applicable law arising out of the other Party's breach of this Agreement are direct damages.

7.3 Neither the Partner nor VR limits or excludes its liability for: (a) death or personal injury caused by its negligence; (b) fraud; or (c) any liability that may not be limited or excluded by law.

## **8 Termination**

8.1 **Termination for convenience.** Without prejudice to the VR's rights and remedies, VR may terminate this Agreement or the Offer at any time for any reason or no reason, on the provision of not less than thirty (30) days' written notice to the Partner.

8.2 **Termination for cause.** Without prejudice to either Party's rights or remedies, either Party may immediately terminate this Agreement without payment of compensation or other damages caused to the other Party solely by such termination, by giving notice in writing to the other Party if any one or more of the following events happen: (a) the other Party commits a material breach of any of its obligations under this Agreement which is incapable of remedy; (b) the other Party fails to remedy (where such breach is capable of remedy) a material breach of any of its obligations under this Agreement after having been required in writing to remedy or desist from such breach within a period of fourteen (14) days of being notified of such breach; (c) the other Party repeats a non-material breach of any of its obligations under this Agreement on four (4) or more occasions in any year; or (d) an Insolvency Event occurs in relation to the other Party.

8.3 **Consequences of termination.** On termination or expiry of this Agreement for any reason and at VR's request: (a) the Partner shall immediately deliver to VR (or if VR so directs, the Partner shall destroy such items and provide certificates of destruction) all copies of information and data and any other materials provided by VR to the Partner and all Confidential Information. The Partner shall certify in writing to VR that it has not retained any copies of such information, data or materials; and (b) all licences granted for the use of Intellectual Property Rights shall cease. Termination of this Agreement shall not affect either Party's accrued rights or obligations, and the following clauses are intended to survive termination of this Agreement:

clauses 4.1.5, 5, 6, 7, 8 and 9.

## **9 General**

**9.1 Value Retail Brand.** This Agreement is entered into by VR for the benefit of VR and the members of the Value Retail Brand, each of whom may enforce the relevant terms of this Agreement for their own benefit. For the determination of rights of such members of the Value Retail Brand they shall be included in the definition of, and any references to "VR" in connection with this Agreement. The Partner acknowledges and agrees that VR is entitled to recover all losses sustained by any member of the Value Retail Brand, arising out of or in connection with this Agreement, as if the same were incurred by VR.

**9.2 Assignment.** The Partner shall not assign, transfer, charge or otherwise deal with any of its rights under this Agreement without the prior written consent of VR.

**9.3 Sub-contracting.** The Partner shall not sub-contract any of its obligations under this Agreement without VR's prior written consent. The appointment by the Partner of any sub-contractor approved by VR shall not limit or reduce the Partner's obligations or liability under this Agreement. The Partner shall be responsible for the sub-contractors' acts, errors or omissions as if they were its own acts, errors or omissions.

**9.4 No waiver.** No failure or delay by a Party in exercising any right or remedy provided by law or under this Agreement shall impair the right or remedy, or operate as a waiver or variation of it, or preclude its exercise at any subsequent time. No single or partial exercise of any right or remedy shall preclude any further exercise of the right or remedy or the exercise of any other right or remedy.

**9.5 Amendment.** VR reserves the right to amend these terms and conditions at any time without reference to the Partner, save that VR will use reasonable efforts to notify the Partner of such amendment before such amendment becomes effective. If any amendment is unacceptable to the Partner, the Partner may terminate this Agreement or the Offer by giving not less than fourteen (14) days' notice to VR in accordance with clause 9.7 below. If the Partner continues to promote the Benefits following the effective date of an amendment, the Partner will be conclusively deemed to have accepted such amended version of these terms and conditions. Despite the foregoing, VR may update any of the VR Contacts, Policies and Sites listed in the Contract Data Table by giving notice at any time.

**9.6 Third Party Rights.** Subject to clause 9.1, a

person who is not Party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. The rights of the Parties to rescind or vary the Agreement are not subject to the consent of any other person.

**9.7 Notices.** Notices required to be served under this Agreement must be in writing and may be delivered by hand, sent by registered mail or sent by email to the address set out in the Contract Data Table or clause 2 of this Agreement (as appropriate) or any other address notified in writing from time to time by the Parties. A notice shall be deemed to have been received: (i) if delivered personally, when left at the address referred to in the Agreement or any other address notified in writing; (ii) if sent by registered post, at 9am on the second Business Day after posting; or (iii) if sent by email, one Business Day after transmission.

**9.8 Entire Agreement.** This Agreement and the email from VR to the Partner which encloses the component parts of this Agreement, including the Offer and these Terms and Conditions, constitutes the entire agreement between the Parties concerning the subject matter of the Offer. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement. Nothing in this clause 9.8 shall limit or exclude any liability for fraud.

**9.9 Governing law.** This Agreement shall be governed by and construed in accordance with the laws of England and the Parties hereby submit to the exclusive jurisdiction of the English courts (without prejudice to the right to seek interim relief in any forum with jurisdiction). The Partner acknowledges and accepts that any judgment or order of any court referred to in clause 9.9 shall be conclusive and binding and may be enforced in the courts of any other jurisdiction.