

CLUBSPARK TERMS AND CONDITIONS

Last updated: August 2020

1. GENERAL

- 1.1 The website, www.clubspark.lta.org.uk ("**Website**"), and the website application ("**App**") is owned and operated by Clubspark Group Ltd, a company registered in England and Wales whose registered address is 41-47 Hartfield Road, Wimbledon, London, SW19 3RQ which uses the trading name ClubSpark ("**ClubSpark**", "**Clubspark**", "**we**", "**us**" and "**our**") and is made available to you on the following terms and conditions. "**You**" or "**your**" means you as the relevant user of the Website or App (whether as a Coaching Provider, Venue Provider or as a participant of a club making a booking at a Venue or otherwise).
- 1.2 These terms and conditions use special meanings which have capitalised first letters. Other than as defined above, the meanings of these words (and how they should be interpreted) in set out in the attached Annex 1 (**Definitions**). These terms and conditions shall incorporate (as applicable) the Data Processing Agreement set out in Annex 2 (as expressly incorporated as set out below). In the event of a conflict between these terms and conditions and the Data Processing Agreement, the former shall prevail, other than to the extent such conflict relates to a data protection related issue, in which case, the latter shall prevail.
- 1.3 By using the Website or the App and the services available on it you are deemed to accept these terms and conditions (which shall then form a legally binding contract between you and us) and any additional terms and conditions which expressly apply to services and information provided by third parties. If you are under the age of 18 or do not understand these terms of use, please ask a parent or guardian to explain their meaning to you.
- 1.4 Clubspark may make alterations to these terms of use from time to time. If you continue to use and access our services after we have notified you of such changes or if you renew your subscription (where applicable), you agree to such changes.
- 1.5 The Website and App is for use by different users, namely clubs/venues, coaches, players, parents and/or guardians and national governing bodies See each section below (as applicable).
- 1.6 We have taken care in the preparation of the Website and the App. However, as certain technical matters may be beyond our control, we cannot guarantee that you will have uninterrupted access to the Website and/or App at all times.

2. PURPOSE OF CLUBSPARK

- 2.1 We offer a sport management software platform for governing bodies, venues, clubs, coaches and players so they can easily manage memberships, resources, coaching, onsite technology, events, campaigns, and competitions.

3. RIGHTS OF USE AND INTELLECTUAL PROPERTY RIGHTS

- 3.1 Unless otherwise specified, all copyright, design rights, database rights, patent rights, trade mark and trade dress rights and all other intellectual property rights in all text, images, sound, software, service marks, logos and other materials on the pages of the Website and/or App (the "**Content**") are owned by Clubspark or are reproduced on the Website with permission of the relevant rights owner. Discrete portions of the Website include Open Source software code which is not bound by this copyright. For details please see the [Open Source attribution notices](#).
- 3.2 The Content may not be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means without Clubspark' prior written consent, except as stated at 3.3 below.
- 3.3 You may read, view, print, download and (where appropriate) listen to the contents of an individual page for private and personal non-commercial use only provided that all

copyright, trademark and other proprietary notices contained in the original materials on any copy of these materials is retained, but you may not make more than one copy electronically or otherwise of any of the contents and you may not recopy or further distribute, sell, publish or transmit any part of the material by electronic or any other means. Use of the Website and/or App does not give you any proprietary rights in such materials.

3.4 You agree not to sell, resell, supply or otherwise make the Content or extracts or other information derived therefrom available in any manner or on any media to any third party without the prior written consent of Clubspark.

3.5 The names, images and logos identifying Clubspark, its projects, products and services, or those of third parties, are the proprietary marks of Clubspark, and/or may be the proprietary marks of third parties. Any use made of these marks may be an infringement of rights in those marks and Clubspark reserves all rights to enforce such rights that it might have.

4. **RESTRICTIONS AND OBLIGATIONS**

4.1 You agree to comply with these terms of use and all rules applicable to the use of the Website and App.

4.2 You will not attempt or do any of the following:

4.2.1 hack, modify, reverse engineer or create derivative works of the Website or App or any part of either;

4.2.2 gain unauthorised access to any part of the Website or App;

4.2.3 to obtain or attempt to obtain any materials or information through any means not intentionally made available or provided for through the Website or App;

4.2.4 remove, modify or obscure any copyright, trade mark or other proprietary notices on the Website or App;

4.2.5 in relation to the posting, uploading, emailing or other transmission of any material, the publication, dissemination, use or possession of which infringes the rights of any person or which is unlawful in any other respect;

4.2.6 use the Website or App or any part of either unfairly or for any illegal or immoral purpose;

4.2.7 use the Website or App in any manner which could damage, disable, overburden, or impair the Website or App;

4.2.8 to make available personal data about any person other than yourself, unless you have the express permission of that individual, for that specific purpose (e.g. to book a court or coaching on the individuals behalf);

4.2.9 to impersonate any other person or entity or to provide inaccurate information;

4.2.10 use the Website or App in any way which is abusive, vulgar, racist, sexist, defamatory, sexually orientated or obscene or which will harass, distress, embarrass or inconvenience any person or which might restrict or inhibit the use and enjoyment of the Website by any person;

4.2.11 use the Website or App for the posting, uploading, emailing or other transmission of any unsolicited or unauthorised advertising, promotional materials, "**junk mail**," "**spam**," "**chain letters**," "**pyramid schemes**," or any other form of solicitation or commercial exploitation;

4.2.12 use the Website or App for the posting, uploading, emailing or other transmission of any material that contains software viruses or any other computer code, files or programs designed to interrupt, restrict, destroy, limit

the functionality of or compromise the integrity of any computer software or hardware or telecommunications equipment;

- 4.2.13 to create software or a database (electronic or otherwise) which replicates or mimics the data or functionality in the Website or App that includes Content;
- 4.2.14 to transmit or re-circulate any Content to any third party;
- 4.2.15 use the Website or App in such a way so as to remove the copyright or trade mark notice(s) from any copies of any Content made in accordance with these terms; or
- 4.2.16 use the Website or App in any way that might bring Clubspark or its affiliated organisations into disrepute.

5. **REGISTRATION, ACCOUNT AND PASSWORD**

- 5.1 In order to use and access parts of the Website and/or App you will need to register and create a User Profile as explained on the Website or App. To register you will need to submit certain information and to choose a User Name and a Password.
- 5.2 The User Name and Password chosen by and issued to you upon registration is personal to you so that you can use and access the Website and/or App.
- 5.3 You agree, accept and understand that:
 - 5.3.1 you must ensure that all information held about you by us is up to date;
 - 5.3.2 you can amend your registration details at any time through the Website or App;
 - 5.3.3 you are and shall remain responsible for maintaining the confidentiality of your User Name and Password;
 - 5.3.4 you are solely liable for any use of the Website or App using your User Name or Password;
 - 5.3.5 you must not disclose your Password to any other person.
- 5.4 **DO NOT SHARE YOUR USER NAME OR PASSWORD WITH ANY OTHER PERSON OR ALLOW ANY OTHER PERSON TO USE YOUR ACCOUNT. WE ARE NOT LIABLE FOR ANY IMPROPER USE OF YOUR USER NAME, PASSWORD, OR ACCOUNT OR ANY USE BY ANY THIRD PARTY. IF YOU THINK YOUR USER NAME, PASSWORD, OR ACCOUNT MAY HAVE BEEN COMPROMISED IN ANY WAY, YOU MUST INFORM US IMMEDIATELY.**
- 5.5 You undertake that all the information supplied during registration is truthful, complete and correct. If the information you have supplied is incomplete or incorrect you agree to indemnify us against any loss or damage incurred by us and any third parties who may suffer damage as a result of the information that you have supplied.

6. **FOR PLAYERS, MEMBERS AND PARTICIPANTS**

- 6.1 Any person wishing to make a Booking for Coaching services, Events & Services or a Resource, Purchase Membership services through the Website and/or App must be 13 years of age or over and accept these terms and conditions. See Annex 1: Definitions for additional definitions.
- 6.2 These terms and conditions shall apply to the supply of Coaching services, Membership services, or booking of a Resource or Events & Services booked by you through the Website and/or App.
 - 6.2.1 Coaching services: If you make a Booking, the relevant details listed in the Information Page, the Coaching Provider Terms, and if any, any applicable Venue Provider Terms shall also apply

- 6.2.2 Membership services: If you make a Purchase, the relevant Venue's Membership Terms shall also apply
- 6.2.3 Resource Booking: If you make a Booking of a Resource, the relevant Resource Provider's booking terms shall also apply
- 6.2.4 Events & Services: If you make a Booking for Events & Services, the relevant Information Page, the Club Terms and if applicable the Venue Terms shall also apply
- 6.3 If you make a Booking or Purchase, you will enter into a contract with the relevant Coaching Provider, Resource Provider, Venue, or Club. Clubspark will facilitate that transaction by means of the ClubSpark Portal, but is not itself a party to that contract and accepts payment (where applicable) from you on behalf of the Coaching Provider, Resource Provider, Venue or Club. You should also refer to the relevant Information Page and any applicable Coaching Provider Terms (and any applicable Venue Provider Terms), Resource Provider Terms or Club Terms before concluding any Booking or Events & Services terms and any Membership Terms before concluding any Purchase.
- 6.4 By ticking the terms and conditions box on registering with ClubSpark via the Website and/or App you acknowledge that you have read, understand and accept these terms and conditions.

Information on Coaching services, provision of Resources, Events & Services and Venues

- 6.5 Coaching Providers, Resource Providers, Clubs and Venues provide information and advertise their services using the ClubSpark Portal and the Website and/or App. Clubspark grant you a limited, non-transferable licence to make use of the Website and/or App for the purposes of viewing such information about Coaching services, Resource Bookings, Events & Services and Membership information.
- 6.6 As the information is provided by the Coaching Providers, Resource Providers, Clubs or Venues, Clubspark can make no representation and gives no assurance as to accuracy of information presented by Coaching Providers, Resource Providers, Clubs or Venues via the Website and/or App.
- 6.7 Coaching Providers, Resource Providers, Clubs for Events & Services and Venues must present you with certain information (including practical information about your Booking or Purchase and related information about your legal rights as a consumer) before concluding a contract with you for the supply of such services. This information is normally set out in the relevant Information Page but please contact the Coaching Provider, Resource Provider, Club or Venue directly if you feel that any of this information is missing or has been inadequately provided.

Bookings or Purchases

- 6.8 A Booking of any Coaching services, Resource, Event & Service or Purchase of any Membership services shall be made by you directly with the Coaching Provider, Resource Provider, Club and/or Venue. Clubspark facilitates the Booking and/or Purchase between you and any Coaching Provider, Resource Provider, Club or Venue by means of the Website but Clubspark is not the buyer/recipient or seller/provider of any service offered and/or made available by any Coaching Provider, Resource Provider, Club or Venue through the Website and/or App. Notwithstanding conclusion of contracts between you and any Coaching Provider, Resource Provider, Club or Venue by means of the Website and/or App, Clubspark acts as limited agent for you to conclude the sales contract with the Coaching Provider, Resource Provider, Club or Venue and enforcement of any contractual obligation relating to the provision of any Coaching service, Resource Booking, Event & Service Booking or Membership services is the exclusive responsibility of you and the Coaching Provider, Resource Provider, Club or Venue (as applicable) concerned.
- 6.9 Bookings or Purchases shall in addition be subject to the Coaching Provider Terms, Resource Provider term, Events & Services terms, Club terms or the Venue Provider terms and conditions (as applicable).

Payment for Coaching services, Resource Booking, Events & Services Booking and Membership services

- 6.10 Where a Booking carries a charge, you must pay for Coaching services, Resource Provider, Events & Services or Membership services purchased through the Website by credit or debit card or direct debit . A request by you to purchase Coaching services, or Membership services, Events & Services or book a Resource using the payment process on this Website and/or App (or, where no charge is payable, to make a Booking by means of the Website and/or App) is an offer made subject to these terms and conditions.
- 6.11 Once you have offered to purchase and book Coaching services, a Resource, an Event & Service or to purchase Membership services then, subject to checking that your credit, card, debit card or Direct Debit payment has been processed correctly, Clubspark will accept your offer on behalf of the Coaching Provider, Resource Provider, Club or Venue.
- 6.12 The Booking contract shall consist of these terms and conditions, the email Clubspark sends you on behalf of the Coaching Provider confirming acceptance of your offer, the applicable details within the relevant Information Page provided by the Coaching Provider, the Coaching Provider Terms, if any, and the Venue Provider Terms or the applicable details within the Resource booking information provided by the Resource Provider and the Booking Terms, or the applicable details within the Club booking provided by the Club for the Events & Service and the Club Terms or the Membership information provided by the Venue and the Membership Terms.
- 6.13 When Clubspark accepts your offer to make a Booking, Clubspark will (where a charge is payable) charge your credit or debit card with the total cost of the Coaching services including a transaction fee, the total cost of the Resource including a transaction fee, the total cost of the Club Fee including a transaction fee or the total cost of the Membership services including a transaction fee. Clubspark will forward the cost of the Coaching services to the Coaching Provider, the total cost of the Resource to the Resource Provider, the total cost of the Fee for the Events & Service or the total cost of the Membership services to the Venue less the transaction fee and where applicable for entry level programmes, a proportion of the fee less the transaction fee to the National Governing Body. The transaction fee is the separate charge Clubspark and its payment service provider make for facilitating the Booking, where a charge is payable (and is inclusive of VAT). If you require a VAT receipt for the fees paid for the Coaching services, booking of Resource, booking of a Club or Membership services, you must contact the Coaching Provider, Resource Provider, Club or the Venue.
- 6.14 This sub-clause applies to Bookings or Purchases where a charge is payable. Whilst Clubspark try to ensure that all prices on the Website and/or App are accurate, errors may occur. If Clubspark discover an error in the price of the Coaching services, booking of a Resource, Event & Service or Venue services you have ordered, Clubspark will inform you as soon as possible and give you the option of reconfirming your order at the correct price (and credit or debit your account as applicable) or cancelling your purchase. If Clubspark is unable to contact you, you agree that Clubspark may treat the purchase as cancelled. If you choose to cancel after you have already paid the incorrect price for the purchase, you will receive a full refund from Clubspark.

Cancellation and refunds

- 6.15 If you wish to cancel your Booking or Purchase, you must cancel the Booking or Purchase by contacting the Coaching Provider, Resource Provider, Club or Venue directly within the number of days stipulated by the Coaching Provider, Resource Provider, Club or Venue's refund policy. If refunded, you will be refunded the full costs of the Coaching services, Resource Booking, Event & Service or Membership services purchased less the transaction fee from the payment provider where applicable.
- 6.16 If a purchase of Coaching services, booking of Resource, Event & Service, or Membership services is cancelled, the Coaching Provider, Resource Provider, Club or Venue will process the refund in accordance with their refund policy.

Liability

6.17 You acknowledge and agree that Clubspark use the ClubSpark Portal and the Website merely to facilitate the booking of Coaching services, Resource Bookings, Events & Services and Membership services online and that Clubspark is not in any way responsible for the management, organisation or running of, or any health and safety issues in connection with, any Coaching services, Resource, Event & Service, Membership services or any of the Coaching Provider's, Resource Provider's, Club's or Venue's other offerings or facilities advertised through the Website or the ClubSpark Portal. Liability for the provision and management of Coaching services, Resources, Event & Service or Venue services remains the sole responsibility of the Coaching Provider, Resource Provider, Club or Venue.

6.18 Whilst Clubspark will use reasonable efforts to ensure that the Website booking facility is available at all times, to keep unavoidable interruptions to a minimum and to give notice at log-in of anticipated interruptions, there will inevitably be times when it is unavailable.

7. LICENCE TO USE THE CLUBSPARK PORTAL

7.1 When booking Coaching services, Membership services, Events & Services via the Website, you must provide true, complete and accurate information and you authorise Clubspark to use such information to verify your information and to obtain credit authorisations. Clubspark reserves the right to reject registration and Bookings at its reasonable discretion.

7.2 Clubspark grants you a limited, non-transferable licence to make use of the transactional and administrative modules of the Website for the purposes of concluding Bookings with Coaching Providers for the provision of Coaching services and (where applicable) administering those Coaching services once you have booked them and for the purposes of concluding Bookings with Clubs/Venues for the provision of Events and Services and administering those Bookings once booked and for the purposes of concluding purchase agreements with Venues for the provision of Membership services and administering those Membership services once you have purchased them.

8. USE OF MESSAGES AND MATERIALS

8.1 By submitting messages, suggestions or material (including any text, photographs, graphics, video or audio) to Clubspark and/or the Website and/or App you are granting Clubspark a perpetual royalty free non-exclusive licence to reproduce, modify, translate, make available, distribute and sub-license the message/suggestion in whole or in part and in any form anywhere in the world.

8.2 By submitting any messages, suggestions or material to Clubspark and/or the Website and/or the App you agree that Clubspark may use those materials or suggestions for any purpose and in any way that it chooses, including, but not limited to, developing, manufacturing and marketing products using such materials or suggestions. Any materials you provide shall be regarded as non-confidential.

8.3 By submitting any messages, suggestions or material to Clubspark and/or the Website and/or App you waive all of the moral rights that you have under Chapter IV of the of the Copyright, Design and Patents Act 1988 in respect of any such material.

8.4 If you do not wish to grant Clubspark the rights set out above, do not submit contributions to the Website and/or App.

8.5 Clubspark shall have the unrestricted right to post on to the Website and/or App some or all of any messages or suggestions that you submit to Clubspark and/or the Website and/or App or to choose not to do so. If Clubspark chooses to post some or all of your messages or suggestions it may thereafter remove from the Website and/or App some or all of any messages or suggestions that you submitted to Clubspark and/or the Website and/or App at its discretion and without the need to give any reasons.

9. MESSAGE BOARDS

9.1 Some of the pages of the Website and/or App may contain message boards, bulletin boards, chat pages or other forums in which users are able to post material for viewing by others. Clubspark does not edit or monitor the content of these pages and, subject to

what is said below, does not have any knowledge of any of the activities or information carried on in, or contained within, those pages. If anyone becomes aware that any material on those pages, or any activities carried out on those pages, are offensive, unlawful or infringe any third party rights in any way, please send an appropriately worded message to the Clubspark by email using this address: info@Clubspark.com. Clubspark shall act expeditiously to remove any such material or to disable access to the information.

10. **WARRANTIES AND LIABILITY**

- 10.1 The Content has been included in good faith and is only for your general information and is for recreational use. In particular, the Content does not constitute any form of advice, recommendation or arrangement by Clubspark and is not intended to be relied upon by users in making (or refraining from making) any specific decisions. YOU ARE RESPONSIBLE FOR CHECKING THE ACCURACY OF RELEVANT FACTS AND OPINIONS GIVEN ON THE WEBSITE BEFORE ENTERING INTO ANY COMMITMENT BASED UPON SUCH INFORMATION. All conditions, warranties terms and undertakings express or implied statutory or otherwise in respect of the provision of the Content are excluded to the fullest extent permitted by law.
- 10.2 The Content may contain inaccuracies or typographical errors. Clubspark makes no representations about the reliability, availability, timeliness and accuracy of the Content. Clubspark does not warrant that the Site will be free of viruses or other harmful components.
- 10.3 The Website and/or App contains links to other websites ("**Third Party Sites**"). Clubspark neither endorses nor takes responsibility for the availability or content of Third Party Sites and will not be a party to, or in any way responsible for, any transaction concerning goods or services available from such Third Party Sites. If you decide to use these links to access Third Party Sites you do so at your own risk.
- 10.4 On some of the pages of the Website and/or App you may be informed of the opportunity of entering into agreements with third parties. Clubspark are not liable in relation to, and takes no responsibility for, any contract entered into by you with any third party.
- 10.5 Clubspark shall not be liable to you for:
- 10.5.1 any loss or damage of any kind howsoever arising or in connection with these Terms and Conditions and any direct, indirect, special, punitive or consequential loss whether or not that loss arises out of something of which Clubspark has been made aware;
 - 10.5.2 the accuracy, currency or validity of information and material contained within any Content or the Website and/or App;
 - 10.5.3 any interruptions to or delays in updating the Website and/or App;
 - 10.5.4 any incorrect or inaccurate information on the Website and/or App;
 - 10.5.5 the infringement by any other person of any copyright or other intellectual property rights of any third party through any Content or use of the Website and/or App;
 - 10.5.6 the availability, quality, content or nature of any External Sites;
 - 10.5.7 any transaction taking place on any External Sites;
 - 10.5.8 any transaction with a third party retailer taking place on the Website and/or App;
 - 10.5.9 any amount or kind of loss or damage due to viruses or other malicious software that may infect a user's computer equipment, software, data or other property caused by any other person accessing, using or downloading the Website and/or App or any part of it (as applicable), or any Content; and

- 10.5.10 all representations, warranties, conditions and other terms and conditions which but for this notice would have effect.
- 10.6 Nothing in these Terms and Conditions limits or excludes Clubspark liability for:
- 10.6.1 death or personal injury caused by our negligence or the negligence of our employees, agents or subcontractors;
- 10.6.2 fraud or fraudulent misrepresentation; or
- 10.6.3 any other liability which cannot be limited or excluded by applicable law.
- 10.7 Our total liability in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with these terms of use shall not exceed £100 or, if greater, the total commission or fees due to us (if any) in respect of any services provided in relation to the claim.
- 10.8 We shall not be liable for any indirect or consequential loss (including but not limited to loss of goodwill, loss of business, loss of anticipated profits or savings and all other pure economic loss) arising out of or in connection with these terms of use.
- 10.9 Clubspark does not warrant that the operation of the Website and/or App will be uninterrupted or error free.
- 10.10 Clubspark will not be liable in any amount for failure to perform any obligation under these terms of use if that failure is caused by the occurrence of an event beyond its reasonable control.
- 10.11 Except as provided above there are no other warranties, conditions or other terms and conditions, express or implied, statutory or otherwise, and all of those terms and conditions are hereby excluded to the maximum extent permitted by law.
- 10.12 You agree not to use the Website and/or App in any way which is:
- 10.12.1 unlawful;
- 10.12.2 may give rise to civil or criminal liability for Clubspark; or
- 10.12.3 which might call Clubspark into disrepute.
11. **TERMINATION**
- 11.1 Without limiting any other rights it may have, Clubspark may in its sole discretion immediately cancel or suspend access to the Website and/or App if you breach, or are suspected of breaching, any of these terms of use.
12. **DATA PROTECTION AND PRIVACY POLICY**
- 12.1 The information that you provide about yourself to Clubspark will only be used by Clubspark in accordance with its [Privacy Policy](#).
- 12.2 We may use cookies on the Website and/or App. See the Privacy Policy for further details).
- 12.3 Where you are a Venue Provider, Coaching Provider or National Governing Body you and we agree to and shall comply with the terms of the attached Data Processing Agreement in Annex 2.
13. **CHANGES TO THESE TERMS AND AMENDMENTS TO CONTENT**
- 13.1 Clubspark reserves the right, at its discretion, to make changes to any part of the Website and/or App.

13.2 If the need arises, we may suspend access to our Website and/or App, or close it indefinitely. Any of the material on our Website and/or App may be out of date at any given time, and we are under no obligation to update such material.

13.3 Due to its policy of updating and improving the Website and/or App, Clubspark may wish to change these terms & conditions from time to time and you agree to be bound by the terms & conditions which apply at the time of your use of the Website and/or App.

14. **ADVERTISING AND SPONSORSHIP**

The Website and/or App may contain third party advertising and sponsorship. Such advertisers and sponsors are responsible for ensuring that material submitted for inclusion on the Website and/or App complies with international and national law. Clubspark will not be responsible for any error or inaccuracy in advertising material.

15. **COMPETITIONS AND PRIZES**

From time to time Clubspark may run competitions, free prize draws and promotions on the Website and/or App. In each case these will be subject to additional competition terms which will be made available on the Website and/or App.

16. **ASSIGNMENT**

You shall not, without the prior written consent of Clubspark, assign, sub-license, sub-contract or otherwise transfer to any third party any of its rights or obligations under this Agreement.

17. **THIRD PARTY RIGHTS**

Each party agrees that no term of this Agreement will be enforceable by any third party by virtue of the Contracts (Rights of Third Parties) Act 1999.

18. **CHOICE OF LAW AND JURISDICTION**

18.1 These terms shall be governed by, and construed in accordance with the laws of England and the parties irrevocably submit all disputes to the jurisdiction of the English courts to settle any dispute which may arise out of, under, or in connection with these terms and conditions.

18.2 The Website and/or App is intended and directed at the United Kingdom. No representation or warranty is made as to whether the Website complies with the laws of any other country.

19. **CONTACTING US**

19.1 If you need to contact Clubspark about these terms & conditions you may do so by post using the address below or by email using this address info@Clubspark.com.

Clubspark Group Limited
41-47 Hartfield Road
Wimbledon
SW19 3RQ

20. **GENERAL**

20.1 If any provision of these terms is found to be illegal, invalid, void or unenforceable, by any court having competent jurisdiction, it shall be severed from the remaining provisions of these terms and the invalidity of that provision will not affect the validity of the remaining provisions of these terms, which shall remain in full force and effect.

20.2 Failure by either party to exercise any right or remedy under these terms does not constitute a waiver of that right or remedy. Headings in these terms are for convenience only and will have no legal meaning or effect.

Annex 1: Definitions

Definitions for Players

In these terms and conditions the following terms have the following meanings:

“**Booking**” or “**Purchase**” means any contract to purchase or book for the provision of Membership, Coaching services, any Resource booking, the provision of Events & Services or any other purchase or booking which you make through the Website and/or App;

“**Coaching**” means the coaching programmes, tennis training and instruction services as advertised by Coaching Providers through the Website and/or App (and in each case as more particularly described within an Information Page), and as selected by you from time to time;

“**Coaching Programme Registration**” means your registration within the Coaching Programme module on the ClubSpark Portal, in order to view and, at your choosing from time to time, purchase or otherwise contract for the Coaching services which may be advertised on the Coaching Programme module from time to time;

“**Coaching Provider**” means the provider of the Coaching services as stated within the applicable part of the Website and/or App, and as selected by you;

“**Coaching Provider Terms**” means the Coaching Provider's terms and conditions, if any, governing its provision of any Coaching services, a copy of which shall be available to you before you complete a Booking (if applicable);

“**Clubs**” means the club which is hosting and/or providing the Events & Services, as stated within the applicable part of the Website, and as selected by you (and “**Club**” means any one of them);

“**ClubSpark Portal**” means the system and on site technology, made available by Clubspark, for the promotion, booking and administration of Coaching, Membership, Resource, Event and Competition services through which you may review, select, apply to receive and (where applicable) pay for such services.

“**Club Terms**” means the Club's terms and conditions, if any, governing its provision of any Events & Services, a copy of which shall be available to you before you complete a Booking (if applicable);

“**Events & Services**” means the competitions, coaching services, playing opportunities and training sessions as advertised by Clubs/Venues through the Website (and in each case as more particularly described within an Information Page).

“**Fee**” means the fee payable by you to the Club/Venue in respect of the Events & Services;

“**Information Page**” means the relevant page of the Website which lists the specific details of each offering (in each case by a Coaching Provider or Club/Venue from time to time) of Coaching services (for example, the name and contact details of the relevant Coaching Provider, the dates, times and locations of the Coaching services, any equipment which is expected to be provided by the recipient of the Coaching services, and any preparation which is required before the Coaching services are commenced) or of the Events & Services (for example, the name and contact details of the relevant Club and/or Venue, the dates, times and locations of the Events & Services, any equipment which is expected to be provided by the recipient of the Events & Services, and any preparation which is required before the Events & Services are commenced);

“**Membership**” means affiliation to and membership of a venue, in order to receive membership benefits such as special offers and discounts, priority booking of venues resource, access to sporting and social events, etc.;

“**Membership Terms**” means the Venue's terms and conditions, if any, governing its provision of any Membership services or provision of any Resource, a copy of which shall be available to you before you complete a Purchase (if applicable);

"Purchase" means any purchase of Membership services which you make through the Website and/or App;

"Registration" means your registration within the relevant module on the ClubSpark Portal, in order to view and, at your choosing from time to time, making Bookings for the Events & Services which may be advertised on the module from time to time;

"Resource" means any court, pitch or facility of a Venue made available for booking through the Website and/or App;

"Resource Provider" means the provider of the Resource as stated within the applicable part of the Website and/or App, and as selected by you;

"Venue" means the provider of the Membership services or the owner and/or operator of the club, Resource or other venue including where any Events & Services are to be provided (if such Events & Services are not provided at the Club's own premises) as stated within the applicable part of the Website and/or App, and as selected by you;

"Venue Provider" means the owner and/or operator (as applicable) of the venue where any Coaching services are to be provided (if such Coaching services are not provided at the Coaching Provider's own premises);

"Venue Provider Terms" means the terms and conditions, if any, governing the Venue Provider's hosting of Coaching services at its premises, a copy of which shall be available to you before you complete a Booking (if applicable);

"Venue Terms" means the terms and conditions, if any, governing the Venue's hosting of the Events & Services at its premises, a copy of which shall be available to you before you complete a Booking (if applicable);

Annex 2: Data Processing Agreement

DATA PROCESSING AGREEMENT

BACKGROUND

- (A) The Parties have entered into a terms of service agreement governing the use by you of Clubspark online booking platform for playing sports, if and where applicable) dated (the "**Terms of Service**").
- (B) This data processing agreement ("**DPA**") is intended to ensure that Clubspark and the Client each comply with applicable Data Protection Laws.

AGREED TERMS

1. INTERPRETATION

- 1.1 In this DPA the following capitalised terms shall have the meanings set out below:

Applicable Laws all laws or regulations, regulatory policies, guidelines or industry codes which apply to Client Personal Data;

Data Protection Laws means *EU Directive 95/46/EC* and *EU Directive 2002/58/EC*, as transposed into domestic legislation of each Member State including the *Data Protection Act 1998* and as amended, replaced or superseded from time to time, including by the *EU General Data Protection Regulation 2016/679* ("**GDPR**") and laws implementing or supplementing the GDPR;

Client Personal Data any Personal Data Processed by Clubspark in connection with the provision of the Services under the Terms of Service;

Services the services provided by (or on behalf of) Clubspark to the Client pursuant to the Terms of Service;

Sub-processor means any entity or person (excluding an employee of Clubspark) appointed by or on behalf of Clubspark to Process Client Personal Data on behalf of the Client in connection with the Terms of Service.

- 1.2 The terms "**Data Controller**", "**Data Processor**", "**Data Subject**", "**Member State**", "**Personal Data Breach**" and "**Processing**" shall have the meanings given to them in the Data Protection Laws.

2. GENERAL

- 2.1 The terms of the Terms and Conditions shall remain in full force and effect unless specified otherwise.
- 2.2 In the event of inconsistencies between the provisions of this DPA and the Terms of Service, this DPA shall take precedence, unless explicitly agreed otherwise in writing.
- 2.3 This DPA shall only apply to the extent that Clubspark is Processing Client Personal Data. This DPA shall only apply to the extent that, in the course of Clubspark providing the Services to the Client, Clubspark is deemed a Data Processor pursuant to the Data Protection Laws (including, for the avoidance of doubt, where the Client is in fact a Data Processor for a third party principal Data Controller, and Clubspark is a subprocessor in respect of the Client).
- 2.4 The Client instructs Clubspark to process Client Personal Data as reasonably necessary for the provision of the Services.

3. **OBLIGATIONS OF THE PARTIES**

- 3.1 The Parties acknowledge that the Client is acting as sole Data Controller in respect of Client Personal Data Processed in the provision of the Services and provided by or on behalf of the Client to Clubspark, and Clubspark will be acting as Data Processor in respect of the same.
- 3.2 The Client instructs Clubspark to process Client Personal Data as reasonably necessary for the provision of the Services and consistent with the Terms and Conditions. In particular, Client instructs Clubspark to process the data set out in Schedule 1.
- 3.3 Both Parties will comply with all applicable requirements of the Data Protection Laws.
- 3.4 Without prejudice to the generality of Clause 3.3 3.2, the Client will ensure that it has all necessary and appropriate consents and notices in place to enable lawful (i) transfer of the Client Personal Data to Clubspark; and (ii) Processing by Clubspark of the Client Personal Data, for the purposes of the Terms and Conditions.
- 3.5 In relation to any Client Personal Data Processed in connection with the performance by Clubspark of the Services, Clubspark shall:
- 3.5.1 only process Client Personal Data on the Client's documented instructions, including in respect to transfers of Client Personal Data to a country outside of the European Economic Area (**EEA**), unless Processing is required by Applicable Laws in which case Clubspark shall, to the extent permitted by Applicable Laws, inform Client of that legal requirement prior to the relevant Processing of the Client Personal Data;
 - 3.5.2 take reasonable steps to ensure the reliability of its staff who have access to Client Personal Data, ensuring that all such individuals are subject to confidentiality undertakings or professional or statutory obligations of confidentiality;
 - 3.5.3 taking into account the nature, scope, context and purpose of the Processing, implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the GDPR;
 - 3.5.4 taking into account the nature of the Processing and the information available to Clubspark, Clubspark shall, to a commercially reasonable extent, assist the Client (i) by implementing appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Client's obligations to respond to requests to exercise Data Subject rights laid down in Chapter III of the GDPR and (ii) in ensuring compliance with the Client's obligations pursuant to Articles 32 to 36 of the GDPR; and
 - 3.5.5 notify the Client without undue delay on becoming aware of a Personal Data Breach relating to the Client's Personal Data.
- 3.6 Clubspark shall make available to the Client information strictly necessary to demonstrate compliance with the obligations laid down in this DPA, including to allow for and contribute to reasonable audits (at the Client's sole cost), conducted by the Client or an auditor designated by the Client.

4. **SUBPROCESSING OF CLIENT PERSONAL DATA**

- 4.1 Client hereby grants a general authorisation to Clubspark to engage Sub-processors. Clubspark shall inform Client of any intended changes concerning the addition or replacement of Sub-processors.
- 4.2 With respect to each proposed Sub-processor, Clubspark shall ensure that the arrangement between Clubspark and Sub-processor, is governed by a contract including:
- 4.2.1 terms which offer at least the same level of protection for Client Personal Data as those set out in this Agreement; and

4.2.2 terms which meet the requirements of Article 28(3) of the GDPR.

5. **LIABILITY**

Each of the Parties liability under this DPA shall be limited in a manner consistent with any limitations of liability set out in the Terms of Service.

6. **TERMINATION**

6.1 This DPA shall automatically terminate on the termination of the Terms and Conditions.

6.2 Termination of this DPA will not affect any rights or remedies of either Party which exist prior the termination.

6.3 Upon the cessation of all Services, Clubspark shall, at the written request of the Client, either:

6.3.1 delete all copies of Client Personal Data it holds; or

6.3.2 return a copy of all Client Personal Data it holds to the Client.

6.4 Notwithstanding Clause 6.3, Clubspark may retain Client Personal Data to the extent required by the Applicable Laws, provided that Clubspark shall ensure the confidentiality of all such Client Personal Data and shall ensure that such Clubspark Personal Data is only Processed as necessary for the purpose(s) specified in the Applicable Laws requiring its storage and for no other purpose.

6.5 Clauses 1, 5, 6.4, 7, 8, and 9, will survive termination.

7. **SEVERANCE**

7.1 Should any provision of this DPA be invalid or unenforceable, then the remainder of this DPA shall remain valid and in force. The invalid or unenforceable provision shall:

7.1.1 be amended as necessary to ensure its validity and enforceability, while preserving the Parties' intentions as closely as possible or, if this is not possible

7.1.2 be construed in a manner as if the invalid or unenforceable part had never been contained in the DPA.

8. **RIGHTS OF THIRD PARTIES**

Third parties shall not be entitled to enforce any of the terms of this DPA.

9. **GOVERNING LAW AND JURISDICTION**

This DPA shall be governed by and construed in accordance with English law and the Parties submit to the exclusive jurisdiction of the courts of England and Wales in relation to any dispute arising therefrom.

SCHEDULE 1

This Schedule includes certain details of the Processing of Client Personal Data as required by Article 28(3) GDPR.

Subject matter and duration of the Processing of Client Personal Data:	The subject matter and duration of the Processing of Client Personal Data are set out in the Terms and conditions and this DPA.
The nature and purpose of the Processing of Client Personal Data:	Player, coach and venue staff personal information
The types of Client Personal Data to be Processed:	Personal data, including name, email address and address
The categories of Data Subject to whom Client Personal Data relates:	Club member, coaching attendee, court booker, parent of a participant on a coaching programme, event attendee, competition entrant, account administrator
The obligations and rights of the Client:	The obligations and rights of Client are set out in the Terms and Conditions and this DPA.