



Services Agreement

This agreement is dated effective of order date

and made between:

Fizz Benefits Limited, a company registered in England and Wales with company number 8168144 with its registered office at 4 Stirling Court Yard, Stirling Way, Borehamwood, Hertfordshire WD6 2FX ('Fizz')

and

Client ('CLIENT');

Background

- A. Fizz Benefits provides a discount and cashback benefit scheme for individuals (typically members, employees or customers of the organisations). The benefit scheme comprises offers made available to the individuals within the organisations.
- B. This agreement records the terms on which the Fizz Benefits' benefit scheme will be deployed for use by the employees and customers of CLIENT.

Terms of Business

1. Definitions and Interpretation

1.1. In this agreement:

'Applicable Laws' means any applicable:

- (i) statute, ordinance, regulation, by-law or any rule, code or direction having the force of law;
- (ii) regulation, rule, code, direction, determination, guidance or other document which does not have the force of law but which a party in the United Kingdom would comply with as a matter of customary good practice; and
- (iii) regulatory licence, consent, permit, authorisation or other approval including any conditions attached thereto;

including Data Privacy Laws and the Privacy & Electronic Communications Regulations 2003.

'Benefit' means an opportunity for Members to buy goods or services from a Merchant on terms which are designed to be attractive to Members.

'Benefits Programme' means the range of Benefits which are made available to Members from time to time through the medium of the Fizz Software and Benefits Service, as described in clause 2.

'Benefits Provider' means a third party expressly identified in the Benefits Programme which collates Benefits from Merchants.

'Benefits Service' means the services provided by Fizz pursuant to this agreement which facilitate directly or indirectly access to Benefits for Members.

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

'Cashback' means the monies accrued by Members, and classed as payable, in their 'Cashback' accounts on the Fizz Software, and subject to the terms and conditions agreed to by the Member when registering.

'Charges' means the sums payable by CLIENT to Fizz in accordance with the terms of this agreement.

'Client Data' means any data provided by the Client that is essential to setting up and running the scheme.

'Confidential Information' means any non-public information disclosed by a party to the other party which is expressly labelled as confidential or which the recipient ought reasonably to have regarded as confidential having regard to all the circumstances.

'Configuration Services' means the non-development work relating to the Fizz Software to be undertaken by Fizz, if any.

'Data Breach' means:- (i) any unauthorised loss, corruption, damage, destruction, alteration, disclosure or access to any Personal Information; (ii) any unauthorised or unlawful Processing of Personal Information; or (iii) any breach of Data Privacy Laws.

'Data Controller' has (until 25 May 2018) the meaning given to "Controller" under the Data Protection Directive 1995/46/EU and (from 25 May 2018) the meaning given to "Controller" under the General Data Protection Regulation (EU 2016/679).



'Data Privacy Laws' means all laws in any relevant jurisdiction that relate to data protection, privacy, the use of information relating to individuals, and/or the information rights of individual including, without limitation, (until 25 May 2018) the Data Protection Act 1998 and any other laws in force from time to time which implement the Data Protection Directive 1995/46/EC and (from 25 May 2018) the General Data Protection Regulation (EU 2016/679), and the equivalent in any other relevant jurisdictions all as amended or replaced from time to time.

'Data Processor' has (until 25 May 2018) the meaning given to "Processor" under the Data Protection Directive 1995/46/EU and (from 25 May 2018) the meaning given to "Processor" under the General Data Protection Regulation EU 2016/679).

'Data Subject' has (until 25 May 2018) the meaning given under the Data Protection Directive 1995/46/EC and (from 25 May 2018) the meaning given under the General Data Protection Regulation (EU 2016/679).

'EEA' means the member states of the European Union, Norway, Iceland and Liechtenstein.

'Fizz Data' means data which is created, collected or used by the Fizz Software to deliver the Benefits Programme when the Fizz Software is used by Members.,

'Fizz Software' means the software owned by Fizz which is required in order to make Benefits available to Members.

'Group Company' means any company of which CLIENT is a subsidiary (as defined in section 1159 of the Companies Act 2006) and any company which is a parent undertaking of CLIENT (as defined in section 1162 of the Companies Act 2006).

'ICO' means the UK Information Commissioner's Office, or the equivalent national data protection authority in any relevant jurisdiction.

'Intellectual Property Rights' means all patents, copyrights, design rights, trademarks, service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or unregistered) and all applications for the same, anywhere in the world.

'Member' means a living individual who is lawfully entitled to buy goods and services as a consumer in the United Kingdom and either:

(i) falls within the category of people described as such in Schedule 1;

or

(ii) falls outside the category of people described as such in Schedule 1 but who accepts an invitation (arising out of a 'refer a friend' or similar promotion) from someone who is within such category.

References in Schedule 1 to Members of CLIENT shall include Members of a Group Company.

'Merchant' means a third party vendor of goods or services to consumers.

'Minimum Period' means the minimum period set out in Schedule 1.

'Personal Information' means any information which: i) falls within the definition of "Personal Data" under the Data Protection Directive 1995/46/EU (until 25 May 2018) and within the definition of "Personal Data" under the General Data Protection Regulation EU 2016/679 (from 25 May 2018); and ii) in relation to which Fizz is performing its obligations under this agreement or which Fizz is required to Process (subject to the Data Privacy Laws) in connection with this agreement.

'Processing' has (until 25 May 2018) the meaning given under the Data Protection Directive 1995/46/EU and (from 25 May 2018) the meaning given under the General Data Protection Regulation EU 2016/679) (and Process, Processed and Processes shall be construed accordingly).

'Reports' means hardcopy or digital reports provided by Fizz to CLIENT detailing the utilisation of the Benefits Programme by Members in sufficient detail to permit CLIENT to scrutinise performance of this agreement.

1.2. The headings in this agreement do not affect its interpretation. References to clauses and schedules are to clauses and schedules of this agreement.

1.3. Unless the context otherwise requires:

1.3.1. unless otherwise expressly stated, references to software (including Fizz Software) mean computer software in object code form together with any related documentation;

1.3.2. references to Fizz 'owning' software mean :- (i) owning the Intellectual Property Rights in the software ; or (ii) having a licence from a third party owner of the Intellectual Property Rights to distribute, sub-licence or otherwise make available software free of royalties, licence fees, or licence obligations other than the royalties, fees or obligations expressly set out in this agreement; and references to software 'owned' shall be interpreted accordingly;

1.3.3. references in this agreement to 'include' or 'including' shall not be interpreted as limiting in any way the context or scope of the relevant provision by reference to the items cited;

1.3.4. references to Fizz and CLIENT include their permitted successors and assigns;

1.3.5. references to statutory provisions include those statutory provisions as amended or re-enacted from time to time; and

1.3.6. words in the singular include the plural and in the plural include the singular.



2. Benefits

- 2.1. Fizz shall be free to discontinue any of the Benefits within the Benefits Programme.
- 2.2. It is agreed and acknowledged that Benefits are for Members resident in the United Kingdom.

3. Fizz Obligations

- 3.1. Fizz agrees to:
 - 3.1.1. create and maintain a Benefits Programme;
 - 3.1.2. host the Fizz Software;
 - 3.1.3. perform the Configuration Services;
 - 3.1.4. for the term of this agreement, undertake maintenance (being the provision of error fixes or turnarounds for the Fizz Software) for the Fizz Software to the extent required to provide the Benefits to Members free of material interruptions other than scheduled downtime;
 - 3.1.5. provide Benefits Services; and
 - 3.1.6. provide Reports.
- in accordance with the terms of this agreement.

4. CLIENT Obligations

- 4.1. CLIENT agrees to:
 - 4.1.1. co-operate with and provide all reasonable assistance required by Fizz from time to time to facilitate the efficient and timely performance of the obligations of Fizz set out in this agreement;
 - 4.1.2. provide Fizz with timely and accurate data concerning Members, as described in Schedule 1;
 - 4.1.3. pay the Charges to Fizz;
 - 4.1.4. undertake promotional activity aimed at Members as described in Schedule 1; and
 - 4.1.5. undertake reasonable promotional activity aimed at Members as recommended from time to time by Fizz (but CLIENT may decline to accept any recommendation which is contrary to CLIENT's own policies and procedures in relation to marketing to Members);
- in accordance with the terms of this agreement.

5. Licence grant

- 5.1. Subject to clause 5.2, Fizz grants to CLIENT a non-exclusive licence of the Fizz Software, for the term of this agreement.
- 5.2. CLIENT shall not:
 - 5.2.1. use the Fizz Software for any purpose other than providing Members with access to the Benefits;
 - 5.2.2. adapt, alter, amend, modify, reverse engineer, decompile, disassemble or decode the Fizz Software or translate the Fizz Software into another language or write or derive any program from the Fizz Software except as expressly permitted by law; or
 - 5.2.3. sub-licence or assign the benefit or burden of this agreement in whole or in part, or allow the Fizz Software to become the subject of any charge, lien or encumbrance without the prior written consent of Fizz.

6. Charges

- 6.1. Except as expressly set out in this agreement, each party shall bear its own costs of performing its obligations under this agreement.
- 6.2. Invoices are payable within 30 days of the invoice date.
- 6.3. All sums payable to Fizz under this agreement are expressed exclusive of VAT, which shall be payable in addition at the rate prescribed by law.
- 6.4. Fizz will invoice CLIENT, and CLIENT will pay the Charges as set out in Schedule 1.
- 6.5. After the first anniversary of the date of this agreement, but not more than once in any 12 month period, thereafter Fizz may increase the Charges by giving 30 days' prior written notice to CLIENT. Any increase shall not exceed the Retail Price Index (All Items) calculated by the Office for National Statistics or 5% (whichever is the greater) for the 12 month period immediately prior to giving notice.
- 6.6. If either party disputes an invoice, that party must promptly (and no later than the date the invoice would fall due for payment) notify the other party in writing the basis for the dispute and pay any undisputed amounts in accordance with this agreement. Fizz and CLIENT shall promptly and in good faith discuss the resolution of any such dispute, failing which it shall be resolved using the dispute resolution procedure in clause 16.



- 6.7. Except as otherwise expressly set out in this agreement, Charges are invoiced monthly in arrears in respect of Fizz Software and/or services supplied in the relevant month.
- 6.8. Save for manifest error, the Fizz Software's determination of data within Reports from time to time shall be conclusive.

7. Responsibility for Member transactions

- 7.1. It is agreed and acknowledged that, on each occasion when a Member uses a Benefit to purchase goods or services from a Merchant:
 - 7.1.1. Fizz merely provides the means of introducing Members to Merchants; Fizz does not contract with Members as an agent or otherwise on behalf of Merchants and Fizz does not itself contract with Members as a vendor of goods or services; and
 - 7.1.2. financial transactions between a Member and a Merchant are effected outside the functionality of the Fizz Software and outside the scope of the Benefits Services and Fizz does not undertake such transactions or hold at any time payments on behalf of Members or Merchants.
- 7.2. Fizz shall have no liability (for breach of contract, in tort or otherwise) for any losses whatsoever and howsoever arising from:
 - 7.2.1. any act or omission of a Merchant in the course of dealing (or failing to deal) with a Member;
 - 7.2.2. any claim or complaint by a Member in respect of goods or services received (or purchased but not received) from a Merchant;
 - 7.2.3. any liability arising out of a financial transaction between a Member and a Merchant.

8. Warranties

- 8.1. Each party warrants and represents that:
 - 8.1.1. it will perform its obligations under this agreement in accordance with Applicable Laws;
 - 8.1.2. it will perform this agreement using reasonable care and skill; and
 - 8.1.3. it is lawfully entitled to enter into this agreement and to grant the licences and perform the obligations set out in this agreement
- 8.2. Fizz warrants that the Fizz Software will function and perform in all material respects as required to operate the Benefits Programme and to facilitate the Benefits Service. However, Fizz does not warrant that the Fizz Software will be entirely uninterrupted or error-free.
- 8.3. If CLIENT notifies Fizz in writing of any defect or fault in the Fizz Software in consequence of which it fails to function in all material respects as required by the agreement, and such defect or fault does not result from an act or omission of CLIENT, Fizz shall, at Fizz's option, do one of the following:
 - 8.3.1. repair the Fizz Software; or
 - 8.3.2. terminate this agreement immediately by notice in writing to CLIENT and refund any of the Charges paid by CLIENT as at the date of termination (less a reasonable sum] in respect of any correct operation of the Fizz Software prior to the date of termination),

provided CLIENT provides all the information that may be necessary to assist Fizz in resolving the defect or fault, including sufficient information to enable Fizz to re-create the defect or fault.
- 8.4. All other conditions, warranties or other terms which might have effect between the parties or be implied or incorporated into this agreement or any collateral contract, whether by statute, common law or otherwise, are hereby excluded.

9. Data Protection and data processing

- 9.1. Fizz Data shall remain Fizz's exclusive property.
- 9.2. Each party shall create, maintain and implement privacy policies and be responsible for responding to data subject access requests in respect of the data which is held by that party.
- 9.3.
 - 9.3.1. The performance by Fizz of its obligations under this agreement may require Fizz to Process Personal Information for and on behalf of CLIENT. In respect of such Processing, the parties acknowledge and agree that:-
 - (a) CLIENT shall be the Data Controller and Fizz shall be the Data Processor;
 - (b) Fizz shall Process Personal Information as set out in Schedule 2 (Data Processing Register) to this agreement; and
 - (c) Clauses 9.5.2 to 9.5.8 below shall apply.
 - 9.3.2. CLIENT shall:-
 - (a) comply with all Data Privacy Laws;
 - (b) obtain and maintain all relevant registrations (and similar) required by Data Privacy Laws; and



(c) ensure that all instructions that it issues to Fizz from time to time comply with Data Privacy Laws.

9.3.3. When Processing Personal Information in performing its obligations under this agreement, Fizz shall:-

(a) Process the Personal Information only on the documented instructions of CLIENT or Members or as agreed with CLIENT or Members from time to time, except to the extent that any Processing of Personal Information is required by Applicable Laws;

(b) where Processing of Personal Information by Fizz is required by Applicable Laws, Fizz shall inform CLIENT of the relevant legal requirement before Processing, unless such law prohibits Fizz from doing so;

(c) notify CLIENT where Fizz reasonably believes any documented instructions from CLIENT in respect of the Processing of Personal Information infringe any Data Privacy Laws or any other Applicable Laws;

(d) ensure that its personnel who are authorised to Process the Personal Information have committed themselves to confidentiality;

(e) implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk of Processing;

(f) only appoint a third party to Process Personal Information on its behalf in accordance with clauses 9.5.4 and 9.5.5 below;

(g) taking into account the nature of the Processing, assist CLIENT by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of CLIENT's obligation to respond to requests for exercising the Data Subject's rights under Data Privacy Laws;

(h) notify CLIENT without undue delay after becoming aware of a Data Breach;

(i) assist CLIENT in its compliance with its obligations under Data Privacy Laws in respect of notifying Data Breaches to the ICO and affected Data Subjects, insofar as it is able taking into account the nature of the Processing and the information available to Fizz;

(j) at CLIENT's discretion, delete or return to CLIENT all of the Personal Information Processed under this agreement on the termination of this agreement and delete any copies of such Personal Information unless any Applicable Laws require that copies are kept; and

(k) make available to CLIENT all information necessary to demonstrate compliance with its obligations in this clause 9.5.3.

9.3.4. Fizz shall not sub-contract its Processing of Personal Information to a third party without CLIENT's prior specific or general written authorisation (not to be unreasonably withheld, conditioned or delayed). Where any sub-contracting of Processing of Personal Information is based on CLIENT's general written authorisation, Fizz shall inform CLIENT of any intended changes concerning the addition or replacement of any sub-contractors and CLIENT shall notify Fizz of any objections it has to any such changes in writing within five (5) Business Days, after which any such changes which CLIENT has not objected to in accordance with this clause 9.5.4 shall be deemed to be accepted.

9.3.5. Where Fizz sub-contracts its Processing of Personal Information to a third party in accordance with clause 9.5.4 above, Fizz shall:-

(a) ensure that any such third party is subject to the same data protection obligations as those set out in clause 9.5.3 above;

(b) obtain sufficient guarantees from any such third party that they will implement appropriate technical and organisational measures in such a manner that the Processing of Personal Information by such third party will meet the requirements of Data Privacy Laws; and

(c) remain liable to CLIENT for any Processing of Personal Information by any such third party.

9.3.6. Each party shall co-operate with the ICO on the request of the other party in respect of the performance of its obligations under this agreement.

9.3.7. Fizz shall not transfer Personal Information to any country outside the EEA without the prior written consent of CLIENT and such consent may be subject to and given on such terms as CLIENT may in its discretion prescribe (acting reasonably and in compliance with Data Privacy Laws).

9.3.8. In the event that CLIENT consents to the transfer of Personal Data from Fizz to a country outside of the EEA under clause 9.5.7, Fizz shall confirm in writing details of how Fizz will ensure an adequate level of protection and adequate safeguards in respect of the Personal Information that will be processed in and/or transferred outside of the EEA so as to ensure compliance with the Data Privacy Laws.

10. Limitations and exclusions of liability

10.1. Notwithstanding any other provision of this agreement, neither party excludes or limits its liability for:

10.1.1. death or personal injury caused by its negligence or the negligence of its officers, employees, contractors or agents;

10.1.2. fraud or fraudulent misrepresentation;

10.1.3. breach by either of the parties of the obligations implied by section 12 Sale of Goods Act 1979 or section 2 Supply of Goods and Services Act 1982; or



- 10.1.4. (in the case of Fizz) its liability for Infringement Claims set out in clause 11.3; or
 - 10.1.5. payment of Charges [or commission properly due] in accordance with this agreement; or
 - 10.1.6. any liability which may not be excluded by law.
- 10.2. All timescales expressed in, or in connection with, this agreement have been estimated in good faith. Time shall not be of the essence for the performance of any timescale obligations in this agreement.
- 10.3. Save as set out in clause 10.1, neither party shall be liable for any loss of profit, loss of business, loss of goodwill, loss of savings, claims by third parties (except those for which Fizz has provided an express indemnity in clause 11.3), loss of anticipated savings, or for any indirect loss or consequential loss whatsoever and howsoever caused (even if caused by that party's negligence and/or breach of contract and even if that party was advised that such loss would probably result).
- 10.4. Except as set out in clause 10.1, Fizz's total liability to the other party under or pursuant to this agreement for any claims, losses, damages or expenses whatsoever and howsoever caused (even if caused by its negligence and/or breach of contract) shall be limited in aggregate to a sum equal to the lower of the annual subscription licence fee set out in Schedule 1 or the sum of £10,000.
- 10.5. CLIENT acknowledges that Fizz has not authorised any third party to make statements or enter into any commitments on behalf of Fizz. Fizz shall not be bound by any statement or commitments communicated to CLIENT (or to Members) by any third party (including any third party provider of Benefits or any Merchants) unless Fizz expressly confirms the same in writing.

11. Intellectual property rights

- 11.1. Nothing in this agreement shall cause the transfer of any Intellectual Property Rights from one party to the other party.
- 11.2. Fizz shall have ownership of all Intellectual Property Rights in any software (including Fizz Software), documents, processes, materials or other work product which Fizz creates in the course of performing its obligations under this agreement.
- 11.3. Fizz undertakes at its own expense to defend CLIENT or, at Fizz's option, settle any claim or action brought against CLIENT alleging that the possession, use, development, modification or maintenance of the Fizz Software (or any part thereof) in accordance with the terms of this agreement infringes the Intellectual Property Rights of a third party (**Infringement Claim**) and Fizz shall be responsible for any reasonable losses, damages, costs (including legal fees) and expenses incurred by or awarded against CLIENT as a result of or in connection with any such Infringement Claim.
- 11.4. clause 11.3 is conditional on:
- 11.4.1. CLIENT notifying Fizz in writing, as soon as reasonably practicable, of any Infringement Claim of which it has notice;
 - 11.4.2. CLIENT not making any admission as to liability or compromising or agreeing to any settlement of any Infringement Claim without the prior written consent of Fizz;
 - 11.4.3. Fizz having, at its own expense, the conduct of, or the right to settle, all negotiations and litigation arising from any Infringement Claim; and
 - 11.4.4. Upon request by Fizz, and at Fizz's expenses, CLIENT giving Fizz all reasonable assistance in connection with such negotiations or litigation.
- 11.5. If any Infringement Claim is made, or in Fizz's reasonable opinion is likely to be made, against CLIENT, Fizz may at its sole option and expense:
- 11.5.1. procure for CLIENT the right to continue using the Fizz Software (or any part thereof) in accordance with the terms of this agreement; or
 - 11.5.2. modify the Fizz Software so that it ceases to be infringing; or
 - 11.5.3. replace the Fizz Software with comparable non-infringing software; or
 - 11.5.4. terminate this agreement immediately by notice in writing to CLIENT and refund any of the Charges paid by CLIENT as at the date of termination

12. Termination

- 12.1. This agreement shall enter into force on the date of the first payment and shall continue thereafter for the Minimum Period and thereafter unless and until either party terminates this agreement as follows:
- 12.1.1. by 1 months prior written notice to the other party, such notice expiring any time after the end of the Minimum Period; or
 - 12.1.2. at any time forthwith on written notice to the other if the other party is in material or persistent breach of any of the terms of this agreement and either that breach is incapable of remedy, or the other party fails to remedy that breach within 30 days after receiving written notice requiring it to remedy that breach; or
 - 12.1.3. at any time on written notice to the other if the other party is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986), or becomes insolvent, or is subject to an order or a resolution for its liquidation, administration, winding-up or dissolution (otherwise than for the purposes of a solvent amalgamation or reconstruction), or has an administrative or other receiver, manager, trustee, liquidator, administrator or similar officer appointed over all or any substantial part of its assets, or enters into or proposes any composition or



arrangement with its creditors generally, or is subject to any analogous event or proceeding in any applicable jurisdiction.

- 12.2. Termination by either party in accordance with the rights contained in clause 12.1 shall be without prejudice to any other rights or remedies of that party accrued prior to termination.
- 12.3. On termination for any reason:
 - 12.3.1. the licence granted in clause 5 shall terminate
 - 12.3.2. Fizz shall cease to be entitled to use the CLIENT Data; and
 - 12.3.3. unless the agreement is terminated by Fizz pursuant to clauses 12.1.2 or 12.1.3, [commission in respect of purchases by Members from Merchants prior to the date of termination shall remain payable as if this agreement was not terminating.]

13. Fizz Software Changes

CLIENT acknowledges and agrees that Fizz may make changes to the Fizz Software (including, but not limited to, changes to improve the Fizz Software).

14. Change control

- 14.1. Any amendment, waiver or variation of this agreement shall not be binding on the parties unless set out in writing, expressed to amend this agreement and signed by or on behalf of each of the parties.
- 14.2. If Fizz or CLIENT want to change any Fizz Software (otherwise than as set out in clause 14) or Benefits Services (referred to below as a 'Change') it shall request the Change using the following procedure:
 - 14.2.1. The Change request shall be submitted to the other party in writing. In the case of Changes requested by CLIENT, Fizz will notify CLIENT of any time required to investigate the effect upon this agreement of implementing the Change and Fizz may charge CLIENT a reasonable fee for investigating the effect of implementing the Change where such work is significant and after consulting with CLIENT.
 - 14.2.2. In the case of Changes requested by CLIENT, Fizz shall reply in writing to CLIENT stating whether the Change is possible and, if it is, the increase (if any) which will be required to the Charges and the changes (if any) which will be required to this agreement.
 - 14.2.3. The Change shall not take effect unless and until Fizz and CLIENT elect in writing to proceed with the Change, in which case this agreement shall be deemed amended accordingly.

15. Force majeure

No party shall be liable to the other for any delay or non-performance of its obligations under this agreement arising from any cause beyond its reasonable control including, without limitation, any of the following: act of God, governmental act, war, fire, flood, explosion or civil commotion. This clause 15 shall not excuse CLIENT from any payment obligations under this agreement.

16. Dispute Resolution

- 16.1. If a dispute arises out of or in connection with this agreement (a 'Dispute'):
 - 16.1.1. the parties will attempt to resolve the Dispute by escalating it to their respective executive officers;
 - 16.1.2. failing which, the parties will attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure.
- 16.2. Nothing in this clause 16 will restrict either party's freedom to commence legal proceedings to preserve any legal right or remedy or to protect any Intellectual Property Rights or trade secrets whether by way of injunctive relief or otherwise.

17. Confidentiality and publicity

- 17.1. Each party shall, during the term of this agreement and thereafter, keep confidential all the other party's Confidential Information, and shall not use for its own purposes nor without the prior written consent of the other disclose any of the other party's Confidential Information to any third party, unless such information is already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this agreement, or subsequently comes lawfully into the possession of such party from a third party.
- 17.2. The terms of this agreement, the features of Fizz Software and the details of the Benefits Programme are confidential and may not be disclosed by CLIENT without the prior written consent of Fizz.
- 17.3. The provisions of this clause 17 shall remain in full force and effect notwithstanding termination of this agreement for any reason.
- 17.4. Notwithstanding the other provisions of this clause 17, Fizz may:
 - 17.4.1. disclose Confidential Information to its employees and subcontractors for the purposes only of performing Fizz's obligations under this agreement and subject to a duty of confidentiality;
 - 17.4.2. cite the name of CLIENT (and a simple description of the nature of this agreement) in Fizz's marketing materials and credentials;



- 17.4.3. make a deal announcement following signing of this agreement, referencing the services provided. However, Fizz will not undertake any further press work relating to this agreement without CLIENT's consent.

18. Assignment or Subcontracting

- 18.1. Subject to clause 9, Fizz may use subcontractors in the performance of its obligations under this agreement provided that:
- 18.1.1. such subcontractors shall be selected using reasonable care and skill; and
- 18.1.2. Fizz remains responsible for the acts and omissions of its subcontractors.
- 18.2. Neither party may assign all or any part of its rights and/or obligations under this agreement without the prior written consent of the other party. However, Fizz may (by giving written notice to CLIENT) freely assign all its rights under this agreement without CLIENT's consent to a purchaser acquiring substantially all of the business and/or assets of Fizz relating to the provision of the Benefits Service.

19. Waiver

No forbearance or delay by either party in enforcing its rights under this agreement shall prejudice or restrict the rights of that party, and no waiver of any such rights or of any breach of any contractual terms of this agreement shall be deemed to be a waiver of any other right or of any later breach.

20. Severability

If any provision of this agreement is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of the provisions shall not be prejudiced.

21. Notices

Any notice or other document to be given under this agreement shall be given by sending the same by first class post to the registered office addresses of Fizz / CLIENT given above.

Any notice shall be deemed in the absence of evidence of earlier receipt to have been received 72 hours after despatch.

22. Third party rights

(Subject to clause 18) No term of this agreement is intended to confer a benefit on, or to be enforceable by, any person who is not a party to this agreement.

23. Entire agreement

This agreement contains the whole agreement and understanding between the parties relating to the subject matter hereof and supersedes and extinguishes all prior agreements, arrangements and understandings between the parties (whether written or oral) relating to that subject matter.

24. Governing law and jurisdiction

- 24.1. This agreement and any dispute or claim arising out of or in connection with it (including any non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England and Wales.
- 24.2. Each of the parties irrevocably submits for all purposes (including any non-contractual disputes or claims) to the exclusive jurisdiction of the courts in England and Wales.



Signed on behalf of Fizz Benefits Limited

Jason Taylor

Job Title: CEO

Name: Jason Taylor

Date: Date of first payment

Signed on behalf of

CLIENT

.....

Schedule 1: CLIENT Specific Details

Minimum Period	1 month	
Retail Discounts Platform Reseller		
Fees	Company Size (Employees)	Cost (per month) Discounts
	1 - 49	£35
	50 - 99	£75
	100 - 149	£120
	150 - 200	£150
	200 - 249	£200
	250+	Prices available on request



Schedule 2 - Data Processing Register

1 Subject- matter of processing

The Personal Data to be processed by Fizz pursuant to this agreement concerns the following subject matter(s):- Members

2 Duration of the Processing

The Personal Data to be Processed under this agreement shall be Processed for the term of this agreement including any extension or rolling period following the minimum term.

3 Nature and purposes of the processing

The Personal Data to be Processed under this agreement shall be Processed for the following nature and purpose:-

a) in order for Fizz to perform its obligations under this agreement and to provide its service to Members including:-

- to process and facilitate any cashback due to Members ;
- managing pay outs from Members' accounts including sending a payment via third parties such as PayPal, BACS ; and
- processing of missing cashback payments (once received from networks)

b) to answer and process any claims or enquiries Members may raise with Fizz including:-

- submission and actioning of any enquiry from Members ;
- submission of a claim for missing cashback ;
- contesting claims ; and
- escalating formal complaints, including responding to ombudsman or court proceedings

in order to ensure that a Member's cashback process runs smoothly, provide any assistance with the site and challenge and defend any claims or actions which may be detrimental to Fizz's business.

c) utilising fraud prevention measures in order to protect the business, Members and retailers featured on the Fizz website from fraudulent activity and any resulting consequences

d) to manage Fizz's relationship with Members which will include:-

- notifying Members about changes to the Fizz terms or Fizz privacy policy ; and
- updating Member details on the Fizz system, validating a payout request or resetting a security question

in order to keep Fizz's records updated



sending marketing emails ;

to administer and protect Fizz's business and Fizz's website (including troubleshooting, data analysis, testing, system maintenance, support, reporting and hosting of data, fraud prevention measures)

in order for running Fizz's business, provision of administration and IT services, network security, to prevent fraud and in the context of a business reorganisation or group restructuring exercise

to deliver relevant website content and advertisements to Members and measure or understand the effectiveness of the advertising Fizz serve to Members

In order to study how customers use Fizz's services, to develop them, to grow Fizz's business and to inform Fizz's marketing strategy

4 Type of Personal Data

The Personal Data to be Processed by Fizz pursuant to this agreement concerns the following type of Personal Data:-

- **Identity Data** (concerning Members) includes first name, last name, username or similar identifier, marital status, title, date of birth and gender.
- **Contact Data** (concerning Members) includes billing address, delivery address and email address.
- **Financial Data** (concerning Members) includes bank account and payment card details.
- **Transaction Data** (concerning Members) includes details about payments from Members to retailers featured on the Fizz website from time to time and other details of products and services Members have purchased from such retailers via the Fizz website.
- **Technical Data** (concerning Members) includes internet protocol (IP) address, Members' login data, browser type and version, time zone setting and location, browser plug-in types and versions, operating system and platform and other technology on the devices Members use to access the Fizz website.
- **Profile Data** (concerning Members) includes Members' username and password, purchases or orders made by Members, Members' interests, preferences, feedback and survey responses.
- **Usage Data** (concerning Members) includes information about how Members use the Fizz website, products and services.
- **Marketing and Communications Data** (concerning Members) includes Members' preferences in receiving marketing from Fizz and Fizz's third parties and Members' communication preferences.
- Fizz also collect, use and share **Aggregated Data** such as statistical or demographic data for any purpose. Aggregated Data may be derived from Members' personal data but is not considered personal data in law as this data does not directly or indirectly reveal Members' identity. For example, Fizz may aggregate Members' Usage Data to calculate the percentage of users accessing a specific website feature. However, if Fizz combine or



connect Aggregated Data with Members' personal data so that it can directly or indirectly identify Members, Fizz treat the combined data as personal data which will be used in accordance with Fizz's privacy notice.

5 Categories of Data Subjects

The Personal Data to be Processed under this agreement concern the following categories of Data Subjects:- Members

6 Contact details

For Personal Data queries arising from or in connection with this Agreement, the Parties shall contact the following:

CLIENT	Fizz
CLIENT	Support contact@fizzbenefitsyou.com